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H. R. 2458

IN THE SENATE OF THE UNITED STATES

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Received

AN ACT

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 tech-
 nology.

Sec. 215. Disparities in access to the Internet.

Sec. 216. Common protocols for geographic information systems.

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.

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
4 rapidly transforming societal interactions and the re-
5 lationships among citizens, private businesses, and
6 the Government.

7 (2) The Federal Government has had uneven
8 success in applying advances in information tech-
9 nology to enhance governmental functions and serv-
10 ices, achieve more efficient performance, increase ac-
11 cess to Government information, and increase citizen
12 participation in Government.

1 (3) Most Internet-based services of the Federal
2 Government are developed and presented separately,
3 according to the jurisdictional boundaries of an indi-
4 vidual department or agency, rather than being inte-
5 grated cooperatively according to function or topic.

6 (4) Internet-based Government services involv-
7 ing interagency cooperation are especially difficult to
8 develop and promote, in part because of a lack of
9 sufficient funding mechanisms to support such inter-
10 agency cooperation.

11 (5) Electronic Government has its impact
12 through improved Government performance and out-
13 comes within and across agencies.

14 (6) Electronic Government is a critical element
15 in the management of Government, to be imple-
16 mented as part of a management framework that
17 also addresses finance, procurement, human capital,
18 and other challenges to improve the performance of
19 Government.

20 (7) To take full advantage of the improved Gov-
21 ernment performance that can be achieved through
22 the use of Internet-based technology requires strong
23 leadership, better organization, improved interagency
24 collaboration, and more focused oversight of agency

1 compliance with statutes related to information re-
2 source management.

3 (b) PURPOSES.—The purposes of this Act are the fol-
4 lowing:

5 (1) To provide effective leadership of Federal
6 Government efforts to develop and promote elec-
7 tronic Government services and processes by estab-
8 lishing an Administrator of a new Office of Elec-
9 tronic Government within the Office of Management
10 and Budget.

11 (2) To promote use of the Internet and other
12 information technologies to provide increased oppor-
13 tunities for citizen participation in Government.

14 (3) To promote interagency collaboration in
15 providing electronic Government services, where this
16 collaboration would improve the service to citizens by
17 integrating related functions, and in the use of inter-
18 nal electronic Government processes, where this col-
19 laboration would improve the efficiency and effec-
20 tiveness of the processes.

21 (4) To improve the ability of the Government to
22 achieve agency missions and program performance
23 goals.

24 (5) To promote the use of the Internet and
25 emerging technologies within and across Government

1 agencies to provide citizen-centric Government infor-
2 mation and services.

3 (6) To reduce costs and burdens for businesses
4 and other Government entities.

5 (7) To promote better informed decisionmaking
6 by policy makers.

7 (8) To promote access to high quality Govern-
8 ment information and services across multiple chan-
9 nels.

10 (9) To make the Federal Government more
11 transparent and accountable.

12 (10) To transform agency operations by uti-
13 lizing, where appropriate, best practices from public
14 and private sector organizations.

15 (11) To provide enhanced access to Government
16 information and services in a manner consistent with
17 laws regarding protection of personal privacy, na-
18 tional security, records retention, access for persons
19 with disabilities, and other relevant laws.

1 **TITLE I—OFFICE OF MANAGE-**
 2 **MENT AND BUDGET ELEC-**
 3 **TRONIC GOVERNMENT SERV-**
 4 **ICES**

5 **SEC. 101. MANAGEMENT AND PROMOTION OF ELECTRONIC**
 6 **GOVERNMENT SERVICES.**

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

9 **“CHAPTER 36—MANAGEMENT AND PRO-**
 10 **MOTION OF ELECTRONIC GOVERN-**
 11 **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.

12 **“§ 3601. Definitions**

13 “In this chapter, the definitions under section 3502
 14 shall apply, and the term—

15 “(1) ‘Administrator’ means the Administrator
 16 of the Office of Electronic Government established
 17 under section 3602;

18 “(2) ‘Council’ means the Chief Information Of-
 19 ficers Council established under section 3603;

20 “(3) ‘electronic Government’ means the use by
 21 the Government of web-based Internet applications

1 and other information technologies, combined with
2 processes that implement these technologies, to—

3 “(A) enhance the access to and delivery of
4 Government information and services to the
5 public, other agencies, and other Government
6 entities; or

7 “(B) bring about improvements in Govern-
8 ment operations that may include effectiveness,
9 efficiency, service quality, or transformation;

10 “(4) ‘enterprise architecture’—

11 “(A) means—

12 “(i) a strategic information asset
13 base, which defines the mission;

14 “(ii) the information necessary to per-
15 form the mission;

16 “(iii) the technologies necessary to
17 perform the mission; and

18 “(iv) the transitional processes for im-
19 plementing new technologies in response to
20 changing mission needs; and

21 “(B) includes—

22 “(i) a baseline architecture;

23 “(ii) a target architecture; and

24 “(iii) a sequencing plan;

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

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

7 “(7) ‘integrated service delivery’ means the pro-
8 vision of Internet-based Federal Government infor-
9 mation or services integrated according to function
10 or topic rather than separated according to the
11 boundaries of agency jurisdiction; and

12 “(8) ‘tribal government’ means—

13 “(A) the governing body of any Indian
14 tribe, band, nation, or other organized group or
15 community located in the continental United
16 States (excluding the State of Alaska) that is
17 recognized as eligible for the special programs
18 and services provided by the United States to
19 Indians because of their status as Indians, and

20 “(B) any Alaska Native regional or village
21 corporation established pursuant to the Alaska
22 Native Claims Settlement Act (43 U.S.C. 1601
23 et seq.).

1 **“§ 3602. Office of Electronic Government**

2 “(a) There is established in the Office of Manage-
3 ment and Budget an Office of Electronic Government.

4 “(b) There shall be at the head of the Office an Ad-
5 ministrator who shall be appointed by the President.

6 “(c) The Administrator shall assist the Director in
7 carrying out—

8 “(1) all functions under this chapter;

9 “(2) all of the functions assigned to the Direc-
10 tor under title II of the E-Government Act of 2002;
11 and

12 “(3) other electronic government initiatives,
13 consistent with other statutes.

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

19 “(1) chapter 35;

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

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

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

25 “(5) the Federal Information Security Manage-
26 ment Act of 2002.

1 “(e) The Administrator shall work with the Adminis-
2 trator of the Office of Information and Regulatory Affairs
3 and with other offices within the Office of Management
4 and Budget to oversee implementation of electronic Gov-
5 ernment under this chapter, chapter 35, the E-Govern-
6 ment Act of 2002, and other relevant statutes, in a man-
7 ner consistent with law, relating to—

8 “(1) capital planning and investment control for
9 information technology;

10 “(2) the development of enterprise architec-
11 tures;

12 “(3) information security;

13 “(4) privacy;

14 “(5) access to, dissemination of, and preserva-
15 tion of Government information;

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

18 “(7) other areas of electronic Government.

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

22 “(1) Advise the Director on the resources re-
23 quired to develop and effectively administer elec-
24 tronic Government initiatives.

1 “(2) Recommend to the Director changes relat-
2 ing to Governmentwide strategies and priorities for
3 electronic 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
9 of pilot projects, research, experimentation, and the
10 use of innovative technologies.

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

15 “(6) Coordinate with the Administrator of Gen-
16 eral Services regarding programs undertaken by the
17 General Services Administration to promote elec-
18 tronic government and the efficient use of informa-
19 tion technologies by agencies.

20 “(7) Lead the activities of the Chief Informa-
21 tion Officers Council established under section 3603
22 on behalf of the Deputy Director for Management,
23 who 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 devel-
2 oped by the National Institute of Standards and
3 Technology and promulgated by the Secretary of
4 Commerce under section 11331 of title 40, 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 sec-
8 tors and State, local, and tribal governments, and
9 maximizing the use of commercial standards as ap-
10 propriate, 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
15 section 207(d) of the E-Government Act of
16 2002, standards and guidelines for categorizing
17 Federal Government electronic information to
18 enable efficient use of technologies, such as
19 through the 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
5 best practices and innovative approaches in ac-
6 quiring, using, and managing information re-
7 sources;

8 “(B) is intended to improve the perform-
9 ance of governments in collaborating on the use
10 of information technology to improve the deliv-
11 ery of Government information and services;
12 and

13 “(C) may include—

14 “(i) development of innovative mod-
15 els—

16 “(I) for electronic Government
17 management and Government infor-
18 mation technology contracts; and

19 “(II) that may be developed
20 through focused discussions or using
21 separately sponsored research;

22 “(ii) identification of opportunities for
23 public-private collaboration in using Inter-
24 net-based technology to increase the effi-

1 ciency of Government-to-business trans-
2 actions;

3 “(iii) identification of mechanisms for
4 providing incentives to program managers
5 and other Government employees to de-
6 velop and implement innovative uses of in-
7 formation technologies; and

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

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

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

1 “(12) Coordinate with the Administrator for
2 Federal Procurement Policy to ensure effective im-
3 plementation of electronic procurement initiatives.

4 “(13) Assist Federal agencies, including the
5 General Services Administration, the Department of
6 Justice, and the United States Access Board in—

7 “(A) implementing accessibility standards
8 under section 508 of the Rehabilitation Act of
9 1973 (29 U.S.C. 794d); and

10 “(B) ensuring compliance with those
11 standards through the budget review process
12 and other means.

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

15 “(15) Assist the Director and the Deputy Di-
16 rector for Management in overseeing agency efforts
17 to ensure that electronic Government activities incor-
18 porate adequate, risk-based, and cost-effective secu-
19 rity compatible with business processes.

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

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

24 “(g) The Director shall ensure that the Office of
25 Management and Budget, including the Office of Elec-

1 tronic Government, the Office of Information and Regu-
2 latory Affairs, and other relevant offices, have adequate
3 staff and resources to properly fulfill all functions under
4 the E-Government Act of 2002.

5 **“§ 3603. Chief Information Officers Council**

6 “(a) There is established in the executive branch a
7 Chief Information Officers Council.

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

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

12 “(2) The Administrator of the Office of Elec-
13 tronic Government.

14 “(3) The Administrator of the Office of Infor-
15 mation and Regulatory Affairs.

16 “(4) The chief information officer of each agen-
17 cy described under section 901(b) of title 31.

18 “(5) The chief information officer of the Cen-
19 tral Intelligence Agency.

20 “(6) The chief information officer of the De-
21 partment of the Army, the Department of the Navy,
22 and the Department of the Air Force, if chief infor-
23 mation officers have been designated for such de-
24 partments under section 3506(a)(2)(B).

1 “(7) Any other officer or employee of the
2 United States designated by the chairperson.

3 “(c)(1) The Administrator of the Office of Electronic
4 Government shall lead the activities of the Council on be-
5 half of the Deputy Director for Management.

6 “(2)(A) The Vice Chairman of the Council shall be
7 selected by the Council from among its members.

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

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

12 “(d) The Council is designated the principal inter-
13 agency forum for improving agency practices related to
14 the design, acquisition, development, modernization, use,
15 operation, sharing, and performance of Federal Govern-
16 ment information resources.

17 “(e) In performing its duties, the Council shall con-
18 sult regularly with representatives of State, local, and trib-
19 al governments.

20 “(f) The Council shall perform functions that include
21 the following:

22 “(1) Develop recommendations for the Director
23 on Government information resources management
24 policies and requirements.

1 “(2) Share experiences, ideas, best practices,
2 and innovative approaches related to information re-
3 sources management.

4 “(3) Assist the Administrator in the identifica-
5 tion, development, and coordination of multiagency
6 projects and other innovative initiatives to improve
7 Government performance through the use of infor-
8 mation technology.

9 “(4) Promote the development and use of com-
10 mon performance measures for agency information
11 resources management under this chapter and title
12 II of the E-Government Act of 2002.

13 “(5) Work as appropriate with the National In-
14 stitute of Standards and Technology and the Admin-
15 istrator to develop recommendations on information
16 technology standards developed under section 20 of
17 the National Institute of Standards and Technology
18 Act (15 U.S.C. 278g–3) and promulgated under sec-
19 tion 11331 of title 40, and maximize the use of com-
20 mercial standards as appropriate, including the fol-
21 lowing:

22 “(A) Standards and guidelines for
23 interconnectivity and interoperability as de-
24 scribed under section 3504.

1 “(B) Consistent with the process under
2 section 207(d) of the E-Government Act of
3 2002, standards and guidelines for categorizing
4 Federal Government electronic information to
5 enable efficient use of technologies, such as
6 through the use of extensible markup language.

7 “(C) Standards and guidelines for Federal
8 Government computer system efficiency and se-
9 curity.

10 “(6) Work with the Office of Personnel Man-
11 agement to assess and address the hiring, training,
12 classification, and professional development needs of
13 the Government related to information resources
14 management.

15 “(7) Work with the Archivist of the United
16 States to assess how the Federal Records Act can be
17 addressed effectively by Federal information re-
18 sources management activities.

19 **“§ 3604. E-Government Fund**

20 “(a)(1) There is established in the Treasury of the
21 United States the E-Government Fund.

22 “(2) The Fund shall be administered by the Adminis-
23 trator of the General Services Administration to support
24 projects approved by the Director, assisted by the Admin-
25 istrator of the Office of Electronic Government, that en-

1 able the Federal Government to expand its ability, through
2 the development and implementation of innovative uses of
3 the Internet or other electronic methods, to conduct activi-
4 ties electronically.

5 “(3) Projects under this subsection may include ef-
6 forts to—

7 “(A) make Federal Government information
8 and services more readily available to members of
9 the public (including individuals, businesses, grant-
10 ees, and State and local governments);

11 “(B) make it easier for the public to apply for
12 benefits, receive services, pursue business opportuni-
13 ties, submit information, and otherwise conduct
14 transactions with the Federal Government; and

15 “(C) enable Federal agencies to take advantage
16 of information technology in sharing information
17 and conducting transactions with each other and
18 with State and local governments.

19 “(b)(1) The Administrator shall—

20 “(A) establish procedures for accepting and re-
21 viewing proposals for funding;

22 “(B) consult with interagency councils, includ-
23 ing the Chief Information Officers Council, the Chief
24 Financial Officers Council, and other interagency

1 management councils, in establishing procedures and
2 reviewing proposals; and

3 “(C) assist the Director in coordinating re-
4 sources that agencies receive from the Fund with
5 other resources available to agencies for similar pur-
6 poses.

7 “(2) When reviewing proposals and managing the
8 Fund, the Administrator shall observe and incorporate the
9 following procedures:

10 “(A) A project requiring substantial involve-
11 ment or funding from an agency shall be approved
12 by a senior official with agencywide authority on be-
13 half of the head of the agency, who shall report di-
14 rectly to the head of the agency.

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

17 “(C) Agencies shall identify in their proposals
18 resource commitments from the agencies involved
19 and how these resources would be coordinated with
20 support from the Fund, and include plans for poten-
21 tial continuation of projects after all funds made
22 available from the Fund are expended.

23 “(D) After considering the recommendations of
24 the interagency councils, the Director, assisted by
25 the Administrator, shall have final authority to de-

1 termine which of the candidate projects shall be
2 funded from the Fund.

3 “(E) Agencies shall assess the results of funded
4 projects.

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

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

9 “(A) identifies the group to be served, in-
10 cluding citizens, businesses, the Federal Gov-
11 ernment, or other governments;

12 “(B) indicates what service or information
13 the project will provide that meets needs of
14 groups identified under subparagraph (A);

15 “(C) ensures proper security and protects
16 privacy;

17 “(D) is interagency in scope, including
18 projects implemented by a primary or single
19 agency that—

20 “(i) could confer benefits on multiple
21 agencies; and

22 “(ii) have the support of other agen-
23 cies; and

1 “(E) has performance objectives that tie to
2 agency missions and strategic goals, and in-
3 terim results that relate to the objectives; and

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

6 “(A) has Governmentwide application or
7 implications;

8 “(B) has demonstrated support by the
9 public to be served;

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

12 “(D) identifies resource commitments from
13 nongovernmental sectors;

14 “(E) identifies resource commitments from
15 the agencies involved;

16 “(F) uses web-based technologies to
17 achieve objectives;

18 “(G) identifies records management and
19 records access strategies;

20 “(H) supports more effective citizen par-
21 ticipation in and interaction with agency activi-
22 ties that further progress toward a more citi-
23 zen-centered Government;

1 “(I) directly delivers Government informa-
2 tion and services to the public or provides the
3 infrastructure for delivery;

4 “(J) supports integrated service delivery;

5 “(K) describes how business processes
6 across agencies will reflect appropriate trans-
7 formation simultaneous to technology imple-
8 mentation; and

9 “(L) is new or innovative and does not
10 supplant existing funding streams within agen-
11 cies.

12 “(d) The Fund may be used to fund the integrated
13 Internet-based system under section 204 of the E-Govern-
14 ment Act of 2002.

15 “(e) None of the funds provided from the Fund may
16 be transferred to any agency until 15 days after the Ad-
17 ministrator of the General Services Administration has
18 submitted to the Committees on Appropriations of the
19 Senate and the House of Representatives, the Committee
20 on Governmental Affairs of the Senate, the Committee on
21 Government Reform of the House of Representatives, and
22 the appropriate authorizing committees of the Senate and
23 the House of Representatives, a notification and descrip-
24 tion of how the funds are to be allocated and how the ex-
25 penditure will further the purposes of this chapter.

1 “(f)(1) The Director shall report annually to Con-
2 gress on the operation of the Fund, through the report
3 established under section 3606.

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

5 “(A) all projects which the Director has ap-
6 proved for funding from the Fund; and

7 “(B) the results that have been achieved to date
8 for these funded projects.

9 “(g)(1) There are authorized to be appropriated to
10 the Fund—

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

12 “(B) \$50,000,000 for fiscal year 2004;

13 “(C) \$100,000,000 for fiscal year 2005;

14 “(D) \$150,000,000 for fiscal year 2006; and

15 “(E) such sums as are necessary for fiscal year
16 2007.

17 “(2) Funds appropriated under this subsection shall
18 remain available until expended.

19 **“§ 3605. Program to encourage innovative solutions**
20 **to enhance electronic Government serv-**
21 **ices and processes**

22 “(a) ESTABLISHMENT OF PROGRAM.—The Adminis-
23 trator shall establish and promote a Governmentwide pro-
24 gram to encourage contractor innovation and excellence in

1 facilitating the development and enhancement of electronic
2 Government services and processes.

3 “(b) ISSUANCE OF ANNOUNCEMENTS SEEKING INNO-
4 VATIVE SOLUTIONS.—Under the program, the Adminis-
5 trator, in consultation with the Council and the Adminis-
6 trator for Federal Procurement Policy, shall issue an-
7 nouncements seeking unique and innovative solutions to
8 facilitate the development and enhancement of electronic
9 Government services and processes.

10 “(c) MULTIAGENCY TECHNICAL ASSISTANCE
11 TEAM.—(1) The Administrator, in consultation with the
12 Council and the Administrator for Federal Procurement
13 Policy, shall convene a multiagency technical assistance
14 team to assist in screening proposals submitted to the Ad-
15 ministrator to provide unique and innovative solutions to
16 facilitate the development and enhancement of electronic
17 Government services and processes. The team shall be
18 composed of employees of the agencies represented on the
19 Council who have expertise in scientific and technical dis-
20 ciplines that would facilitate the assessment of the feasi-
21 bility of the proposals.

22 “(2) The technical assistance team shall—

23 “(A) assess the feasibility, scientific and tech-
24 nical merits, and estimated cost of each proposal;
25 and

1 “(B) submit each proposal, and the assessment
2 of the proposal, to the Administrator.

3 “(3) The technical assistance team shall not consider
4 or evaluate proposals submitted in response to a solicita-
5 tion for offers for a pending procurement or for a specific
6 agency requirement.

7 “(4) After receiving proposals and assessments from
8 the technical assistance team, the Administrator shall con-
9 sider recommending appropriate proposals for funding
10 under the E-Government Fund established under section
11 3604 or, if appropriate, forward the proposal and the as-
12 sessment of it to the executive agency whose mission most
13 coincides with the subject matter of the proposal.

14 **“§ 3606. E-Government report**

15 “(a) Not later than March 1 of each year, the Direc-
16 tor shall submit an E-Government status report to the
17 Committee on Governmental Affairs of the Senate and the
18 Committee on Government Reform of the House of Rep-
19 resentatives.

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

21 “(1) a summary of the information reported by
22 agencies under section 202(f) of the E-Government
23 Act of 2002;

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

1 title is amended by inserting after the item relating
2 to section 304 the following:

“305. Electronic Government and information technologies.”.

3 (b) MODIFICATION OF DEPUTY DIRECTOR FOR MAN-
4 AGEMENT FUNCTIONS.—Section 503(b) of title 31, United
5 States Code, is amended—

6 (1) by redesignating paragraphs (5), (6), (7),
7 (8), and (9), as paragraphs (6), (7), (8), (9), and
8 (10), respectively; and

9 (2) by inserting after paragraph (4) the fol-
10 lowing:

11 “(5) Chair the Chief Information Officers
12 Council established under section 3603 of title 44.”.

13 (c) OFFICE OF ELECTRONIC GOVERNMENT.—

14 (1) IN GENERAL.—Chapter 5 of title 31, United
15 States Code, is amended by inserting after section
16 506 the following:

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

18 “The Office of Electronic Government, established
19 under section 3602 of title 44, is an office in the Office
20 of Management and Budget.”.

21 (2) TECHNICAL AND CONFORMING AMEND-
22 MENT.—The table of sections for chapter 5 of title
23 31, United States Code, is amended by inserting
24 after the item relating to section 506 the following:

“507. Office of Electronic Government.”.

1 **TITLE II—FEDERAL MANAGE-**
2 **MENT AND PROMOTION OF**
3 **ELECTRONIC GOVERNMENT**
4 **SERVICES**

5 **SEC. 201. DEFINITIONS.**

6 Except as otherwise provided, in this title the defini-
7 tions under sections 3502 and 3601 of title 44, United
8 States Code, shall apply.

9 **SEC. 202. FEDERAL AGENCY RESPONSIBILITIES.**

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

12 (1) complying with the requirements of this Act
13 (including the amendments made by this Act), the
14 related information resource management policies
15 and guidance established by the Director of the Of-
16 fice of Management and Budget, and the related in-
17 formation technology standards promulgated by the
18 Secretary of Commerce;

19 (2) ensuring that the information resource
20 management policies and guidance established under
21 this Act by the Director, and the related information
22 technology standards promulgated by the Secretary
23 of Commerce are communicated promptly and effec-
24 tively to all relevant officials within their agency;
25 and

1 (3) supporting the efforts of the Director and
2 the Administrator of the General Services Adminis-
3 tration to develop, maintain, and promote an inte-
4 grated Internet-based system of delivering Federal
5 Government information and services to the public
6 under section 204.

7 (b) PERFORMANCE INTEGRATION.—

8 (1) Agencies shall develop performance meas-
9 ures that demonstrate how electronic government en-
10 ables progress toward agency objectives, strategic
11 goals, and statutory mandates.

12 (2) In measuring performance under this sec-
13 tion, agencies shall rely on existing data collections
14 to the extent practicable.

15 (3) Areas of performance measurement that
16 agencies should consider include—

17 (A) customer service;

18 (B) agency productivity; and

19 (C) adoption of innovative information
20 technology, including the appropriate use of
21 commercial best practices.

22 (4) Agencies shall link their performance goals,
23 as appropriate, to key groups, including citizens,
24 businesses, and other governments, and to internal
25 Federal Government operations.

1 (5) As appropriate, agencies shall work collec-
2 tively in linking their performance goals to groups
3 identified under paragraph (4) and shall use infor-
4 mation technology in delivering Government infor-
5 mation and services to those groups.

6 (c) AVOIDING DIMINISHED ACCESS.—When promul-
7 gating policies and implementing programs regarding the
8 provision of Government information and services over the
9 Internet, agency heads shall consider the impact on per-
10 sons without access to the Internet, and shall, to the ex-
11 tent practicable—

12 (1) ensure that the availability of Government
13 information and services has not been diminished for
14 individuals who lack access to the Internet; and

15 (2) pursue alternate modes of delivery that
16 make Government information and services more ac-
17 cessible to individuals who do not own computers or
18 lack access to the Internet.

19 (d) ACCESSIBILITY TO PEOPLE WITH DISABIL-
20 ITIES.—All actions taken by Federal departments and
21 agencies under this Act shall be in compliance with section
22 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

23 (e) SPONSORED ACTIVITIES.—Agencies shall sponsor
24 activities that use information technology to engage the

1 public in the development and implementation of policies
2 and programs.

3 (f) CHIEF INFORMATION OFFICERS.—The Chief In-
4 formation Officer of each of the agencies designated under
5 chapter 36 of title 44, United States Code (as added by
6 this Act) shall be responsible for—

7 (1) participating in the functions of the Chief
8 Information Officers Council; and

9 (2) monitoring the implementation, within their
10 respective agencies, of information technology stand-
11 ards promulgated by the Secretary of Commerce, in-
12 cluding common standards for interconnectivity and
13 interoperability, categorization of Federal Govern-
14 ment electronic information, and computer system
15 efficiency and security.

16 (g) E-GOVERNMENT STATUS REPORT.—

17 (1) IN GENERAL.—Each agency shall compile
18 and submit to the Director an annual E-Government
19 Status Report on—

20 (A) the status of the implementation by
21 the agency of electronic government initiatives;

22 (B) compliance by the agency with this
23 Act; and

1 (C) how electronic Government initiatives
2 of the agency improve performance in delivering
3 programs to constituencies.

4 (2) SUBMISSION.—Each agency shall submit an
5 annual report under this subsection—

6 (A) to the Director at such time and in
7 such manner as the Director requires;

8 (B) consistent with related reporting re-
9 quirements; and

10 (C) which addresses any section in this
11 title relevant to that agency.

12 (h) USE OF TECHNOLOGY.—Nothing in this Act su-
13 persedes the responsibility of an agency to use or manage
14 information technology to deliver Government information
15 and services that fulfill the statutory mission and pro-
16 grams of the agency.

17 (i) NATIONAL SECURITY SYSTEMS.—

18 (1) INAPPLICABILITY.—Except as provided
19 under paragraph (2), this title does not apply to na-
20 tional security systems as defined in section 11103
21 of title 40, United States Code.

22 (2) APPLICABILITY.—This section, section 203,
23 and section 214 do apply to national security sys-
24 tems to the extent practicable and consistent with
25 law.

1 **SEC. 203. COMPATIBILITY OF EXECUTIVE AGENCY METH-**
2 **ODS FOR USE AND ACCEPTANCE OF ELEC-**
3 **TRONIC SIGNATURES.**

4 (a) **PURPOSE.**—The purpose of this section is to
5 achieve interoperable implementation of electronic signa-
6 tures for appropriately secure electronic transactions with
7 Government.

8 (b) **ELECTRONIC SIGNATURES.**—In order to fulfill
9 the objectives of the Government Paperwork Elimination
10 Act (Public Law 105–277; 112 Stat. 2681–749 through
11 2681–751), each Executive agency (as defined under sec-
12 tion 105 of title 5, United States Code) shall ensure that
13 its methods for use and acceptance of electronic signatures
14 are compatible with the relevant policies and procedures
15 issued by the Director.

16 (c) **AUTHORITY FOR ELECTRONIC SIGNATURES.**—
17 The Administrator of General Services shall support the
18 Director by establishing a framework to allow efficient
19 interoperability among Executive agencies when using
20 electronic signatures, including processing of digital signa-
21 tures.

22 (d) **AUTHORIZATION OF APPROPRIATIONS.**—There
23 are authorized to be appropriated to the General Services
24 Administration, to ensure the development and operation
25 of a Federal bridge certification authority for digital sig-
26 nature compatibility, and for other activities consistent

1 with this section, \$8,000,000 or such sums as are nec-
2 essary in fiscal year 2003, and such sums as are necessary
3 for each fiscal year thereafter.

4 **SEC. 204. FEDERAL INTERNET PORTAL.**

5 (a) IN GENERAL.—

6 (1) PUBLIC ACCESS.—The Director shall work
7 with the Administrator of the General Services Ad-
8 ministration and other agencies to maintain and pro-
9 mote an integrated Internet-based system of pro-
10 viding the public with access to Government infor-
11 mation and services.

12 (2) CRITERIA.—To the extent practicable, the
13 integrated system shall be designed and operated ac-
14 cording to the following criteria:

15 (A) The provision of Internet-based Gov-
16 ernment information and services directed to
17 key groups, including citizens, business, and
18 other governments, and integrated according to
19 function or topic rather than separated accord-
20 ing to the boundaries of agency jurisdiction.

21 (B) An ongoing effort to ensure that Inter-
22 net-based Government services relevant to a
23 given citizen activity are available from a single
24 point.

1 (C) Access to Federal Government infor-
2 mation and services consolidated, as appro-
3 priate, with Internet-based information and
4 services provided by State, local, and tribal gov-
5 ernments.

6 (D) Access to Federal Government infor-
7 mation held by 1 or more agencies shall be
8 made available in a manner that protects pri-
9 vacy, consistent with law.

10 (b) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated to the General Services
12 Administration \$15,000,000 for the maintenance, im-
13 provement, and promotion of the integrated Internet-
14 based system for fiscal year 2003, and such sums as are
15 necessary for fiscal years 2004 through 2007.

16 **SEC. 205. FEDERAL COURTS.**

17 (a) INDIVIDUAL COURT WEBSITES.—The Chief Jus-
18 tice of the United States, the chief judge of each circuit
19 and district and of the Court of Federal Claims, and the
20 chief bankruptcy judge of each district shall cause to be
21 established and maintained, for the court of which the
22 judge is chief justice or judge, a website that contains the
23 following information or links to websites with the fol-
24 lowing information:

1 (1) Location and contact information for the
2 courthouse, including the telephone numbers and
3 contact names for the clerk's office and justices' or
4 judges' chambers.

5 (2) Local rules and standing or general orders
6 of the court.

7 (3) Individual rules, if in existence, of each jus-
8 tice or judge in that court.

9 (4) Access to docket information for each case.

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

14 (6) Access to documents filed with the court-
15 house in electronic form, to the extent provided
16 under subsection (c).

17 (7) Any other information (including forms in
18 a format that can be downloaded) that the court de-
19 termines useful to the public.

20 (b) MAINTENANCE OF DATA ONLINE.—

21 (1) UPDATE OF INFORMATION.—The informa-
22 tion and rules on each website shall be updated reg-
23 ularly and kept reasonably current.

24 (2) CLOSED CASES.—Electronic files and docket
25 information for cases closed for more than 1 year

1 are not required to be made available online, except
2 all written opinions with a date of issuance after the
3 effective date of this section shall remain available
4 online.

5 (c) ELECTRONIC FILINGS.—

6 (1) IN GENERAL.—Except as provided under
7 paragraph (2) or in the rules prescribed under para-
8 graph (3), each court shall make any document that
9 is filed electronically publicly available online. A
10 court may convert any document that is filed in
11 paper form to electronic form. To the extent such
12 conversions are made, all such electronic versions of
13 the document shall be made available online.

14 (2) EXCEPTIONS.—Documents that are filed
15 that are not otherwise available to the public, such
16 as documents filed under seal, shall not be made
17 available online.

18 (3) PRIVACY AND SECURITY CONCERNS.—(A)(i)
19 The Supreme Court shall prescribe rules, in accord-
20 ance with sections 2072 and 2075 of title 28, United
21 States Code, to protect privacy and security con-
22 cerns relating to electronic filing of documents and
23 the public availability under this subsection of docu-
24 ments filed electronically.

1 (ii) Such rules shall provide to the extent prac-
2 ticable for uniform treatment of privacy and security
3 issues throughout the Federal courts.

4 (iii) Such rules shall take into consideration
5 best practices in Federal and State courts to protect
6 private information or otherwise maintain necessary
7 information security.

8 (iv) To the extent that such rules provide for
9 the redaction of certain categories of information in
10 order to protect privacy and security concerns, such
11 rules shall provide that a party that wishes to file
12 an otherwise proper document containing such infor-
13 mation may file an unredacted document under seal,
14 which shall be retained by the court as part of the
15 record, and which, at the discretion of the court and
16 subject to any applicable rules issued in accordance
17 with chapter 131 of title 28, United States Code,
18 shall be either in lieu of, or in addition, to, a re-
19 dacted copy in the public file.

20 (B)(i) Subject to clause (ii), the Judicial Con-
21 ference of the United States may issue interim rules,
22 and interpretive statements relating to the applica-
23 tion of such rules, which conform to the require-
24 ments of this paragraph and which shall cease to

1 have effect upon the effective date of the rules re-
2 quired under subparagraph (A).

3 (ii) Pending issuance of the rules required
4 under subparagraph (A), any rule or order of any
5 court, or of the Judicial Conference, providing for
6 the redaction of certain categories of information in
7 order to protect privacy and security concerns aris-
8 ing from electronic filing shall comply with, and be
9 construed in conformity with, subparagraph (A)(iv).

10 (C) Not later than 1 year after the rules pre-
11 scribed under subparagraph (A) take effect, and
12 every 2 years thereafter, the Judicial Conference
13 shall submit to Congress a report on the adequacy
14 of those rules to protect privacy and security.

15 (d) DOCKETS WITH LINKS TO DOCUMENTS.—The
16 Judicial Conference of the United States shall explore the
17 feasibility of technology to post online dockets with links
18 allowing all filings, decisions, and rulings in each case to
19 be obtained from the docket sheet of that case.

20 (e) COST OF PROVIDING ELECTRONIC DOCKETING
21 INFORMATION.—Section 303(a) of the Judiciary Appro-
22 priations Act, 1992 (28 U.S.C. 1913 note) is amended in
23 the first sentence by striking “shall hereafter” and insert-
24 ing “may, only to the extent necessary,”.

1 (f) TIME REQUIREMENTS.—Not later than 2 years
2 after the effective date of this title, the websites under
3 subsection (a) shall be established, except that access to
4 documents filed in electronic form shall be established not
5 later than 4 years after that effective date.

6 (g) DEFERRAL.—

7 (1) IN GENERAL.—

8 (A) ELECTION.—

9 (i) NOTIFICATION.—The Chief Justice
10 of the United States, a chief judge, or
11 chief bankruptcy judge may submit a noti-
12 fication to the Administrative Office of the
13 United States Courts to defer compliance
14 with any requirement of this section with
15 respect to the Supreme Court, a court of
16 appeals, district, or the bankruptcy court
17 of a district.

18 (ii) CONTENTS.—A notification sub-
19 mitted under this subparagraph shall
20 state—

21 (I) the reasons for the deferral;

22 and

23 (II) the online methods, if any,
24 or any alternative methods, such court

1 or district is using to provide greater
2 public access to information.

3 (B) EXCEPTION.—To the extent that the
4 Supreme Court, a court of appeals, district, or
5 bankruptcy court of a district maintains a
6 website under subsection (a), the Supreme
7 Court or that court of appeals or district shall
8 comply with subsection (b)(1).

9 (2) REPORT.—Not later than 1 year after the
10 effective date of this title, and every year thereafter,
11 the Judicial Conference of the United States shall
12 submit a report to the Committees on Governmental
13 Affairs and the Judiciary of the Senate and the
14 Committees on Government Reform and the Judici-
15 ary of the House of Representatives that—

16 (A) contains all notifications submitted to
17 the Administrative Office of the United States
18 Courts under this subsection; and

19 (B) summarizes and evaluates all notifica-
20 tions.

21 **SEC. 206. REGULATORY AGENCIES.**

22 (a) PURPOSES.—The purposes of this section are
23 to—

24 (1) improve performance in the development
25 and issuance of agency regulations by using infor-

1 mation technology to increase access, accountability,
2 and transparency; and

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

8 (b) INFORMATION PROVIDED BY AGENCIES ON-
9 LINE.—To the extent practicable as determined by the
10 agency in consultation with the Director, each agency (as
11 defined under section 551 of title 5, United States Code)
12 shall ensure that a publicly accessible Federal Government
13 website includes all information about that agency re-
14 quired to be published in the Federal Register under para-
15 graphs (1) and (2) of section 552(a) of title 5, United
16 States Code.

17 (c) SUBMISSIONS BY ELECTRONIC MEANS.—To the
18 extent practicable, agencies shall accept submissions under
19 section 553(c) of title 5, United States Code, by electronic
20 means.

21 (d) ELECTRONIC DOCKETING.—

22 (1) IN GENERAL.—To the extent practicable, as
23 determined by the agency in consultation with the
24 Director, agencies shall ensure that a publicly acces-
25 sible Federal Government website contains electronic

1 dockets for rulemakings under section 553 of title 5,
2 United States Code.

3 (2) INFORMATION AVAILABLE.—Agency elec-
4 tronic dockets shall make publicly available online to
5 the extent practicable, as determined by the agency
6 in consultation with the Director—

7 (A) all submissions under section 553(c) of
8 title 5, United States Code; and

9 (B) other materials that by agency rule or
10 practice are included in the rulemaking docket
11 under section 553(c) of title 5, United States
12 Code, whether or not submitted electronically.

13 (e) TIME LIMITATION.—Agencies shall implement the
14 requirements of this section consistent with a timetable
15 established by the Director and reported to Congress in
16 the first annual report under section 3606 of title 44 (as
17 added by this Act).

18 **SEC. 207. ACCESSIBILITY, USABILITY, AND PRESERVATION**
19 **OF GOVERNMENT INFORMATION.**

20 (a) PURPOSE.—The purpose of this section is to im-
21 prove the methods by which Government information, in-
22 cluding information on the Internet, is organized, pre-
23 served, and made accessible to the public.

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

1 (1) “Committee” means the Interagency Com-
2 mittee on Government Information established under
3 subsection (c); and

4 (2) “directory” means a taxonomy of subjects
5 linked to websites that—

6 (A) organizes Government information on
7 the Internet according to subject matter; and

8 (B) may be created with the participation
9 of human editors.

10 (c) INTERAGENCY COMMITTEE.—

11 (1) ESTABLISHMENT.—Not later than 180 days
12 after the date of enactment of this title, the Director
13 shall establish the Interagency Committee on Gov-
14 ernment Information.

15 (2) MEMBERSHIP.—The Committee shall be
16 chaired by the Director or the designee of the Direc-
17 tor and—

18 (A) shall include representatives from—

19 (i) the National Archives and Records
20 Administration;

21 (ii) the offices of the Chief Informa-
22 tion Officers from Federal agencies; and

23 (iii) other relevant officers from the
24 executive branch; and

1 (B) may include representatives from the
2 Federal legislative and judicial branches.

3 (3) FUNCTIONS.—The Committee shall—

4 (A) engage in public consultation to the
5 maximum extent feasible, including consultation
6 with interested communities such as public ad-
7 vocacy organizations;

8 (B) conduct studies and submit rec-
9 ommendations, as provided under this section,
10 to the Director and Congress; and

11 (C) share effective practices for access to,
12 dissemination of, and retention of Federal in-
13 formation.

14 (4) TERMINATION.—The Committee may be
15 terminated on a date determined by the Director, ex-
16 cept the Committee may not terminate before the
17 Committee submits all recommendations required
18 under this section.

19 (d) CATEGORIZING OF INFORMATION.—

20 (1) COMMITTEE FUNCTIONS.—Not later than 2
21 years after the date of enactment of this Act, the
22 Committee shall submit recommendations to the Di-
23 rector on—

24 (A) the adoption of standards, which are
25 open to the maximum extent feasible, to enable

1 the organization and categorization of Govern-
2 ment information—

3 (i) in a way that is searchable elec-
4 tronically, including by searchable identi-
5 fiers; and

6 (iii) in ways that are interoperable
7 across agencies;

8 (B) the definition of categories of Govern-
9 ment information which should be classified
10 under the standards; and

11 (C) determining priorities and developing
12 schedules for the initial implementation of the
13 standards by agencies.

14 (2) FUNCTIONS OF THE DIRECTOR.—Not later
15 than 1 year after the submission of recommenda-
16 tions under paragraph (1), the Director shall issue
17 policies—

18 (A) requiring that agencies use standards,
19 which are open to the maximum extent feasible,
20 to enable the organization and categorization of
21 Government information—

22 (i) in a way that is searchable elec-
23 tronically, including by searchable identi-
24 fiers;

1 (ii) in ways that are interoperable
2 across agencies; and

3 (iii) that are, as appropriate, con-
4 sistent with the provisions under section
5 3602(f)(8) of title 44, United States Code;

6 (B) defining categories of Government in-
7 formation which shall be required to be classi-
8 fied under the standards; and

9 (C) determining priorities and developing
10 schedules for the initial implementation of the
11 standards by agencies.

12 (3) MODIFICATION OF POLICIES.—After the
13 submission of agency reports under paragraph (4),
14 the Director shall modify the policies, as needed, in
15 consultation with the Committee and interested par-
16 ties.

17 (4) AGENCY FUNCTIONS.—Each agency shall
18 report annually to the Director, in the report estab-
19 lished under section 202(g), on compliance of that
20 agency with the policies issued under paragraph
21 (2)(A).

22 (e) PUBLIC ACCESS TO ELECTRONIC INFORMA-
23 TION.—

24 (1) COMMITTEE FUNCTIONS.—Not later than 2
25 years after the date of enactment of this Act, the

1 Committee shall submit recommendations to the Di-
2 rector and the Archivist of the United States on—

3 (A) the adoption by agencies of policies
4 and procedures to ensure that chapters 21, 25,
5 27, 29, and 31 of title 44, United States Code,
6 are applied effectively and comprehensively to
7 Government information on the Internet and to
8 other electronic records; and

9 (B) the imposition of timetables for the
10 implementation of the policies and procedures
11 by agencies.

12 (2) FUNCTIONS OF THE ARCHIVIST.—Not later
13 than 1 year after the submission of recommenda-
14 tions by the Committee under paragraph (1), the
15 Archivist of the United States shall issue policies—

16 (A) requiring the adoption by agencies of
17 policies and procedures to ensure that chapters
18 21, 25, 27, 29, and 31 of title 44, United
19 States Code, are applied effectively and com-
20 prehensively to Government information on the
21 Internet and to other electronic records; and

22 (B) imposing timetables for the implemen-
23 tation of the policies, procedures, and tech-
24 nologies by agencies.

1 (3) MODIFICATION OF POLICIES.—After the
2 submission of agency reports under paragraph (4),
3 the Archivist of the United States shall modify the
4 policies, as needed, in consultation with the Com-
5 mittee and interested parties.

6 (4) AGENCY FUNCTIONS.—Each agency shall
7 report annually to the Director, in the report estab-
8 lished under section 202(g), on compliance of that
9 agency with the policies issued under paragraph
10 (2)(A).

11 (f) AGENCY WEBSITES.—

12 (1) STANDARDS FOR AGENCY WEBSITES.—Not
13 later than 2 years after the effective date of this
14 title, the Director shall promulgate guidance for
15 agency websites that includes—

16 (A) requirements that websites include di-
17 rect links to—

18 (i) descriptions of the mission and
19 statutory authority of the agency;

20 (ii) information made available to the
21 public under subsections (a)(1) and (b) of
22 section 552 of title 5, United States Code
23 (commonly referred to as the “Freedom of
24 Information Act”);

1 (iii) information about the organiza-
2 tional structure of the agency; and

3 (iv) the strategic plan of the agency
4 developed under section 306 of title 5,
5 United States Code; and

6 (B) minimum agency goals to assist public
7 users to navigate agency websites, including—

8 (i) speed of retrieval of search results;

9 (ii) the relevance of the results;

10 (iii) tools to aggregate and
11 disaggregate data; and

12 (iv) security protocols to protect infor-
13 mation.

14 (2) AGENCY REQUIREMENTS.—(A) Not later
15 than 2 years after the date of enactment of this Act,
16 each agency shall—

17 (i) consult with the Committee and solicit
18 public comment;

19 (ii) establish a process for determining
20 which Government information the agency in-
21 tends to make available and accessible to the
22 public on the Internet and by other means;

23 (iii) develop priorities and schedules for
24 making Government information available and
25 accessible;

1 (iv) make such final determinations, prior-
2 ities, and schedules available for public com-
3 ment;

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

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

9 (B) Each agency shall update determinations,
10 priorities, and schedules of the agency, as needed,
11 after consulting with the Committee and soliciting
12 public comment, if appropriate.

13 (3) PUBLIC DOMAIN DIRECTORY OF PUBLIC
14 FEDERAL GOVERNMENT WEBSITES.—

15 (A) ESTABLISHMENT.—Not later than 2
16 years after the effective date of this title, the
17 Director and each agency shall—

18 (i) develop and establish a public do-
19 main directory of public Federal Govern-
20 ment websites; and

21 (ii) post the directory on the Internet
22 with a link to the integrated Internet-based
23 system established under section 204.

24 (B) DEVELOPMENT.—With the assistance
25 of each agency, the Director shall—

1 (i) direct the development of the direc-
2 tory through a collaborative effort, includ-
3 ing input from—

4 (I) agency librarians;

5 (II) information technology man-
6 agers;

7 (III) program managers;

8 (IV) records managers;

9 (V) Federal depository librarians;

10 and

11 (VI) other interested parties; and

12 (ii) develop a public domain taxonomy
13 of subjects used to review and categorize
14 public Federal Government websites.

15 (C) UPDATE.—With the assistance of each
16 agency, the Administrator of the Office of Elec-
17 tronic Government shall—

18 (i) update the directory as necessary,
19 but not less than every 6 months; and

20 (ii) solicit interested persons for im-
21 provements to the directory.

22 (g) ACCESS TO FEDERALLY FUNDED RESEARCH AND
23 DEVELOPMENT.—

24 (1) DEVELOPMENT AND MAINTENANCE OF GOV-
25 ERNMENTWIDE REPOSITORY AND WEBSITE.—

1 (A) REPOSITORY AND WEBSITE.—The Di-
2 rector of the Office of Management and Budget
3 (or the Director’s delegate), in consultation
4 with the Director of the Office of Science and
5 Technology Policy and other relevant agencies,
6 shall ensure the development and maintenance
7 of—

8 (i) a repository that fully integrates,
9 to the maximum extent feasible, informa-
10 tion about research and development fund-
11 ed by the Federal Government, and the re-
12 pository shall—

13 (I) include information about re-
14 search and development funded by the
15 Federal Government, consistent with
16 any relevant protections for the infor-
17 mation under section 552 of title 5,
18 United States Code, and performed
19 by—

20 (aa) institutions not a part
21 of the Federal Government, in-
22 cluding State, local, and foreign
23 governments; industrial firms;
24 educational institutions; not-for-
25 profit organizations; federally

1 funded research and development
2 centers; and private individuals;
3 and

4 (bb) entities of the Federal
5 Government, including research
6 and development laboratories,
7 centers, and offices; and

8 (II) integrate information about each
9 separate research and development task or
10 award, including—

11 (aa) the dates upon which
12 the task or award is expected to
13 start and end;

14 (bb) a brief summary de-
15 scribing the objective and the sci-
16 entific and technical focus of the
17 task or award;

18 (cc) the entity or institution
19 performing the task or award
20 and its contact information;

21 (dd) the total amount of
22 Federal funds expected to be pro-
23 vided to the task or award over
24 its lifetime and the amount of
25 funds expected to be provided in

1 each fiscal year in which the
2 work of the task or award is on-
3 going;

4 (ee) any restrictions at-
5 tached to the task or award that
6 would prevent the sharing with
7 the general public of any or all of
8 the information required by this
9 subsection, and the reasons for
10 such restrictions; and

11 (ff) such other information
12 as may be determined to be ap-
13 propriate; and

14 (ii) 1 or more websites upon which all
15 or part of the repository of Federal re-
16 search and development shall be made
17 available to and searchable by Federal
18 agencies and non-Federal entities, includ-
19 ing the general public, to facilitate—

20 (I) the coordination of Federal
21 research and development activities;

22 (II) collaboration among those
23 conducting Federal research and de-
24 velopment;

1 (III) the transfer of technology
2 among Federal agencies and between
3 Federal agencies and non-Federal en-
4 tities; and

5 (IV) access by policymakers and
6 the public to information concerning
7 Federal research and development ac-
8 tivities.

9 (B) OVERSIGHT.—The Director of the Of-
10 fice of Management and Budget shall issue any
11 guidance determined necessary to ensure that
12 agencies provide all information requested
13 under this subsection.

14 (2) AGENCY FUNCTIONS.—Any agency that
15 funds Federal research and development under this
16 subsection shall provide the information required to
17 populate the repository in the manner prescribed by
18 the Director of the Office of Management and Budg-
19 et.

20 (3) COMMITTEE FUNCTIONS.—Not later than
21 18 months after the date of enactment of this Act,
22 working with the Director of the Office of Science
23 and Technology Policy, and after consultation with
24 interested parties, the Committee shall submit rec-
25 ommendations to the Director on—

1 (A) policies to improve agency reporting of
2 information for the repository established under
3 this subsection; and

4 (B) policies to improve dissemination of
5 the results of research performed by Federal
6 agencies and federally funded research and de-
7 velopment centers.

8 (4) FUNCTIONS OF THE DIRECTOR.—After sub-
9 mission of recommendations by the Committee under
10 paragraph (3), the Director shall report on the rec-
11 ommendations of the Committee and Director to
12 Congress, in the E-Government report under section
13 3606 of title 44 (as added by this Act).

14 (5) AUTHORIZATION OF APPROPRIATIONS.—
15 There are authorized to be appropriated for the de-
16 velopment, maintenance, and operation of the Gov-
17 ernmentwide repository and website under this sub-
18 section—

19 (A) \$2,000,000 in each of the fiscal years
20 2003 through 2005; and

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

23 **SEC. 208. PRIVACY PROVISIONS.**

24 (a) PURPOSE.—The purpose of this section is to en-
25 sure sufficient protections for the privacy of personal in-

1 formation as agencies implement citizen-centered elec-
2 tronic Government.

3 (b) PRIVACY IMPACT ASSESSMENTS.—

4 (1) RESPONSIBILITIES OF AGENCIES.—

5 (A) IN GENERAL.—An agency shall take
6 actions described under subparagraph (B) be-
7 fore—

8 (i) developing or procuring informa-
9 tion technology that collects, maintains, or
10 disseminates information that is in an
11 identifiable form; or

12 (ii) initiating a new collection of infor-
13 mation that—

14 (I) will be collected, maintained,
15 or disseminated using information
16 technology; and

17 (II) includes any information in
18 an identifiable form permitting the
19 physical or online contacting of a spe-
20 cific individual, if identical questions
21 have been posed to, or identical re-
22 porting requirements imposed on, 10
23 or more persons, other than agencies,
24 instrumentalities, or employees of the
25 Federal Government.

1 (B) AGENCY ACTIVITIES.—To the extent
2 required under subparagraph (A), each agency
3 shall—

4 (i) conduct a privacy impact assess-
5 ment;

6 (ii) ensure the review of the privacy
7 impact assessment by the Chief Informa-
8 tion Officer, or equivalent official, as deter-
9 mined by the head of the agency; and

10 (iii) if practicable, after completion of
11 the review under clause (ii), make the pri-
12 vacy impact assessment publicly available
13 through the website of the agency, publica-
14 tion in the Federal Register, or other
15 means.

16 (C) SENSITIVE INFORMATION.—Subpara-
17 graph (B)(iii) may be modified or waived for se-
18 curity reasons, or to protect classified, sensitive,
19 or private information contained in an assess-
20 ment.

21 (D) COPY TO DIRECTOR.—Agencies shall
22 provide the Director with a copy of the privacy
23 impact assessment for each system for which
24 funding is requested.

1 (2) CONTENTS OF A PRIVACY IMPACT ASSESS-
2 MENT.—

3 (A) IN GENERAL.—The Director shall
4 issue guidance to agencies specifying the re-
5 quired contents of a privacy impact assessment.

6 (B) GUIDANCE.—The guidance shall—

7 (i) ensure that a privacy impact as-
8 sessment is commensurate with the size of
9 the information system being assessed, the
10 sensitivity of information that is in an
11 identifiable form in that system, and the
12 risk of harm from unauthorized release of
13 that information; and

14 (ii) require that a privacy impact as-
15 sessment address—

16 (I) what information is to be col-
17 lected;

18 (II) why the information is being
19 collected;

20 (III) the intended use of the
21 agency of the information;

22 (IV) with whom the information
23 will be shared;

24 (V) what notice or opportunities
25 for consent would be provided to indi-

1 viduals regarding what information is
2 collected and how that information is
3 shared;

4 (VI) how the information will be
5 secured; and

6 (VII) whether a system of
7 records is being created under section
8 552a of title 5, United States Code,
9 (commonly referred to as the “Privacy
10 Act”).

11 (3) RESPONSIBILITIES OF THE DIRECTOR.—

12 The Director shall—

13 (A) develop policies and guidelines for
14 agencies on the conduct of privacy impact as-
15 sessments;

16 (B) oversee the implementation of the pri-
17 vacy impact assessment process throughout the
18 Government; and

19 (C) require agencies to conduct privacy im-
20 pact assessments of existing information sys-
21 tems or ongoing collections of information that
22 is in an identifiable form as the Director deter-
23 mines appropriate.

24 (c) PRIVACY PROTECTIONS ON AGENCY
25 WEBSITES.—

1 (1) PRIVACY POLICIES ON WEBSITES.—

2 (A) GUIDELINES FOR NOTICES.—The Di-
3 rector shall develop guidance for privacy notices
4 on agency websites used by the public.

5 (B) CONTENTS.—The guidance shall re-
6 quire that a privacy notice address, consistent
7 with section 552a of title 5, United States
8 Code—

9 (i) what information is to be collected;

10 (ii) why the information is being col-
11 lected;

12 (iii) the intended use of the agency of
13 the information;

14 (iv) with whom the information will be
15 shared;

16 (v) what notice or opportunities for
17 consent would be provided to individuals
18 regarding what information is collected
19 and how that information is shared;

20 (vi) how the information will be se-
21 cured; and

22 (vii) the rights of the individual under
23 section 552a of title 5, United States Code
24 (commonly referred to as the “Privacy

1 Act”), and other laws relevant to the pro-
2 tection of the privacy of an individual.

3 (2) PRIVACY POLICIES IN MACHINE-READABLE
4 FORMATS.—The Director shall issue guidance re-
5 quiring agencies to translate privacy policies into a
6 standardized machine-readable format.

7 (d) DEFINITION.—In this section, the term
8 “identifiable form” means any representation of informa-
9 tion that permits the identity of an individual to whom
10 the information applies to be reasonably inferred by either
11 direct or indirect means.

12 **SEC. 209. FEDERAL INFORMATION TECHNOLOGY WORK-**
13 **FORCE DEVELOPMENT.**

14 (a) PURPOSE.—The purpose of this section is to im-
15 prove the skills of the Federal workforce in using informa-
16 tion technology to deliver Government information and
17 services.

18 (b) WORKFORCE DEVELOPMENT.—

19 (1) IN GENERAL.—In consultation with the Di-
20 rector of the Office of Management and Budget, the
21 Chief Information Officers Council, and the Admin-
22 istrator of General Services, the Director of the Of-
23 fice of Personnel Management shall—

24 (A) analyze, on an ongoing basis, the per-
25 sonnel needs of the Federal Government related

1 to information technology and information re-
2 source management;

3 (B) identify where current information
4 technology and information resource manage-
5 ment training do not satisfy the personnel
6 needs described in subparagraph (A);

7 (C) oversee the development of curricula,
8 training methods, and training priorities that
9 correspond to the projected personnel needs of
10 the Federal Government related to information
11 technology and information resource manage-
12 ment; and

13 (D) assess the training of Federal employ-
14 ees in information technology disciplines in
15 order to ensure that the information resource
16 management needs of the Federal Government
17 are addressed.

18 (2) INFORMATION TECHNOLOGY TRAINING PRO-
19 GRAMS.—The head of each Executive agency, after
20 consultation with the Director of the Office of Per-
21 sonnel Management, the Chief Information Officers
22 Council, and the Administrator of General Services,
23 shall establish and operate information technology
24 training programs consistent with the requirements
25 of this subsection. Such programs shall—

1 (A) have curricula covering a broad range
2 of information technology disciplines cor-
3 responding to the specific information tech-
4 nology and information resource management
5 needs of the agency involved;

6 (B) be developed and applied according to
7 rigorous standards; and

8 (C) be designed to maximize efficiency,
9 through the use of self-paced courses, online
10 courses, on-the-job training, and the use of re-
11 mote instructors, wherever such features can be
12 applied without reducing the effectiveness of the
13 training or negatively impacting academic
14 standards.

15 (3) GOVERNMENTWIDE POLICIES AND EVALUA-
16 TION.—The Director of the Office of Personnel
17 Management, in coordination with the Director of
18 the Office of Management and Budget, shall issue
19 policies to promote the development of performance
20 standards for training and uniform implementation
21 of this subsection by Executive agencies, with due
22 regard for differences in program requirements
23 among agencies that may be appropriate and war-
24 ranted in view of the agency mission. The Director
25 of the Office of Personnel Management shall evalu-

1 ate the implementation of the provisions of this sub-
2 section by Executive agencies.

3 (4) CHIEF INFORMATION OFFICER AUTHORI-
4 TIES AND RESPONSIBILITIES.—Subject to the au-
5 thority, direction, and control of the head of an Ex-
6 ecutive agency, the chief information officer of such
7 agency shall carry out all powers, functions, and du-
8 ties of the head of the agency with respect to imple-
9 mentation of this subsection. The chief information
10 officer shall ensure that the policies of the agency
11 head established in accordance with this subsection
12 are implemented throughout the agency.

13 (5) INFORMATION TECHNOLOGY TRAINING RE-
14 PORTING.—The Director of the Office of Manage-
15 ment and Budget shall ensure that the heads of Ex-
16 ecutive agencies collect and maintain standardized
17 information on the information technology and infor-
18 mation resources management workforce related to
19 the implementation of this subsection.

20 (6) AUTHORITY TO DETAIL EMPLOYEES TO
21 NON-FEDERAL EMPLOYERS.—In carrying out the
22 preceding provisions of this subsection, the Director
23 of the Office of Personnel Management may provide
24 for a program under which a Federal employee may
25 be detailed to a non-Federal employer. The Director

1 of the Office of Personnel Management shall pre-
2 scribe regulations for such program, including the
3 conditions for service and duties as the Director con-
4 siders necessary.

5 (7) COORDINATION PROVISION.—An assignment
6 described in section 3703 of title 5, United States
7 Code, may not be made unless a program under
8 paragraph (6) is established, and the assignment is
9 made in accordance with the requirements of such
10 program.

11 (8) EMPLOYEE PARTICIPATION.—Subject to in-
12 formation resource management needs and the limi-
13 tations imposed by resource needs in other occupa-
14 tional areas, and consistent with their overall work-
15 force development strategies, agencies shall encour-
16 age employees to participate in occupational infor-
17 mation technology training.

18 (9) AUTHORIZATION OF APPROPRIATIONS.—
19 There are authorized to be appropriated to the Of-
20 fice of Personnel Management for the implementa-
21 tion of this subsection, \$15,000,000 in fiscal year
22 2003, and such sums as are necessary for each fiscal
23 year thereafter.

24 (10) EXECUTIVE AGENCY DEFINED.—For pur-
25 poses of this subsection, the term “Executive agen-

1 cy” has the meaning given the term “agency” under
 2 section 3701 of title 5, United States Code (as
 3 added by subsection (c)).

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

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

9 **“CHAPTER 37—INFORMATION**
 10 **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
 Columbia.

“3706. Reporting requirement.

“3707. Regulations.

11 **“§ 3701. Definitions**

12 “For purposes of this chapter—

13 “(1) the term ‘agency’ means an Executive
 14 agency, but does not include the General Accounting
 15 Office; and

16 “(2) the term ‘detail’ means—

17 “(A) the assignment or loan of an em-
 18 ployee of an agency to a private sector organi-
 19 zation without a change of position from the
 20 agency that employs the individual, or

1 “(B) the assignment or loan of an em-
2 ployee of a private sector organization to an
3 agency without a change of position from the
4 private sector organization that employs the in-
5 dividual,

6 whichever is appropriate in the context in which
7 such term is used.

8 **“§ 3702. General provisions**

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

16 “(1) works in the field of information tech-
17 nology management;

18 “(2) is considered an exceptional performer by
19 the individual’s current employer; and

20 “(3) is expected to assume increased informa-
21 tion technology management responsibilities in the
22 future.

23 An employee of an agency shall be eligible to participate
24 in this program only if the employee is employed at the
25 GS–11 level or above (or equivalent) and is serving under

1 a career or career-conditional appointment or an appoint-
2 ment of equivalent tenure in the excepted service, and ap-
3 plicable requirements of section 209(b) of the E-Govern-
4 ment Act of 2002 are met with respect to the proposed
5 assignment of such employee.

6 “(b) AGREEMENTS.—Each agency that exercises its
7 authority under this chapter shall provide for a written
8 agreement between the agency and the employee con-
9 cerned regarding the terms and conditions of the employ-
10 ee’s assignment. In the case of an employee of the agency,
11 the agreement shall—

12 “(1) require the employee to serve in the civil
13 service, upon completion of the assignment, for a pe-
14 riod equal to the length of the assignment; and

15 “(2) provide that, in the event the employee
16 fails to carry out the agreement (except for good and
17 sufficient reason, as determined by the head of the
18 agency from which assigned) the employee shall be
19 liable to the United States for payment of all ex-
20 penses of the assignment.

21 An amount under paragraph (2) shall be treated as a debt
22 due the United States.

23 “(c) TERMINATION.—Assignments may be termi-
24 nated by the agency or private sector organization con-
25 cerned for any reason at any time.

1 “(d) DURATION.—Assignments under this chapter
2 shall be for a period of between 3 months and 1 year,
3 and may be extended in 3-month increments for a total
4 of not more than 1 additional year, except that no assign-
5 ment under this chapter may commence after the end of
6 the 5-year period beginning on the date of the enactment
7 of this chapter.

8 “(e) ASSISTANCE.—The Chief Information Officers
9 Council, by agreement with the Office of Personnel Man-
10 agement, may assist in the administration of this chapter,
11 including by maintaining lists of potential candidates for
12 assignment under this chapter, establishing mentoring re-
13 lationships for the benefit of individuals who are given as-
14 signments under this chapter, and publicizing the pro-
15 gram.

16 “(f) CONSIDERATIONS.—In exercising any authority
17 under this chapter, an agency shall take into consider-
18 ation—

19 “(1) the need to ensure that small business con-
20 cerns are appropriately represented with respect to
21 the assignments described in sections 3703 and
22 3704, respectively; and

23 “(2) how assignments described in section 3703
24 might best be used to help meet the needs of the

1 agency for the training of employees in information
2 technology management.

3 **“§ 3703. Assignment of employees to private sector or-**
4 **ganizations**

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

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

23 “(c) REIMBURSEMENTS.—The assignment of an em-
24 ployee to a private sector organization under this chapter
25 may be made with or without reimbursement by the pri-

1 vate sector organization for the travel and transportation
2 expenses to or from the place of assignment, subject to
3 the same terms and conditions as apply with respect to
4 an employee of a Federal agency or a State or local gov-
5 ernment under section 3375, and for the pay, or a part
6 thereof, of the employee during assignment. Any reim-
7 bursements shall be credited to the appropriation of the
8 agency used for paying the travel and transportation ex-
9 penses or pay.

10 “(d) TORT LIABILITY; SUPERVISION.—The Federal
11 Tort Claims Act and any other Federal tort liability stat-
12 ute apply to an employee of an agency assigned to a pri-
13 vate sector organization under this chapter. The super-
14 vision of the duties of an employee of an agency so as-
15 signed to a private sector organization may be governed
16 by an agreement between the agency and the organization.

17 “(e) SMALL BUSINESS CONCERNS.—

18 “(1) IN GENERAL.—The head of each agency
19 shall take such actions as may be necessary to en-
20 sure that, of the assignments made under this chap-
21 ter from such agency to private sector organizations
22 in each year, at least 20 percent are to small busi-
23 ness concerns.

24 “(2) DEFINITIONS.—For purposes of this sub-
25 section—

1 “(A) the term ‘small business concern’
2 means a business concern that satisfies the
3 definitions and standards specified by the Ad-
4 ministrator of the Small Business Administra-
5 tion under section 3(a)(2) of the Small Busi-
6 ness Act (as from time to time amended by the
7 Administrator);

8 “(B) the term ‘year’ refers to the 12-
9 month period beginning on the date of the en-
10 actment of this chapter, and each succeeding
11 12-month period in which any assignments
12 under this chapter may be made; and

13 “(C) the assignments ‘made’ in a year are
14 those commencing in such year.

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

23 “(A) the total number of assignments
24 made under this chapter from such agency to
25 private sector organizations in the year;

1 “(B) of that total number, the number
2 (and percentage) made to small business con-
3 cerns; and

4 “(C) the reasons for the agency’s non-
5 compliance with paragraph (1).

6 “(4) EXCLUSION.—This subsection shall not
7 apply to an agency in any year in which it makes
8 fewer than 5 assignments under this chapter to pri-
9 vate sector organizations.

10 **“§ 3704. Assignment of employees from private sector**
11 **organizations**

12 “(a) IN GENERAL.—An employee of a private sector
13 organization assigned to an agency under this chapter is
14 deemed, during the period of the assignment, to be on de-
15 tail to such agency.

16 “(b) TERMS AND CONDITIONS.—An employee of a
17 private sector organization assigned to an agency under
18 this chapter—

19 “(1) may continue to receive pay and benefits
20 from the private sector organization from which he
21 is assigned;

22 “(2) is deemed, notwithstanding subsection (a),
23 to be an employee of the agency for the purposes
24 of—

25 “(A) chapter 73;

1 “(B) sections 201, 203, 205, 207, 208,
2 209, 603, 606, 607, 643, 654, 1905, and 1913
3 of title 18;

4 “(C) sections 1343, 1344, and 1349(b) of
5 title 31;

6 “(D) the Federal Tort Claims Act and any
7 other Federal tort liability statute;

8 “(E) the Ethics in Government Act of
9 1978;

10 “(F) section 1043 of the Internal Revenue
11 Code of 1986; and

12 “(G) section 27 of the Office of Federal
13 Procurement Policy Act;

14 “(3) may not have access to any trade secrets
15 or to any other nonpublic information which is of
16 commercial value to the private sector organization
17 from which he is assigned; and

18 “(4) is subject to such regulations as the Presi-
19 dent may prescribe.

20 The supervision of an employee of a private sector organi-
21 zation assigned to an agency under this chapter may be
22 governed by agreement between the agency and the private
23 sector organization concerned. Such an assignment may
24 be made with or without reimbursement by the agency for
25 the pay, or a part thereof, of the employee during the pe-

1 riod of assignment, or for any contribution of the private
2 sector organization to employee benefit systems.

3 “(c) COORDINATION WITH CHAPTER 81.—An em-
4 ployee of a private sector organization assigned to an
5 agency under this chapter who suffers disability or dies
6 as a result of personal injury sustained while performing
7 duties during the assignment shall be treated, for the pur-
8 pose of subchapter I of chapter 81, as an employee as de-
9 fined by section 8101 who had sustained the injury in the
10 performance of duty, except that, if the employee or the
11 employee’s dependents receive from the private sector or-
12 ganization any payment under an insurance policy for
13 which the premium is wholly paid by the private sector
14 organization, or other benefit of any kind on account of
15 the same injury or death, then, the amount of such pay-
16 ment or benefit shall be credited against any compensation
17 otherwise payable under subchapter I of chapter 81.

18 “(d) PROHIBITION AGAINST CHARGING CERTAIN
19 COSTS TO THE FEDERAL GOVERNMENT.—A private sec-
20 tor organization may not charge the Federal Government,
21 as direct or indirect costs under a Federal contract, the
22 costs of pay or benefits paid by the organization to an
23 employee assigned to an agency under this chapter for the
24 period of the assignment.

1 **“§ 3705. Application to Office of the Chief Technology**
2 **Officer of the District of Columbia**

3 “(a) IN GENERAL.—The Chief Technology Officer of
4 the District of Columbia may arrange for the assignment
5 of an employee of the Office of the Chief Technology Offi-
6 cer to a private sector organization, or an employee of a
7 private sector organization to such Office, in the same
8 manner as the head of an agency under this chapter.

9 “(b) TERMS AND CONDITIONS.—An assignment
10 made pursuant to subsection (a) shall be subject to the
11 same terms and conditions as an assignment made by the
12 head of an agency under this chapter, except that in apply-
13 ing such terms and conditions to an assignment made pur-
14 suant to subsection (a), any reference in this chapter to
15 a provision of law or regulation of the United States shall
16 be deemed to be a reference to the applicable provision
17 of law or regulation of the District of Columbia, including
18 the applicable provisions of the District of Columbia Gov-
19 ernment Comprehensive Merit Personnel Act of 1978 (sec.
20 1–601.01 et seq., D.C. Official Code) and section 601 of
21 the District of Columbia Campaign Finance Reform and
22 Conflict of Interest Act (sec. 1–1106.01, D.C. Official
23 Code).

24 “(c) DEFINITION.—For purposes of this section, the
25 term ‘Office of the Chief Technology Officer’ means the
26 office established in the executive branch of the govern-

1 ment of the District of Columbia under the Office of the
2 Chief Technology Officer Establishment Act of 1998 (sec.
3 1–1401 et seq., D.C. Official Code).

4 **“§ 3706. Reporting requirement**

5 “(a) IN GENERAL.—The Office of Personnel Manage-
6 ment shall, not later than April 30 and October 31 of each
7 year, prepare and submit to the Committee on Govern-
8 ment Reform of the House of Representatives and the
9 Committee on Governmental Affairs of the Senate a semi-
10 annual report summarizing the operation of this chapter
11 during the immediately preceding 6-month period ending
12 on March 31 and September 30, respectively.

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

15 “(1) the total number of individuals assigned
16 to, and the total number of individuals assigned
17 from, each agency during such period;

18 “(2) a brief description of each assignment in-
19 cluded under paragraph (1), including—

20 “(A) the name of the assigned individual,
21 as well as the private sector organization and
22 the agency (including the specific bureau or
23 other agency component) to or from which such
24 individual was assigned;

1 “(B) the respective positions to and from
2 which the individual was assigned, including the
3 duties and responsibilities and the pay grade or
4 level associated with each; and

5 “(C) the duration and objectives of the in-
6 dividual’s assignment; and

7 “(3) such other information as the Office con-
8 siders appropriate.

9 “(c) PUBLICATION.—A copy of each report submitted
10 under subsection (a)—

11 “(1) shall be published in the Federal Register;
12 and

13 “(2) shall be made publicly available on the
14 Internet.

15 “(d) AGENCY COOPERATION.—On request of the Of-
16 fice, agencies shall furnish such information and reports
17 as the Office may require in order to carry out this sec-
18 tion.

19 **“§ 3707. Regulations**

20 “The Director of the Office of Personnel Manage-
21 ment shall prescribe regulations for the administration of
22 this chapter.”.

23 “(2) REPORT.—Not later than 4 years after the
24 date of the enactment of this Act, the General Ac-
25 counting Office shall prepare and submit to the

1 Committee on Government Reform of the House of
 2 Representatives and the Committee on Govern-
 3 mental Affairs of the Senate a report on the oper-
 4 ation of chapter 37 of title 5, United States Code
 5 (as added by this subsection). Such report shall in-
 6 clude—

7 (A) an evaluation of the effectiveness of
 8 the program established by such chapter; and

9 (B) a recommendation as to whether such
 10 program should be continued (with or without
 11 modification) or allowed to lapse.

12 (3) CLERICAL AMENDMENT.—The analysis for
 13 part III of title 5, United States Code, is amended
 14 by inserting after the item relating to chapter 35 the
 15 following:

“37. Information Technology Exchange Program 3701”.

16 (d) ETHICS PROVISIONS.—

17 (1) ONE-YEAR RESTRICTION ON CERTAIN COM-
 18 MUNICATIONS.—Section 207(c)(2)(A) of title 18,
 19 United States Code, is amended—

20 (A) by striking “or” at the end of clause
 21 (iii);

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

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

1 “(v) assigned from a private sector organi-
2 zation to an agency under chapter 37 of title
3 5.”.

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

10 (3) CONTRACT ADVICE.—Section 207 of title
11 18, United States Code, is amended by adding at
12 the end the following:

13 “(1) CONTRACT ADVICE BY FORMER DETAILS.—
14 Whoever, being an employee of a private sector organiza-
15 tion assigned to an agency under chapter 37 of title 5,
16 within one year after the end of that assignment, know-
17 ingly represents or aids, counsels, or assists in rep-
18 resenting any other person (except the United States) in
19 connection with any contract with that agency shall be
20 punished as provided in section 216 of this title.”.

21 (4) RESTRICTION ON DISCLOSURE OF PRO-
22 CUREMENT INFORMATION.—Section 27 of the Office
23 of Federal Procurement Policy Act (41 U.S.C. 423)
24 is amended in subsection (a)(1) by adding at the end
25 the following new sentence: “In the case of an em-

1 ployee of a private sector organization assigned to
2 an agency under chapter 37 of title 5, United States
3 Code, in addition to the restriction in the preceding
4 sentence, such employee shall not, other than as pro-
5 vided by law, knowingly disclose contractor bid or
6 proposal information or source selection information
7 during the three-year period after the end of the as-
8 signment of such employee.”.

9 (e) REPORT ON EXISTING EXCHANGE PROGRAMS.—

10 (1) EXCHANGE PROGRAM DEFINED.—For pur-
11 poses of this subsection, the term “exchange pro-
12 gram” means an executive exchange program, the
13 program under subchapter VI of chapter 33 of title
14 5, United States Code, and any other program which
15 allows for—

16 (A) the assignment of employees of the
17 Federal Government to non-Federal employers;

18 (B) the assignment of employees of non-
19 Federal employers to the Federal Government;

20 or

21 (C) both.

22 (2) REPORTING REQUIREMENT.—Not later than
23 1 year after the date of the enactment of this Act,
24 the Office of Personnel Management shall prepare
25 and submit to the Committee on Government Re-

1 form of the House of Representatives and the Com-
2 mittee on Governmental Affairs of the Senate a re-
3 port identifying all existing exchange programs.

4 (3) SPECIFIC INFORMATION.—The report shall,
5 for each such program, include—

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

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

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

14 (D) any other information which the Office
15 considers appropriate.

16 (f) REPORT ON THE ESTABLISHMENT OF A GOVERN-
17 MENTWIDE INFORMATION TECHNOLOGY TRAINING PRO-
18 GRAM.—

19 (1) IN GENERAL.—Not later January 1, 2003,
20 the Office of Personnel Management, in consultation
21 with the Chief Information Officers Council and the
22 Administrator of General Services, shall review and
23 submit to the Committee on Government Reform of
24 the House of Representatives and the Committee on

1 Governmental Affairs of the Senate a written report
2 on the following:

3 (A) The adequacy of any existing informa-
4 tion technology training programs available to
5 Federal employees on a Governmentwide basis.

6 (B)(i) If one or more such programs al-
7 ready exist, recommendations as to how they
8 might be improved.

9 (ii) If no such program yet exists, rec-
10 ommendations as to how such a program might
11 be designed and established.

12 (C) With respect to any recommendations
13 under subparagraph (B), how the program
14 under chapter 37 of title 5, United States Code,
15 might be used to help carry them out.

16 (2) COST ESTIMATE.—The report shall, for any
17 recommended program (or improvements) under
18 paragraph (1)(B), include the estimated costs associ-
19 ated with the implementation and operation of such
20 program as so established (or estimated difference in
21 costs of any such program as so improved).

22 (g) TECHNICAL AND CONFORMING AMENDMENTS.—

23 (1) AMENDMENTS TO TITLE 5, UNITED STATES
24 CODE.—Title 5, United States Code, is amended—

1 (A) in section 3111, by adding at the end
2 the following:

3 “(d) Notwithstanding section 1342 of title 31, the
4 head of an agency may accept voluntary service for the
5 United States under chapter 37 of this title and regula-
6 tions of the Office of Personnel Management.”;

7 (B) in section 4108, by striking subsection
8 (d); and

9 (C) in section 7353(b), by adding at the
10 end the following:

11 “(4) Nothing in this section precludes an employee
12 of a private sector organization, while assigned to an agen-
13 cy under chapter 37, from continuing to receive pay and
14 benefits from such organization in accordance with such
15 chapter.”.

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

19 “(g)(1) This section does not prohibit an employee
20 of a private sector organization, while assigned to an agen-
21 cy under chapter 37 of title 5, from continuing to receive
22 pay and benefits from such organization in accordance
23 with such chapter.

24 “(2) For purposes of this subsection, the term
25 ‘agency’ means an agency (as defined by section 3701 of

1 title 5) and the Office of the Chief Technology Officer of
2 the District of Columbia.”.

3 (3) OTHER AMENDMENTS.—Section 125(c)(1)
4 of Public Law 100–238 (5 U.S.C. 8432 note) is
5 amended—

6 (A) in subparagraph (B), by striking “or”
7 at the end;

8 (B) in subparagraph (C), by striking
9 “and” at the end and inserting “or”; and

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

11 “(D) an individual assigned from a Fed-
12 eral agency to a private sector organization
13 under chapter 37 of title 5, United States Code;
14 and”.

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

16 (a) DEFENSE CONTRACTS.—(1) Chapter 137 of title
17 10, United States Code, is amended by adding at the end
18 the following new section:

19 **“§ 2332. Share-in-savings contracts**

20 “(a) AUTHORITY TO ENTER INTO SHARE-IN-SAV-
21 INGS CONTRACTS.—(1) The head of an agency may enter
22 into a share-in-savings contract for information technology
23 (as defined in section 11101(6) of title 40) in which the
24 Government awards a contract to improve mission-related
25 or administrative processes or to accelerate the achieve-

1 ment of its mission and share with the contractor in sav-
2 ings achieved through contract performance.

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

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

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

16 “(ii) usage of the information technology to be
17 acquired is likely to continue for a period of time
18 sufficient to generate reasonable benefit for the gov-
19 ernment.

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

1 “(4) Contracts awarded pursuant to the authority of
2 this section shall include a provision containing a quantifi-
3 able baseline that is to be the basis upon which a savings
4 share ratio is established that governs the amount of pay-
5 ment a contractor is to receive under the contract. Before
6 commencement of performance of such a contract, the sen-
7 ior procurement executive of the agency shall determine
8 in writing that the terms of the provision are quantifiable
9 and will likely yield value to the Government.

10 “(5)(A) The head of the agency may retain savings
11 realized through the use of a share-in-savings contract
12 under this section that are in excess of the total amount
13 of savings paid to the contractor under the contract, but
14 may not retain any portion of such savings that is attrib-
15 utable to a decrease in the number of civilian employees
16 of the Federal Government performing the function. Ex-
17 cept as provided in subparagraph (B), savings shall be
18 credited to the appropriation or fund against which
19 charges were made to carry out the contract and shall be
20 used for information technology.

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

23 “(i) without further appropriation, remain
24 available until expended; and

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

4 “(b) CANCELLATION AND TERMINATION.—(1) If
5 funds are not made available for the continuation of a
6 share-in-savings contract entered into under this section
7 in a subsequent fiscal year, the contract shall be canceled
8 or terminated. The costs of cancellation or termination
9 may be paid out of—

10 “(A) appropriations available for the perform-
11 ance of the contract;

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

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

18 “(2) The amount payable in the event of cancellation
19 or termination of a share-in-savings contract shall be ne-
20 gotiated with the contractor at the time the contract is
21 entered into.

22 “(3)(A) Subject to subparagraph (B), the head of an
23 agency may enter into share-in-savings contracts under
24 this section in any given fiscal year even if funds are not
25 made specifically available for the full costs of cancellation

1 or termination of the contract if funds are available and
2 sufficient to make payments with respect to the first fiscal
3 year of the contract and the following conditions are met
4 regarding the funding of cancellation and termination li-
5 ability:

6 “(i) The amount of unfunded contingent liabil-
7 ity for the contract does not exceed the lesser of—

8 “(I) 25 percent of the estimated costs of a
9 cancellation or termination; or

10 “(II) \$5,000,000.

11 “(ii) Unfunded contingent liability in excess of
12 \$1,000,000 has been approved by the Director of the
13 Office of Management and Budget or the Director’s
14 designee.

15 “(B) The aggregate number of share-in-savings con-
16 tracts that may be entered into under subparagraph (A)
17 by all agencies to which this chapter applies in a fiscal
18 year may not exceed 5 in each of fiscal years 2003, 2004,
19 and 2005.

20 “(c) DEFINITIONS.—In this section:

21 “(1) The term ‘contractor’ means a private en-
22 tity that enters into a contract with an agency.

23 “(2) The term ‘savings’ means—

24 “(A) monetary savings to an agency; or

1 “(B) savings in time or other benefits real-
2 ized by the agency, including enhanced revenues
3 (other than enhanced revenues from the collec-
4 tion of fees, taxes, debts, claims, or other
5 amounts owed the Federal Government).

6 “(3) The term ‘share-in-savings contract’ means
7 a contract under which—

8 “(A) a contractor provides solutions for—

9 “(i) improving the agency’s mission-
10 related or administrative processes; or

11 “(ii) accelerating the achievement of
12 agency missions; and

13 “(B) the head of the agency pays the con-
14 tractor an amount equal to a portion of the sav-
15 ings derived by the agency from—

16 “(i) any improvements in mission-re-
17 lated or administrative processes that re-
18 sult from implementation of the solution;

19 or

20 “(ii) acceleration of achievement of
21 agency missions.

22 “(d) TERMINATION.—No share-in-savings contracts
23 may be entered into under this section after September
24 30, 2005.”.

1 (2) The table of sections at the beginning of such
2 chapter is amended by adding at the end of the following
3 new item:

“2332. Share-in-savings contracts.”.

4 (b) OTHER CONTRACTS.—Title III of the Federal
5 Property and Administrative Services Act of 1949 is
6 amended by adding at the end the following:

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

8 “(a) AUTHORITY TO ENTER INTO SHARE-IN-SAV-
9 INGS CONTRACTS.—(1) The head of an executive agency
10 may enter into a share-in-savings contract for information
11 technology (as defined in section 11101(6) of title 40,
12 United States Code) in which the Government awards a
13 contract to improve mission-related or administrative
14 processes or to accelerate the achievement of its mission
15 and share with the contractor in savings achieved through
16 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
7 sufficient to generate reasonable benefit for the gov-
8 ernment.

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
13 used to measure achievement and milestones that must
14 be met 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 sen-
21 ior procurement executive of the agency shall determine
22 in writing that the terms of the provision are quantifiable
23 and will likely yield value to the Government.

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

1 under this section that are in excess of the total amount
2 of savings paid to the contractor under the contract, but
3 may not retain any portion of such savings that is attrib-
4 utable to a decrease in the number of civilian employees
5 of the Federal Government performing the function. Ex-
6 cept as provided in subparagraph (B), savings shall be
7 credited to the appropriation or fund against which
8 charges were made to carry out the contract and shall be
9 used for information technology.

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

12 “(i) without further appropriation, remain
13 available until expended; and

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

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

23 “(A) appropriations available for the perform-
24 ance of the contract;

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

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

7 “(2) The amount payable in the event of cancellation
8 or termination of a share-in-savings contract shall be ne-
9 gotiated with the contractor at the time the contract is
10 entered into.

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

20 “(i) The amount of unfunded contingent liabil-
21 ity for the contract does not exceed the lesser of—

22 “(I) 25 percent of the estimated costs of a
23 cancellation or termination; or

24 “(II) \$5,000,000.

1 “(ii) Unfunded contingent liability in excess of
2 \$1,000,000 has been approved by the Director of the
3 Office of Management and Budget or the Director’s
4 designee.

5 “(B) The aggregate number of share-in-savings con-
6 tracts that may be entered into under subparagraph (A)
7 by all executive agencies to which this chapter applies in
8 a fiscal year may not exceed 5 in each of fiscal years 2003,
9 2004, and 2005.

10 “(c) DEFINITIONS.—In this section:

11 “(1) The term ‘contractor’ means a private en-
12 tity that enters into a contract with an agency.

13 “(2) The term ‘savings’ means—

14 “(A) monetary savings to an agency; or

15 “(B) savings in time or other benefits real-
16 ized by the agency, including enhanced revenues
17 (other than enhanced revenues from the collec-
18 tion of fees, taxes, debts, claims, or other
19 amounts owed the Federal Government).

20 “(3) The term ‘share-in-savings contract’ means
21 a contract under which—

22 “(A) a contractor provides solutions for—

23 “(i) improving the agency’s mission-
24 related or administrative processes; or

1 “(ii) accelerating the achievement of
2 agency missions; and

3 “(B) the head of the agency pays the con-
4 tractor an amount equal to a portion of the sav-
5 ings derived by the agency from—

6 “(i) any improvements in mission-re-
7 lated or administrative processes that re-
8 sult from implementation of the solution;
9 or

10 “(ii) acceleration of achievement of
11 agency missions.

12 “(d) TERMINATION.—No share-in-savings contracts
13 may be entered into under this section after September
14 30, 2005.”.

15 (c) DEVELOPMENT OF INCENTIVES.—The Director
16 of the Office of Management and Budget shall, in con-
17 sultation with the Committee on Governmental Affairs of
18 the Senate, the Committee on Government Reform of the
19 House of Representatives, and executive agencies, develop
20 techniques to permit an executive agency to retain a por-
21 tion of the savings (after payment of the contractor’s
22 share of the savings) derived from share-in-savings con-
23 tracts as funds are appropriated to the agency in future
24 fiscal years.

1 (d) REGULATIONS.—Not later than 270 days after
2 the date of the enactment of this Act, the Federal Acquisi-
3 tion Regulation shall be revised to implement the provi-
4 sions enacted by this section. Such revisions shall—

5 (1) provide for the use of competitive proce-
6 dures in the selection and award of share-in-savings
7 contracts to—

8 (A) ensure the contractor’s share of sav-
9 ings reflects the risk involved and market condi-
10 tions; and

11 (B) otherwise yield greatest value to the
12 government; and

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

18 (e) ADDITIONAL GUIDANCE.—The Administrator of
19 General Services shall—

20 (1) identify potential opportunities for the use
21 of share-in-savings contracts; and

22 (2) in consultation with the Director of the Of-
23 fice of Management and Budget, provide guidance to
24 executive agencies for determining mutually bene-

1 ficial savings share ratios and baselines from which
2 savings may be measured.

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

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

12 (A) the information technology acquired;

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

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

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

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

24 (g) GAO REPORT TO CONGRESS.—The Comptroller
25 General shall, not later than 6 months after the report

1 required under subsection (f) is submitted to Congress,
2 conduct a review of that report and submit to Congress
3 a report containing—

4 (1) the results of the review;

5 (2) an independent assessment by the Comp-
6 troller General of the effectiveness of the use of
7 share-in-savings contracts in improving the mission-
8 related and administrative processes of the executive
9 agencies and the achievement of agency missions;
10 and

11 (3) a recommendation on whether the authority
12 to enter into share-in-savings contracts should be
13 continued.

14 (h) REPEAL OF SHARE-IN-SAVINGS PILOT PRO-
15 GRAM.—

16 (1) REPEAL.—Section 11521 of title 40, United
17 States Code, is repealed.

18 (2) CONFORMING AMENDMENTS TO PILOT PRO-
19 GRAM AUTHORITY.—

20 (A) Section 11501 of title 40, United
21 States Code, is amended—

22 (i) in the section heading, by striking

23 “**PROGRAMS**” and inserting

24 “**PROGRAM**”;

1 (ii) in subsection (a)(1), by striking
2 “conduct pilot programs” and inserting
3 “conduct a pilot program pursuant to the
4 requirements of section 11521 of this
5 title”;

6 (iii) in subsection (a)(2), by striking
7 “each pilot program” and inserting “the
8 pilot program”;

9 (iv) in subsection (b), by striking
10 “LIMITATIONS.—” and all that follows
11 through “\$750,000,000.” and inserting the
12 following: “LIMITATION ON AMOUNT.—
13 The total amount obligated for contracts
14 entered into under the pilot program con-
15 ducted under this chapter may not exceed
16 \$375,000,000.”; and

17 (v) in subsection (c)(1), by striking “a
18 pilot” and inserting “the pilot”.

19 (B) The following provisions of chapter
20 115 of such title are each amended by striking
21 “a pilot” each place it appears and inserting
22 “the pilot”:

23 (i) Section 11502(a).

24 (ii) Section 11502(b).

25 (iii) Section 11503(a).

1 (iv) Section 11504.

2 (C) Section 11505 of such chapter is
3 amended by striking “programs” and inserting
4 “program”.

5 (3) ADDITIONAL CONFORMING AMENDMENTS.—

6 (A) Section 11522 of title 40, United
7 States Code, is redesignated as section 11521.

8 (B) The chapter heading for chapter 115
9 of such title is amended by striking
10 “**PROGRAMS**” and inserting
11 “**PROGRAM**”.

12 (C) The subchapter heading for subchapter
13 I and for subchapter II of such chapter are
14 each amended by striking “PROGRAMS” and
15 inserting “PROGRAM”.

16 (D) The item relating to subchapter I in
17 the table of sections at the beginning of such
18 chapter is amended to read as follows:

“SUBCHAPTER I—CONDUCT OF PILOT PROGRAM”.

19 (E) The item relating to subchapter II in
20 the table of sections at the beginning of such
21 chapter is amended to read as follows:

“SUBCHAPTER II—SPECIFIC PILOT PROGRAM”.

22 (F) The item relating to section 11501 in
23 the table of sections at the beginning of such is

1 amended by striking “programs” and inserting
2 “program”.

3 (G) The table of sections at the beginning
4 of such chapter is amended by striking the item
5 relating to section 11521 and redesignating the
6 item relating to section 11522 as section
7 11521.

8 (H) The item relating to chapter 115 in
9 the table of chapters for subtitle III of title 40,
10 United States Code, is amended to read as fol-
11 lows:

“115. INFORMATION TECHNOLOGY ACQUISITION PILOT
PROGRAM 11501”.

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

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

21 (a) AUTHORITY TO USE CERTAIN SUPPLY SCHED-
22 ULES.—Section 502 of title 40, United States Code, is
23 amended by adding at the end the following new sub-
24 section:

1 “(c) USE OF CERTAIN SUPPLY SCHEDULES.—

2 “(1) IN GENERAL.—The Administrator may
3 provide for the use by State or local governments of
4 Federal supply schedules of the General Services Ad-
5 ministration for automated data processing equip-
6 ment (including firmware), software, supplies, sup-
7 port equipment, and services (as contained in Fed-
8 eral supply classification code group 70).

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

16 “(3) DEFINITIONS.—In this subsection:

17 “(A) The term ‘State or local government’
18 includes any State, local, regional, or tribal gov-
19 ernment, or any instrumentality thereof
20 (including any local educational agency or insti-
21 tution of higher education).

22 “(B) The term ‘tribal government’
23 means—

24 “(i) the governing body of any Indian
25 tribe, band, nation, or other organized

1 group or community located in the conti-
2 nental United States (excluding the State
3 of Alaska) that is recognized as eligible for
4 the special programs and services provided
5 by the United States to Indians because of
6 their status as Indians, and

7 “(ii) any Alaska Native regional or
8 village corporation established pursuant to
9 the Alaska Native Claims Settlement Act
10 (43 U.S.C. 1601 et seq.).

11 “(C) The term ‘local educational agency’
12 has the meaning given that term in section
13 8013 of the Elementary and Secondary Edu-
14 cation Act of 1965 (20 U.S.C. 7713).

15 “(D) The term ‘institution of higher edu-
16 cation’ has the meaning given that term in sec-
17 tion 101(a) of the Higher Education Act of
18 1965 (20 U.S.C. 1001(a)).”.

19 (b) PROCEDURES.—Not later than 30 days after the
20 date of the enactment of this Act, the Administrator of
21 General Services shall establish procedures to implement
22 section 501(c) of title 40, United States Code (as added
23 by subsection (a)).

24 (c) REPORT.—Not later than December 31, 2004, the
25 Administrator shall submit to the Committee on Govern-

1 ment Reform of the House of Representatives and the
2 Committee on Governmental Affairs of the Senate a report
3 on the implementation and effects of the amendment made
4 by subsection (a).

5 **SEC. 212. INTEGRATED REPORTING STUDY AND PILOT**
6 **PROJECTS.**

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

9 (1) enhance the interoperability of Federal in-
10 formation systems;

11 (2) assist the public, including the regulated
12 community, in electronically submitting information
13 to agencies under Federal requirements, by reducing
14 the burden of duplicate collection and ensuring the
15 accuracy of submitted information; and

16 (3) enable any person to integrate and obtain
17 similar information held by 1 or more agencies
18 under 1 or more Federal requirements without vio-
19 lating the privacy rights of an individual.

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

21 (1) “agency” means an Executive agency as de-
22 fined under section 105 of title 5, United States
23 Code; and

24 (2) “person” means any individual, trust, firm,
25 joint stock company, corporation (including a gov-

1 ernment corporation), partnership, association,
2 State, municipality, commission, political subdivision
3 of a State, interstate body, or agency or component
4 of the Federal Government.

5 (c) REPORT.—

6 (1) IN GENERAL.—Not later than 3 years after
7 the date of enactment of this Act, the Director shall
8 oversee a study, in consultation with agencies, the
9 regulated community, public interest organizations,
10 and the public, and submit a report to the Com-
11 mittee on Governmental Affairs of the Senate and
12 the Committee on Government Reform of the House
13 of Representatives on progress toward integrating
14 Federal information systems across agencies.

15 (2) CONTENTS.—The report under this section
16 shall—

17 (A) address the integration of data ele-
18 ments used in the electronic collection of infor-
19 mation within databases established under Fed-
20 eral statute without reducing the quality, acces-
21 sibility, scope, or utility of the information con-
22 tained in each database;

23 (B) address the feasibility of developing, or
24 enabling the development of, software, including
25 Internet-based tools, for use by reporting per-

1 sons in assembling, documenting, and validating
2 the accuracy of information electronically sub-
3 mitted to agencies under nonvoluntary, statu-
4 tory, and regulatory requirements;

5 (C) address the feasibility of developing a
6 distributed information system involving, on a
7 voluntary basis, at least 2 agencies, that—

8 (i) provides consistent, dependable,
9 and timely public access to the information
10 holdings of 1 or more agencies, or some
11 portion of such holdings, without requiring
12 public users to know which agency holds
13 the information; and

14 (ii) allows the integration of public in-
15 formation held by the participating agen-
16 cies;

17 (D) address the feasibility of incorporating
18 other elements related to the purposes of this
19 section at the discretion of the Director; and

20 (E) make any recommendations that the
21 Director deems appropriate on the use of inte-
22 grated reporting and information systems, to
23 reduce the burden on reporting and strengthen
24 public access to databases within and across
25 agencies.

1 (d) PILOT PROJECTS TO ENCOURAGE INTEGRATED
2 COLLECTION AND MANAGEMENT OF DATA AND INTER-
3 OPERABILITY OF FEDERAL INFORMATION SYSTEMS.—

4 (1) IN GENERAL.—In order to provide input to
5 the study under subsection (c), the Director shall
6 designate, in consultation with agencies, a series of
7 no more than 5 pilot projects that integrate data ele-
8 ments. The Director shall consult with agencies, the
9 regulated community, public interest organizations,
10 and the public on the implementation of the pilot
11 projects.

12 (2) GOALS OF PILOT PROJECTS.—

13 (A) IN GENERAL.—Each goal described
14 under subparagraph (B) shall be addressed by
15 at least 1 pilot project each.

16 (B) GOALS.—The goals under this para-
17 graph are to—

18 (i) reduce information collection bur-
19 dens by eliminating duplicative data ele-
20 ments within 2 or more reporting require-
21 ments;

22 (ii) create interoperability between or
23 among public databases managed by 2 or
24 more agencies using technologies and tech-
25 niques that facilitate public access; and

1 (iii) develop, or enable the develop-
2 ment of, software to reduce errors in elec-
3 tronically submitted information.

4 (3) INPUT.—Each pilot project shall seek input
5 from users on the utility of the pilot project and
6 areas for improvement. To the extent practicable,
7 the Director shall consult with relevant agencies and
8 State, tribal, and local governments in carrying out
9 the report and pilot projects under this section.

10 (e) PROTECTIONS.—The activities authorized under
11 this section shall afford protections for—

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

15 (2) personal privacy information under sections
16 552(b) (6) and (7)(C) and 552a of title 5, United
17 States Code, and other relevant law;

18 (3) other information consistent with section
19 552(b)(3) of title 5, United States Code, and other
20 relevant law; and

21 (4) confidential statistical information collected
22 under a confidentiality pledge, solely for statistical
23 purposes, consistent with the Office of Management
24 and Budget's Federal Statistical Confidentiality
25 Order, and other relevant law.

1 **SEC. 213. COMMUNITY TECHNOLOGY CENTERS.**

2 (a) PURPOSES.—The purposes of this section are
3 to—

4 (1) study and enhance the effectiveness of com-
5 munity technology centers, public libraries, and
6 other institutions that provide computer and Inter-
7 net access to the public; and

8 (2) promote awareness of the availability of on-
9 line government information and services, to users of
10 community technology centers, public libraries, and
11 other public facilities that provide access to com-
12 puter technology and Internet access to the public.

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

16 (1) ensure that a study is conducted to evaluate
17 the best practices of community technology centers
18 that have received Federal funds; and

19 (2) submit a report on the study to—

20 (A) the Committee on Governmental Af-
21 fairs of the Senate;

22 (B) the Committee on Health, Education,
23 Labor, and Pensions of the Senate;

24 (C) the Committee on Government Reform
25 of the House of Representatives; and

1 (D) the Committee on Education and the
2 Workforce of the House of Representatives.

3 (c) CONTENTS.—The report under subsection (b)
4 may consider—

5 (1) an evaluation of the best practices being
6 used by successful community technology centers;

7 (2) a strategy for—

8 (A) continuing the evaluation of best prac-
9 tices used by community technology centers;
10 and

11 (B) establishing a network to share infor-
12 mation and resources as community technology
13 centers evolve;

14 (3) the identification of methods to expand the
15 use of best practices to assist community technology
16 centers, public libraries, and other institutions that
17 provide computer and Internet access to the public;

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

20 (A) each center's name, location, services
21 provided, director, other points of contact, num-
22 ber of individuals served; and

23 (B) other relevant information;

1 (5) an analysis of whether community tech-
2 nology centers have been deployed effectively in
3 urban and rural areas throughout the Nation; and

4 (6) recommendations of how to—

5 (A) enhance the development of community
6 technology centers; and

7 (B) establish a network to share informa-
8 tion and resources.

9 (d) COOPERATION.—All agencies that fund commu-
10 nity technology centers shall provide to the Administrator
11 any information and assistance necessary for the comple-
12 tion of the study and the report under this section.

13 (e) ASSISTANCE.—

14 (1) IN GENERAL.—The Administrator, in con-
15 sultation with the Secretary of Education, shall work
16 with other relevant Federal agencies, and other in-
17 terested persons in the private and nonprofit sectors
18 to—

19 (A) assist in the implementation of rec-
20 ommendations; and

21 (B) identify other ways to assist commu-
22 nity technology centers, public libraries, and
23 other institutions that provide computer and
24 Internet access to the public.

1 (2) TYPES OF ASSISTANCE.—Assistance under
2 this subsection may include—

3 (A) contribution of funds;

4 (B) donations of equipment, and training
5 in the use and maintenance of the equipment;
6 and

7 (C) the provision of basic instruction or
8 training material in computer skills and Inter-
9 net usage.

10 (f) ONLINE TUTORIAL.—

11 (1) IN GENERAL.—The Administrator, in con-
12 sultation with the Secretary of Education, the Direc-
13 tor of the Institute of Museum and Library Services,
14 other relevant agencies, and the public, shall develop
15 an online tutorial that—

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

18 (B) provides a guide to available online re-
19 sources.

20 (2) DISTRIBUTION.—The Administrator, with
21 assistance from the Secretary of Education, shall
22 distribute information on the tutorial to community
23 technology centers, public libraries, and other insti-
24 tutions that afford Internet access to the public.

1 (g) PROMOTION OF COMMUNITY TECHNOLOGY CEN-
2 TERS.—The Administrator, with assistance from the De-
3 partment of Education and in consultation with other
4 agencies and organizations, shall promote the availability
5 of community technology centers to raise awareness within
6 each community where such a center is located.

7 (h) AUTHORIZATION OF APPROPRIATIONS.—There
8 are authorized to be appropriated for the study of best
9 practices at community technology centers, for the devel-
10 opment and dissemination of the online tutorial, and for
11 the promotion of community technology centers under this
12 section—

13 (1) \$2,000,000 in fiscal year 2003;

14 (2) \$2,000,000 in fiscal year 2004; and

15 (3) such sums as are necessary in fiscal years
16 2005 through 2007.

17 **SEC. 214. ENHANCING CRISIS MANAGEMENT THROUGH AD-**
18 **VANCED INFORMATION TECHNOLOGY.**

19 (a) PURPOSE.—The purpose of this section is to im-
20 prove how information technology is used in coordinating
21 and facilitating information on disaster preparedness, re-
22 sponse, and recovery, while ensuring the availability of
23 such information across multiple access channels.

24 (b) IN GENERAL.—

1 (1) STUDY ON ENHANCEMENT OF CRISIS RE-
2 SPONSE.—Not later than 90 days after the date of
3 enactment of this Act, the Administrator, in con-
4 sultation with the Federal Emergency Management
5 Agency, shall ensure that a study is conducted on
6 using information technology to enhance crisis pre-
7 paredness, response, and consequence management
8 of natural and manmade disasters.

9 (2) CONTENTS.—The study under this sub-
10 section shall address—

11 (A) a research and implementation strat-
12 egy for effective use of information technology
13 in crisis response and consequence manage-
14 ment, including the more effective use of tech-
15 nologies, management of information technology
16 research initiatives, and incorporation of re-
17 search advances into the information and com-
18 munications systems of—

19 (i) the Federal Emergency Manage-
20 ment Agency; and

21 (ii) other Federal, State, and local
22 agencies responsible for crisis prepared-
23 ness, response, and consequence manage-
24 ment; and

1 (B) opportunities for research and develop-
2 ment on enhanced technologies into areas of po-
3 tential improvement as determined during the
4 course of the study.

5 (3) REPORT.—Not later than 2 years after the
6 date on which a contract is entered into under para-
7 graph (1), the Administrator shall submit a report
8 on the study, including findings and recommenda-
9 tions to—

10 (A) the Committee on Governmental Af-
11 fairs of the Senate; and

12 (B) the Committee on Government Reform
13 of the House of Representatives.

14 (4) INTERAGENCY COOPERATION.—Other Fed-
15 eral departments and agencies with responsibility for
16 disaster relief and emergency assistance shall fully
17 cooperate with the Administrator in carrying out
18 this section.

19 (5) AUTHORIZATION OF APPROPRIATIONS.—
20 There are authorized to be appropriated for research
21 under this subsection, such sums as are necessary
22 for fiscal year 2003.

23 (c) PILOT PROJECTS.—Based on the results of the
24 research conducted under subsection (b), the Adminis-
25 trator, in consultation with the Federal Emergency Man-

1 agement Agency, shall initiate pilot projects or report to
2 Congress on other activities that further the goal of maxi-
3 mizing the utility of information technology in disaster
4 management. The Administrator shall cooperate with
5 other relevant agencies, and, if appropriate, State, local,
6 and tribal governments, in initiating such pilot projects.

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

8 (a) STUDY AND REPORT.—

9 (1) STUDY.—Not later than 90 days after the
10 date of enactment of this Act, the Administrator of
11 General Services shall request that the National
12 Academy of Sciences, acting through the National
13 Research Council, enter into a contract to conduct
14 a study on disparities in Internet access for online
15 Government services.

16 (2) REPORT.—Not later than 2 years after the
17 date of enactment of this Act, the Administrator of
18 General Services shall submit to the Committee on
19 Governmental Affairs of the Senate and the Com-
20 mittee on Government Reform of the House of Rep-
21 resentatives a final report of the study under this
22 section, which shall set forth the findings, conclu-
23 sions, and recommendations of the National Re-
24 search Council.

1 (b) CONTENTS.—The report under subsection (a)
2 shall include a study of—

3 (1) how disparities in Internet access influence
4 the effectiveness of online Government services, in-
5 cluding a review of—

6 (A) the nature of disparities in Internet
7 access;

8 (B) the affordability of Internet service;

9 (C) the incidence of disparities among dif-
10 ferent groups within the population; and

11 (D) changes in the nature of personal and
12 public Internet access that may alleviate or ag-
13 gravate effective access to online Government
14 services;

15 (2) how the increase in online Government serv-
16 ices is influencing the disparities in Internet access
17 and how technology development or diffusion trends
18 may offset such adverse influences; and

19 (3) related societal effects arising from the
20 interplay of disparities in Internet access and the in-
21 crease in online Government services.

22 (c) RECOMMENDATIONS.—The report shall include
23 recommendations on actions to ensure that online Govern-
24 ment initiatives shall not have the unintended result of

1 increasing any deficiency in public access to Government
2 services.

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

6 **SEC. 216. COMMON PROTOCOLS FOR GEOGRAPHIC INFOR-**
7 **MATION SYSTEMS.**

8 (a) PURPOSES.—The purposes of this section are
9 to—

10 (1) reduce redundant data collection and infor-
11 mation; and

12 (2) promote collaboration and use of standards
13 for government geographic information.

14 (b) DEFINITION.—In this section, the term
15 “geographic information” means information systems that
16 involve locational data, such as maps or other geospatial
17 information resources.

18 (c) IN GENERAL.—

19 (1) COMMON PROTOCOLS.—The Administrator,
20 in consultation with the Secretary of the Interior,
21 working with the Director and through an inter-
22 agency group, and working with private sector ex-
23 perts, State, local, and tribal governments, commer-
24 cial and international standards groups, and other
25 interested parties, shall facilitate the development of

1 common protocols for the development, acquisition,
2 maintenance, distribution, and application of geo-
3 graphic information. If practicable, the Adminis-
4 trator shall incorporate intergovernmental and public
5 private geographic information partnerships into ef-
6 forts under this subsection.

7 (2) INTERAGENCY GROUP.—The interagency
8 group referred to under paragraph (1) shall include
9 representatives of the National Institute of Stand-
10 ards and Technology and other agencies.

11 (d) DIRECTOR.—The Director shall oversee—

12 (1) the interagency initiative to develop common
13 protocols;

14 (2) the coordination with State, local, and tribal
15 governments, public private partnerships, and other
16 interested persons on effective and efficient ways to
17 align geographic information and develop common
18 protocols; and

19 (3) the adoption of common standards relating
20 to the protocols.

21 (e) COMMON PROTOCOLS.—The common protocols
22 shall be designed to—

23 (1) maximize the degree to which unclassified
24 geographic information from various sources can be
25 made electronically compatible and accessible; and

1 (2) promote the development of interoperable
2 geographic information systems technologies that
3 shall—

4 (A) allow widespread, low-cost use and
5 sharing of geographic data by Federal agencies,
6 State, local, and tribal governments, and the
7 public; and

8 (B) enable the enhancement of services
9 using geographic data.

10 (f) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated such sums as are nec-
12 essary to carry out this section, for each of the fiscal years
13 2003 through 2007.

14 **TITLE III—INFORMATION**
15 **SECURITY**

16 **SEC. 301. INFORMATION SECURITY.**

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

19 (b) INFORMATION SECURITY.—

20 (1) IN GENERAL.—Chapter 35 of title 44,
21 United States Code, is amended by adding at the
22 end the following new subchapter:

23 “SUBCHAPTER III—INFORMATION SECURITY

24 “§ 3541. Purposes

25 “The purposes of this subchapter are to—

1 “(1) provide a comprehensive framework for en-
2 suring the effectiveness of information security con-
3 trols over information resources that support Fed-
4 eral operations and assets;

5 “(2) recognize the highly networked nature of
6 the current Federal computing environment and pro-
7 vide effective governmentwide management and over-
8 sight of the related information security risks, in-
9 cluding coordination of information security efforts
10 throughout the civilian, national security, and law
11 enforcement communities;

12 “(3) provide for development and maintenance
13 of minimum controls required to protect Federal in-
14 formation and information systems;

15 “(4) provide a mechanism for improved over-
16 sight of Federal agency information security pro-
17 grams;

18 “(5) acknowledge that commercially developed
19 information security products offer advanced, dy-
20 namic, robust, and effective information security so-
21 lutions, reflecting market solutions for the protection
22 of critical information infrastructures important to
23 the national defense and economic security of the
24 nation that are designed, built, and operated by the
25 private sector; and

1 “(6) recognize that the selection of specific
2 technical hardware and software information secu-
3 rity solutions should be left to individual agencies
4 from among commercially developed products.

5 **“§ 3542. Definitions**

6 “(a) IN GENERAL.—Except as provided under sub-
7 section (b), the definitions under section 3502 shall apply
8 to this subchapter.

9 “(b) ADDITIONAL DEFINITIONS.—As used in this
10 subchapter:

11 “(1) The term ‘information security’ means
12 protecting information and information systems
13 from unauthorized access, use, disclosure, interrup-
14 tion, modification, or destruction in order to pro-
15 vide—

16 “(A) integrity, which means guarding
17 against improper information modification or
18 destruction, and includes ensuring information
19 nonrepudiation and authenticity;

20 “(B) confidentiality, which means pre-
21 serving authorized restrictions on access and
22 disclosure, including means for protecting per-
23 sonal privacy and proprietary information; and

1 “(C) availability, which means ensuring
2 timely and reliable access to and use of infor-
3 mation.

4 “(2)(A) The term ‘national security system’
5 means any information system (including any tele-
6 communications system) used or operated by an
7 agency or by a contractor of an agency, or other or-
8 ganization on behalf of an agency—

9 “(i) the function, operation, or use of
10 which—

11 “(I) involves intelligence activities;

12 “(II) involves cryptologic activities re-
13 lated to national security;

14 “(III) involves command and control
15 of military forces;

16 “(IV) involves equipment that is an
17 integral part of a weapon or weapons sys-
18 tem; or

19 “(V) subject to subparagraph (B), is
20 critical to the direct fulfillment of military
21 or intelligence missions; or

22 “(ii) is protected at all times by procedures
23 established for information that have been spe-
24 cifically authorized under criteria established by
25 an Executive order or an Act of Congress to be

1 kept classified in the interest of national de-
2 fense or foreign policy.

3 “(B) Subparagraph (A)(i)(V) does not include a
4 system that is to be used for routine administrative
5 and business applications (including payroll, finance,
6 logistics, and personnel management applications).

7 “(3) The term ‘information technology’ has the
8 meaning given that term in section 11101 of title
9 40.

10 **“§ 3543. Authority and functions of the Director**

11 “(a) IN GENERAL.—The Director shall oversee agen-
12 cy information security policies and practices, including—

13 “(1) developing and overseeing the implementa-
14 tion of policies, principles, standards, and guidelines
15 on information security, including through ensuring
16 timely agency adoption of and compliance with
17 standards promulgated under section 11331 of title
18 40;

19 “(2) requiring agencies, consistent with the
20 standards promulgated under such section 11331
21 and the requirements of this subchapter, to identify
22 and provide information security protections com-
23 mensurate with the risk and magnitude of the harm
24 resulting from the unauthorized access, use, dislo-
25 sure, disruption, modification, or destruction of—

1 “(A) information collected or maintained
2 by or on behalf of an agency; or

3 “(B) information systems used or operated
4 by an agency or by a contractor of an agency
5 or other organization on behalf of an agency;

6 “(3) coordinating the development of standards
7 and guidelines under section 20 of the National In-
8 stitute of Standards and Technology Act (15 U.S.C.
9 278g-3) with agencies and offices operating or exer-
10 cising control of national security systems (including
11 the National Security Agency) to assure, to the max-
12 imum extent feasible, that such standards and
13 guidelines are complementary with standards and
14 guidelines developed for national security systems;

15 “(4) overseeing agency compliance with the re-
16 quirements of this subchapter, including through
17 any authorized action under section 11303 of title
18 40, to enforce accountability for compliance with
19 such requirements;

20 “(5) reviewing at least annually, and approving
21 or disapproving, agency information security pro-
22 grams required under section 3544(b);

23 “(6) coordinating information security policies
24 and procedures with related information resources
25 management policies and procedures;

1 “(7) overseeing the operation of the Federal in-
2 formation security incident center required under
3 section 3546; and

4 “(8) reporting to Congress no later than March
5 1 of each year on agency compliance with the re-
6 quirements of this subchapter, including—

7 “(A) a summary of the findings of evalua-
8 tions required by section 3545;

9 “(B) an assessment of the development,
10 promulgation, and adoption of, and compliance
11 with, standards developed under section 20 of
12 the National Institute of Standards and Tech-
13 nology Act (15 U.S.C. 278g-3) and promul-
14 gated under section 11331 of title 40;

15 “(C) significant deficiencies in agency in-
16 formation security practices;

17 “(D) planned remedial action to address
18 such deficiencies; and

19 “(E) a summary of, and the views of the
20 Director on, the report prepared by the Na-
21 tional Institute of Standards and Technology
22 under section 20(d)(10) of the National Insti-
23 tute of Standards and Technology Act (15
24 U.S.C. 278g-3).

1 “(b) NATIONAL SECURITY SYSTEMS.—Except for the
2 authorities described in paragraphs (4) and (8) of sub-
3 section (a), the authorities of the Director under this sec-
4 tion shall not apply to national security systems.

5 “(c) DEPARTMENT OF DEFENSE AND CENTRAL IN-
6 TELLIGENCE AGENCY SYSTEMS.—(1) The authorities of
7 the Director described in paragraphs (1) and (2) of sub-
8 section (a) shall be delegated to the Secretary of Defense
9 in the case of systems described in paragraph (2) and to
10 the Director of Central Intelligence in the case of systems
11 described in paragraph (3).

12 “(2) The systems described in this paragraph are sys-
13 tems that are operated by the Department of Defense, a
14 contractor of the Department of Defense, or another enti-
15 ty on behalf of the Department of Defense that processes
16 any information the unauthorized access, use, disclosure,
17 disruption, modification, or destruction of which would
18 have a debilitating impact on the mission of the Depart-
19 ment of Defense.

20 “(3) The systems described in this paragraph are sys-
21 tems that are operated by the Central Intelligence Agency,
22 a contractor of the Central Intelligence Agency, or another
23 entity on behalf of the Central Intelligence Agency that
24 processes any information the unauthorized access, use,
25 disclosure, disruption, modification, or destruction of

1 which would have a debilitating impact on the mission of
2 the Central Intelligence Agency.

3 **“§ 3544. Federal agency responsibilities**

4 “(a) IN GENERAL.—The head of each agency shall—

5 “(1) be responsible for—

6 “(A) providing information security protec-
7 tions commensurate with the risk and mag-
8 nitude of the harm resulting from unauthorized
9 access, use, disclosure, disruption, modification,
10 or destruction of—

11 “(i) information collected or main-
12 tained by or on behalf of the agency; and

13 “(ii) information systems used or op-
14 erated by an agency or by a contractor of
15 an agency or other organization on behalf
16 of an agency;

17 “(B) complying with the requirements of
18 this subchapter and related policies, procedures,
19 standards, and guidelines, including—

20 “(i) information security standards
21 promulgated under section 11331 of title
22 40; and

23 “(ii) information security standards
24 and guidelines for national security sys-

1 tems issued in accordance with law and as
2 directed by the President; and

3 “(C) ensuring that information security
4 management processes are integrated with
5 agency strategic and operational planning pro-
6 cesses;

7 “(2) ensure that senior agency officials provide
8 information security for the information and infor-
9 mation systems that support the operations and as-
10 sets under their control, including through—

11 “(A) assessing the risk and magnitude of
12 the harm that could result from the unauthor-
13 ized access, use, disclosure, disruption, modi-
14 fication, or destruction of such information or
15 information systems;

16 “(B) determining the levels of information
17 security appropriate to protect such information
18 and information systems in accordance with
19 standards promulgated under section 11331 of
20 title 40, for information security classifications
21 and related requirements;

22 “(C) implementing policies and procedures
23 to cost-effectively reduce risks to an acceptable
24 level; and

1 “(D) periodically testing and evaluating in-
2 formation security controls and techniques to
3 ensure that they are effectively implemented;

4 “(3) delegate to the agency Chief Information
5 Officer established under section 3506 (or com-
6 parable official in an agency not covered by such
7 section) the authority to ensure compliance with the
8 requirements imposed on the agency under this sub-
9 chapter, including—

10 “(A) designating a senior agency informa-
11 tion security officer who shall—

12 “(i) carry out the Chief Information
13 Officer’s responsibilities under this section;

14 “(ii) possess professional qualifica-
15 tions, including training and experience,
16 required to administer the functions de-
17 scribed under this section;

18 “(iii) have information security duties
19 as that official’s primary duty; and

20 “(iv) head an office with the mission
21 and resources to assist in ensuring agency
22 compliance with this section;

23 “(B) developing and maintaining an agen-
24 cywide information security program as re-
25 quired by subsection (b);

1 “(C) developing and maintaining informa-
2 tion security policies, procedures, and control
3 techniques to address all applicable require-
4 ments, including those issued under section
5 3543 of this title, and section 11331 of title 40;

6 “(D) training and overseeing personnel
7 with significant responsibilities for information
8 security with respect to such responsibilities;
9 and

10 “(E) assisting senior agency officials con-
11 cerning their responsibilities under paragraph
12 (2);

13 “(4) ensure that the agency has trained per-
14 sonnel sufficient to assist the agency in complying
15 with the requirements of this subchapter and related
16 policies, procedures, standards, and guidelines; and

17 “(5) ensure that the agency Chief Information
18 Officer, in coordination with other senior agency of-
19 ficials, reports annually to the agency head on the
20 effectiveness of the agency information security pro-
21 gram, including progress of remedial actions.

22 “(b) AGENCY PROGRAM.—Each agency shall develop,
23 document, and implement an agencywide information se-
24 curity program, approved by the Director under section
25 3543(a)(5), to provide information security for the infor-

1 mation and information systems that support the oper-
2 ations and assets of the agency, including those provided
3 or managed by another agency, contractor, or other
4 source, that includes—

5 “(1) periodic assessments of the risk and mag-
6 nitude of the harm that could result from the unau-
7 thorized access, use, disclosure, disruption, modifica-
8 tion, or destruction of information and information
9 systems that support the operations and assets of
10 the agency;

11 “(2) policies and procedures that—

12 “(A) are based on the risk assessments re-
13 quired by paragraph (1);

14 “(B) cost-effectively reduce information se-
15 curity risks to an acceptable level;

16 “(C) ensure that information security is
17 addressed throughout the life cycle of each
18 agency information system; and

19 “(D) ensure compliance with—

20 “(i) the requirements of this sub-
21 chapter;

22 “(ii) policies and procedures as may
23 be prescribed by the Director, and infor-
24 mation security standards promulgated
25 under section 11331 of title 40;

1 “(iii) minimally acceptable system
2 configuration requirements, as determined
3 by the agency; and

4 “(iv) any other applicable require-
5 ments, including standards and guidelines
6 for national security systems issued in ac-
7 cordance with law and as directed by the
8 President;

9 “(3) subordinate plans for providing adequate
10 information security for networks, facilities, and sys-
11 tems or groups of information systems, as appro-
12 priate;

13 “(4) security awareness training to inform per-
14 sonnel, including contractors and other users of in-
15 formation systems that support the operations and
16 assets of the agency, of—

17 “(A) information security risks associated
18 with their activities; and

19 “(B) their responsibilities in complying
20 with agency policies and procedures designed to
21 reduce these risks;

22 “(5) periodic testing and evaluation of the ef-
23 fectiveness of information security policies, proce-
24 dures, and practices, to be performed with a fre-

1 quency depending on risk, but no less than annually,
2 of which such testing—

3 “(A) shall include testing of management,
4 operational, and technical controls of every in-
5 formation system identified in the inventory re-
6 quired under section 3505(c); and

7 “(B) may include testing relied on in a
8 evaluation under section 3545;

9 “(6) a process for planning, implementing, eval-
10 uating, and documenting remedial action to address
11 any deficiencies in the information security policies,
12 procedures, and practices of the agency;

13 “(7) procedures for detecting, reporting, and re-
14 sponding to security incidents, consistent with stand-
15 ards and guidelines issued pursuant to section
16 3546(b), including—

17 “(A) mitigating risks associated with such
18 incidents before substantial damage is done;

19 “(B) notifying and consulting with the
20 Federal information security incident center re-
21 ferred to in section 3546; and

22 “(C) notifying and consulting with, as ap-
23 propriate—

24 “(i) law enforcement agencies and rel-
25 evant Offices of Inspector General;

1 “(ii) an office designated by the Presi-
2 dent for any incident involving a national
3 security system; and

4 “(iii) any other agency or office, in ac-
5 cordance with law or as directed by the
6 President; and

7 “(8) plans and procedures to ensure continuity
8 of operations for information systems that support
9 the operations and assets of the agency.

10 “(c) AGENCY REPORTING.—Each agency shall—

11 “(1) report annually to the Director, the Com-
12 mittees on Government Reform and Science of the
13 House of Representatives, the Committees on Gov-
14 ernmental Affairs and Commerce, Science, and
15 Transportation of the Senate, the appropriate au-
16 thorization and appropriations committees of Con-
17 gress, and the Comptroller General on the adequacy
18 and effectiveness of information security policies,
19 procedures, and practices, and compliance with the
20 requirements of this subchapter, including compli-
21 ance with each requirement of subsection (b);

22 “(2) address the adequacy and effectiveness of
23 information security policies, procedures, and prac-
24 tices in plans and reports relating to—

25 “(A) annual agency budgets;

1 “(B) information resources management
2 under subchapter 1 of this chapter;

3 “(C) information technology management
4 under subtitle III of title 40;

5 “(D) program performance under sections
6 1105 and 1115 through 1119 of title 31, and
7 sections 2801 and 2805 of title 39;

8 “(E) financial management under chapter
9 9 of title 31, and the Chief Financial Officers
10 Act of 1990 (31 U.S.C. 501 note; Public Law
11 101–576) (and the amendments made by that
12 Act);

13 “(F) financial management systems under
14 the Federal Financial Management Improve-
15 ment Act (31 U.S.C. 3512 note); and

16 “(G) internal accounting and administra-
17 tive controls under section 3512 of title 31,
18 (known as the ‘Federal Managers Financial In-
19 tegrity Act’); and

20 “(3) report any significant deficiency in a pol-
21 icy, procedure, or practice identified under para-
22 graph (1) or (2)—

23 “(A) as a material weakness in reporting
24 under section 3512 of title 31; and

1 “(B) if relating to financial management
2 systems, as an instance of a lack of substantial
3 compliance under the Federal Financial Man-
4 agement Improvement Act (31 U.S.C. 3512
5 note).

6 “(d) PERFORMANCE PLAN.—(1) In addition to the
7 requirements of subsection (c), each agency, in consulta-
8 tion with the Director, shall include as part of the per-
9 formance plan required under section 1115 of title 31 a
10 description of—

11 “(A) the time periods, and

12 “(B) the resources, including budget, staffing,
13 and training,

14 that are necessary to implement the program required
15 under subsection (b).

16 “(2) The description under paragraph (1) shall be
17 based on the risk assessments required under subsection
18 (b)(2)(1).

19 “(e) PUBLIC NOTICE AND COMMENT.—Each agency
20 shall provide the public with timely notice and opportuni-
21 ties for comment on proposed information security policies
22 and procedures to the extent that such policies and proce-
23 dures affect communication with the public.

1 **“§ 3545. Annual independent evaluation**

2 “(a) IN GENERAL.—(1) Each year each agency shall
3 have performed an independent evaluation of the informa-
4 tion security program and practices of that agency to de-
5 termine the effectiveness of such program and practices.

6 “(2) Each evaluation under this section shall in-
7 clude—

8 “(A) testing of the effectiveness of information
9 security policies, procedures, and practices of a rep-
10 resentative subset of the agency’s information sys-
11 tems;

12 “(B) an assessment (made on the basis of the
13 results of the testing) of compliance with—

14 “(i) the requirements of this subchapter;
15 and

16 “(ii) related information security policies,
17 procedures, standards, and guidelines; and

18 “(C) separate presentations, as appropriate, re-
19 garding information security relating to national se-
20 curity systems.

21 “(b) INDEPENDENT AUDITOR.—Subject to sub-
22 section (c)—

23 “(1) for each agency with an Inspector General
24 appointed under the Inspector General Act of 1978,
25 the annual evaluation required by this section shall
26 be performed by the Inspector General or by an

1 independent external auditor, as determined by the
2 Inspector General of the agency; and

3 “(2) for each agency to which paragraph (1)
4 does not apply, the head of the agency shall engage
5 an independent external auditor to perform the eval-
6 uation.

7 “(c) NATIONAL SECURITY SYSTEMS.—For each
8 agency operating or exercising control of a national secu-
9 rity system, that portion of the evaluation required by this
10 section directly relating to a national security system shall
11 be performed—

12 “(1) only by an entity designated by the agency
13 head; and

14 “(2) in such a manner as to ensure appropriate
15 protection for information associated with any infor-
16 mation security vulnerability in such system com-
17 mensurate with the risk and in accordance with all
18 applicable laws.

19 “(d) EXISTING EVALUATIONS.—The evaluation re-
20 quired by this section may be based in whole or in part
21 on an audit, evaluation, or report relating to programs or
22 practices of the applicable agency.

23 “(e) AGENCY REPORTING.—(1) Each year, not later
24 than such date established by the Director, the head of

1 each agency shall submit to the Director the results of
2 the evaluation required under this section.

3 “(2) To the extent an evaluation required under this
4 section directly relates to a national security system, the
5 evaluation results submitted to the Director shall contain
6 only a summary and assessment of that portion of the
7 evaluation directly relating to a national security system.

8 “(f) PROTECTION OF INFORMATION.—Agencies and
9 evaluators shall take appropriate steps to ensure the pro-
10 tection of information which, if disclosed, may adversely
11 affect information security. Such protections shall be com-
12 mensurate with the risk and comply with all applicable
13 laws and regulations.

14 “(g) OMB REPORTS TO CONGRESS.—(1) The Direc-
15 tor shall summarize the results of the evaluations con-
16 ducted under this section in the report to Congress re-
17 quired under section 3543(a)(8).

18 “(2) The Director’s report to Congress under this
19 subsection shall summarize information regarding infor-
20 mation security relating to national security systems in
21 such a manner as to ensure appropriate protection for in-
22 formation associated with any information security vulner-
23 ability in such system commensurate with the risk and in
24 accordance with all applicable laws.

1 “(3) Evaluations and any other descriptions of infor-
2 mation systems under the authority and control of the Di-
3 rector of Central Intelligence or of National Foreign Intel-
4 ligence Programs systems under the authority and control
5 of the Secretary of Defense shall be made available to Con-
6 gress only through the appropriate oversight committees
7 of Congress, in accordance with applicable laws.

8 “(h) COMPTROLLER GENERAL.—The Comptroller
9 General shall periodically evaluate and report to Congress
10 on—

11 “(1) the adequacy and effectiveness of agency
12 information security policies and practices; and

13 “(2) implementation of the requirements of this
14 subchapter.

15 **“§ 3546. Federal information security incident center**

16 “(a) IN GENERAL.—The Director shall ensure the
17 operation of a central Federal information security inci-
18 dent center to—

19 “(1) provide timely technical assistance to oper-
20 ators of agency information systems regarding secu-
21 rity incidents, including guidance on detecting and
22 handling information security incidents;

23 “(2) compile and analyze information about in-
24 cidents that threaten information security;

1 “(3) inform operators of agency information
2 systems about current and potential information se-
3 curity threats, and vulnerabilities; and

4 “(4) consult with the National Institute of
5 Standards and Technology, agencies or offices oper-
6 ating or exercising control of national security sys-
7 tems (including the National Security Agency), and
8 such other agencies or offices in accordance with law
9 and as directed by the President regarding informa-
10 tion security incidents and related matters.

11 “(b) NATIONAL SECURITY SYSTEMS.—Each agency
12 operating or exercising control of a national security sys-
13 tem shall share information about information security in-
14 cidents, threats, and vulnerabilities with the Federal infor-
15 mation security incident center to the extent consistent
16 with standards and guidelines for national security sys-
17 tems, issued in accordance with law and as directed by
18 the President.

19 **“§ 3547. National security systems**

20 “The head of each agency operating or exercising
21 control of a national security system shall be responsible
22 for 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,

1 disclosure, disruption, modification, or destruction of
2 the information contained in such system;

3 “(2) implements information security policies
4 and practices as required by standards and guide-
5 lines for national security systems, issued in accord-
6 ance with law and as directed by the President; and

7 “(3) complies with the requirements of this sub-
8 chapter.

9 **“§ 3548. Authorization of appropriations**

10 “There are authorized to be appropriated to carry out
11 the provisions of this subchapter such sums as may be
12 necessary for each of fiscal years 2003 through 2007.

13 **“§ 3549. Effect on existing law**

14 “Nothing in this subchapter, section 11331 of title
15 40, or section 20 of the National Standards and Tech-
16 nology Act (15 U.S.C. 278g–3) may be construed as af-
17 fecting the authority of the President, the Office of Man-
18 agement and Budget or the Director thereof, the National
19 Institute of Standards and Technology, or the head of any
20 agency, with respect to the authorized use or disclosure
21 of information, including with regard to the protection of
22 personal privacy under section 552a of title 5, the disclo-
23 sure of information under section 552 of title 5, the man-
24 agement and disposition of records under chapters 29, 31,
25 or 33 of title 44, the management of information resources

1 under subchapter I of chapter 35 of this title, or the dis-
2 closure of information to the Congress or the Comptroller
3 General of the United States. While this subchapter is in
4 effect, subchapter II of this chapter shall not apply.”.

5 (2) CLERICAL AMENDMENT.—The table of sec-
6 tions at the beginning of such chapter 35 is amend-
7 ed by adding at the end the following:

“SUBCHAPTER III—INFORMATION SECURITY

“Sec.

“3541. Purposes.

“3542. Definitions.

“3543. Authority and functions of the Director.

“3544. Federal agency responsibilities.

“3545. Annual independent evaluation.

“3546. Federal information security incident center.

“3547. National security systems.

“3548. Authorization of appropriations.

“3549. 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
13 the Secretary of Defense, the Director of Central In-
14 telligence, or other agency head, as authorized by
15 law and as directed by the President, with regard to
16 the operation, control, or management of national
17 security systems, as defined by section 3542(b)(2) of
18 title 44, United States Code.

1 (B) Section 2224 of title 10, United States
2 Code, is amended—

3 (i) in subsection (b), by striking “(b)
4 OBJECTIVES AND MINIMUM REQUIREMENTS.—
5 (1)” and inserting “(b) OBJECTIVES OF THE
6 PROGRAM.—”;

7 (ii) in subsection (b), by striking para-
8 graph (2); and

9 (iii) in subsection (c), in the matter pre-
10 ceeding paragraph (1), by inserting “, including
11 through compliance with subchapter III of
12 chapter 35 of title 44” after “infrastructure”.

13 (2) ATOMIC ENERGY ACT OF 1954.—Nothing in
14 this Act shall supersede any requirement made by or
15 under the Atomic Energy Act of 1954 (42 U.S.C.
16 2011 et seq.). Restricted data or formerly restricted
17 data shall be handled, protected, classified, down-
18 graded, and declassified in conformity with the
19 Atomic Energy Act of 1954 (42 U.S.C. 2011 et
20 seq.).

21 **SEC. 302. MANAGEMENT OF INFORMATION TECHNOLOGY.**

22 (a) IN GENERAL.—Section 11331 of title 40, United
23 States Code, is amended to read as follows:

1 **“§ 11331. Responsibilities for Federal information sys-**
2 **tems standards**

3 “(a) STANDARDS AND GUIDELINES.—

4 “(1) AUTHORITY TO PRESCRIBE.—Except as
5 provided under paragraph (2), the Secretary of
6 Commerce shall, on the basis of standards and
7 guidelines developed by the National Institute of
8 Standards and Technology pursuant to paragraphs
9 (2) and (3) of section 20(a) of the National Institute
10 of Standards and Technology Act (15 U.S.C. 278g–
11 3(a)), prescribe standards and guidelines pertaining
12 to Federal information systems.

13 “(2) NATIONAL SECURITY SYSTEMS.—Stand-
14 ards and guidelines for national security systems (as
15 defined under this section) shall be developed, pre-
16 scribed, enforced, and overseen as otherwise author-
17 ized by law and as directed by the President.

18 “(b) MANDATORY REQUIREMENTS.—

19 “(1) AUTHORITY TO MAKE MANDATORY.—Ex-
20 cept as provided under paragraph (2), the Secretary
21 shall make standards prescribed under subsection
22 (a)(1) compulsory and binding to the extent deter-
23 mined necessary by the Secretary to improve the ef-
24 ficiency of operation or security of Federal informa-
25 tion systems.

1 “(2) REQUIRED MANDATORY STANDARDS.—(A)
2 Standards prescribed under subsection (a)(1) shall
3 include information security standards that—

4 “(i) provide minimum information security
5 requirements as determined under section 20(b)
6 of the National Institute of Standards and
7 Technology Act (15 U.S.C. 278g–3(b)); and

8 “(ii) are otherwise necessary to improve
9 the security of Federal information and infor-
10 mation systems.

11 “(B) Information security standards described
12 in subparagraph (A) shall be compulsory and bind-
13 ing.

14 “(c) AUTHORITY TO DISAPPROVE OR MODIFY.—The
15 President may disapprove or modify the standards and
16 guidelines referred to in subsection (a)(1) if the President
17 determines such action to be in the public interest. The
18 President’s authority to disapprove or modify such stand-
19 ards and guidelines may not be delegated. Notice of such
20 disapproval or modification shall be published promptly in
21 the Federal Register. Upon receiving notice of such dis-
22 approval or modification, the Secretary of Commerce shall
23 immediately rescind or modify such standards or guide-
24 lines as directed by the President.

1 “(d) EXERCISE OF AUTHORITY.—To ensure fiscal
2 and policy consistency, the Secretary shall exercise the au-
3 thority conferred by this section subject to direction by
4 the President and in coordination with the Director of the
5 Office of Management and Budget.

6 “(e) APPLICATION OF MORE STRINGENT STAND-
7 ARDS.—The head of an executive agency may employ
8 standards for the cost-effective information security for in-
9 formation systems within or under the supervision of that
10 agency that are more stringent than the standards the
11 Secretary prescribes under this section if the more strin-
12 gent standards—

13 “(1) contain at least the applicable standards
14 made compulsory and binding by the Secretary; and

15 “(2) are otherwise consistent with policies and
16 guidelines issued under section 3543 of title 44.

17 “(f) DECISIONS ON PROMULGATION OF STAND-
18 ARDS.—The decision by the Secretary regarding the pro-
19 mulgation of any standard under this section shall occur
20 not later than 6 months after the submission of the pro-
21 posed standard to the Secretary by the National Institute
22 of Standards and Technology, as provided under section
23 20 of the National Institute of Standards and Technology
24 Act (15 U.S.C. 278g-3).

25 “(g) DEFINITIONS.—In this section:

1 “(1) FEDERAL INFORMATION SYSTEM.—The
2 term ‘Federal information system’ means an infor-
3 mation system used or operated by an executive
4 agency, by a contractor of an executive agency, or by
5 another organization on behalf of an executive agen-
6 cy.

7 “(2) INFORMATION SECURITY.—The term
8 ‘information security’ has the meaning given that
9 term in section 3542(b)(1) of title 44.

10 “(3) NATIONAL SECURITY SYSTEM.—The term
11 ‘national security system’ has the meaning given
12 that term in section 3542(b)(2) of title 44.”.

13 (b) CLERICAL AMENDMENT.—The item relating to
14 section 11331 in the table of sections at the beginning of
15 chapter 113 of such title is amended to read as follows:

“11331. Responsibilities for Federal information systems standards.”.

16 **SEC. 303. NATIONAL INSTITUTE OF STANDARDS AND TECH-**
17 **NOLOGY.**

18 Section 20 of the National Institute of Standards and
19 Technology Act (15 U.S.C. 278g-3), is amended by strik-
20 ing the text and inserting the following:

21 “(a) IN GENERAL.—The Institute shall—

22 “(1) have the mission of developing standards,
23 guidelines, and associated methods and techniques
24 for information systems;

1 “(2) develop standards and guidelines, includ-
2 ing minimum requirements, for information systems
3 used or operated by an agency or by a contractor of
4 an agency or other organization on behalf of an
5 agency, other than national security systems (as de-
6 fined in section 3542(b)(2) of title 44, United States
7 Code); and

8 “(3) develop standards and guidelines, includ-
9 ing minimum requirements, for providing adequate
10 information security for all agency operations and
11 assets, but such standards and guidelines shall not
12 apply to national security systems.

13 “(b) MINIMUM REQUIREMENTS FOR STANDARDS
14 AND GUIDELINES.—The standards and guidelines re-
15 quired by subsection (a) shall include, at a minimum—

16 “(1)(A) standards to be used by all agencies to
17 categorize all information and information systems
18 collected or maintained by or on behalf of each agen-
19 cy based on the objectives of providing appropriate
20 levels of information security according to a range of
21 risk levels;

22 “(B) guidelines recommending the types of in-
23 formation and information systems to be included in
24 each such category; and

1 “(C) minimum information security require-
2 ments for information and information systems in
3 each such category;

4 “(2) a definition of and guidelines concerning
5 detection and handling of information security inci-
6 dents; and

7 “(3) guidelines developed in conjunction with
8 the Department of Defense, including the National
9 Security Agency, for identifying an information sys-
10 tem as a national security system consistent with ap-
11 plicable requirements for national security systems,
12 issued in accordance with law and as directed by the
13 President.

14 “(c) DEVELOPMENT OF STANDARDS AND GUIDE-
15 LINES.—In developing standards and guidelines required
16 by subsections (a) and (b), the Institute shall—

17 “(1) consult with other agencies and offices and
18 the private sector (including the Director of the Of-
19 fice of Management and Budget, the Departments of
20 Defense and Energy, the National Security Agency,
21 the General Accounting Office, and the Secretary of
22 Homeland Security) to assure—

23 “(A) use of appropriate information secu-
24 rity policies, procedures, and techniques, in
25 order to improve information security and avoid

1 unnecessary and costly duplication of effort;
2 and

3 “(B) that such standards and guidelines
4 are complementary with standards and guide-
5 lines employed for the protection of national se-
6 curity systems and information contained in
7 such systems;

8 “(2) provide the public with an opportunity to
9 comment on proposed standards and guidelines;

10 “(3) submit to the Secretary of Commerce for
11 promulgation under section 11331 of title 40,
12 United States Code—

13 “(A) standards, as required under sub-
14 section (b)(1)(A), no later than 12 months after
15 the date of the enactment of this section; and

16 “(B) minimum information security re-
17 quirements for each category, as required under
18 subsection (b)(1)(C), no later than 36 months
19 after the date of the enactment of this section;

20 “(4) issue guidelines as required under sub-
21 section (b)(1)(B), no later than 18 months after the
22 date of the enactment of this section;

23 “(5) to the maximum extent practicable, ensure
24 that such standards and guidelines do not require

1 the use or procurement of specific products, includ-
2 ing any specific hardware or software;

3 “(6) to the maximum extent practicable, ensure
4 that such standards and guidelines provide for suffi-
5 cient flexibility to permit alternative solutions to pro-
6 vide equivalent levels of protection for identified in-
7 formation security risks; and

8 “(7) to the maximum extent practicable, use
9 flexible, performance-based standards and guidelines
10 that permit the use of off-the-shelf commercially de-
11 veloped information security products.

12 “(d) INFORMATION SECURITY FUNCTIONS.—The In-
13 stitute shall—

14 “(1) submit standards developed pursuant to
15 subsection (a), along with recommendations as to
16 the extent to which these should be made compul-
17 sory and binding, to the Secretary of Commerce for
18 promulgation under section 11331 of title 40,
19 United States Code;

20 “(2) provide technical assistance to agencies,
21 upon request, regarding—

22 “(A) compliance with the standards and
23 guidelines developed under subsection (a);

24 “(B) detecting and handling information
25 security incidents; and

1 “(C) information security policies, proce-
2 dures, and practices;

3 “(3) conduct research, as needed, to determine
4 the nature and extent of information security
5 vulnerabilities and techniques for providing cost-ef-
6 fective information security;

7 “(4) develop and periodically revise performance
8 indicators and measures for agency information se-
9 curity policies and practices;

10 “(5) evaluate private sector information secu-
11 rity policies and practices and commercially available
12 information technologies to assess potential applica-
13 tion by agencies to strengthen information security;

14 “(6) assist the private sector, upon request, in
15 using and applying the results of activities under
16 this section;

17 “(7) evaluate security policies and practices de-
18 veloped for national security systems to assess po-
19 tential application by agencies to strengthen infor-
20 mation security;

21 “(8) periodically assess the effectiveness of
22 standards and guidelines developed under this sec-
23 tion and undertake revisions as appropriate;

24 “(9) solicit and consider the recommendations
25 of the Information Security and Privacy Advisory

1 Board, established by section 21, regarding stand-
2 ards and guidelines developed under subsection (a)
3 and submit such recommendations to the Secretary
4 of Commerce with such standards submitted to the
5 Secretary; and

6 “(10) prepare an annual public report on activi-
7 ties undertaken in the previous year, and planned
8 for the coming year, to carry out responsibilities
9 under this section.

10 “(e) DEFINITIONS.—As used in this section—

11 “(1) the term ‘agency’ has the same meaning as
12 provided in section 3502(1) of title 44, United
13 States Code;

14 “(2) the term ‘information security’ has the
15 same meaning as provided in section 3542(b)(1) of
16 such title;

17 “(3) the term ‘information system’ has the
18 same meaning as provided in section 3502(8) of
19 such title;

20 “(4) the term ‘information technology’ has the
21 same meaning as provided in section 11101 of title
22 40, United States Code; and

23 “(5) the term ‘national security system’ has the
24 same meaning as provided in section 3542(b)(2) of
25 title 44, United States Code.

1 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to the Secretary of Com-
3 merce \$20,000,000 for each of fiscal years 2003, 2004,
4 2005, 2006, and 2007 to enable the National Institute of
5 Standards and Technology to carry out the provisions of
6 this section.”.

7 **SEC. 304. INFORMATION SECURITY AND PRIVACY ADVI-**
8 **SORY BOARD.**

9 Section 21 of the National Institute of Standards and
10 Technology Act (15 U.S.C. 278g-4), is amended—

11 (1) in subsection (a), by striking “Computer
12 System Security and Privacy Advisory Board” and
13 inserting “Information Security and Privacy Advi-
14 sory Board”;

15 (2) in subsection (a)(1), by striking “computer
16 or telecommunications” and inserting “information
17 technology”;

18 (3) in subsection (a)(2)—

19 (A) by striking “computer or telecommuni-
20 cations technology” and inserting “information
21 technology”; and

22 (B) by striking “computer or telecommuni-
23 cations equipment” and inserting “information
24 technology”;

25 (4) in subsection (a)(3)—

1 (A) by striking “computer systems” and
2 inserting “information system”; and

3 (B) by striking “computer systems secu-
4 rity” and inserting “information security”;

5 (5) in subsection (b)(1) by striking “computer
6 systems security” and inserting “information secu-
7 rity”;

8 (6) in subsection (b) by striking paragraph (2)
9 and inserting the following:

10 “(2) to advise the Institute, the Secretary of
11 Commerce, and the Director of the Office of Man-
12 agement and Budget on information security and
13 privacy issues pertaining to Federal Government in-
14 formation systems, including through review of pro-
15 posed standards and guidelines developed under sec-
16 tion 20; and”;

17 (7) in subsection (b)(3) by inserting “annually”
18 after “report”;

19 (8) by inserting after subsection (e) the fol-
20 lowing new subsection:

21 “(f) The Board shall hold meetings at such locations
22 and at such time and place as determined by a majority
23 of the Board.”;

24 (9) by redesignating subsections (f) and (g) as
25 subsections (g) and (h), respectively; and

1 (10) by striking subsection (h), as redesignated
2 by paragraph (9), and inserting the following:

3 “(h) As used in this section, the terms ‘information
4 system’ and ‘information technology’ have the meanings
5 given in section 20.”.

6 **SEC. 305. TECHNICAL AND CONFORMING AMENDMENTS.**

7 (a) **COMPUTER SECURITY ACT.**—Section 11332 of
8 title 40, United States Code, and the item relating to that
9 section in the table of sections for chapter 113 of such
10 title, are repealed.

11 (b) **FLOYD D. SPENCE NATIONAL DEFENSE AU-**
12 **THORIZATION ACT FOR FISCAL YEAR 2001.**—The Floyd
13 D. Spence National Defense Authorization Act for Fiscal
14 Year 2001 (Public Law 106–398) is amended by striking
15 section 1062 (44 U.S.C. 3531 note).

16 (c) **PAPERWORK REDUCTION ACT.**—(1) Section
17 3504(g) of title 44, United States Code, is amended—

18 (A) by adding “and” at the end of paragraph

19 (1);

20 (B) in paragraph (2)—

21 (i) by striking “sections 11331 and
22 11332(b) and (c) of title 40” and inserting
23 “section 11331 of title 40 and subchapter II of
24 this chapter”; and

1 (ii) by striking “; and” and inserting a pe-
2 riod; and

3 (C) by striking paragraph (3).

4 (2) Section 3505 of such title is amended by adding
5 at the end—

6 “(c) INVENTORY OF MAJOR INFORMATION SYS-
7 TEMS.—(1) The head of each agency shall develop and
8 maintain an inventory of major information systems
9 (including major national security systems) operated by
10 or under the control of such agency.

11 “(2) The identification of information systems in an
12 inventory under this subsection shall include an identifica-
13 tion of the interfaces between each such system and all
14 other systems or networks, including those not operated
15 by or under the control of the agency.

16 “(3) Such inventory shall be—

17 “(A) updated at least annually;

18 “(B) made available to the Comptroller Gen-
19 eral; and

20 “(C) used to support information resources
21 management, including—

22 “(i) preparation and maintenance of the
23 inventory of information resources under sec-
24 tion 3506(b)(4);

1 “(ii) information technology planning,
2 budgeting, acquisition, and management under
3 section 3506(h), subtitle III of title 40, and re-
4 lated laws and guidance;

5 “(iii) monitoring, testing, and evaluation of
6 information security controls under subchapter
7 II;

8 “(iv) preparation of the index of major in-
9 formation systems required under section
10 552(g) of title 5, United States Code; and

11 “(v) preparation of information system in-
12 ventories required for records management
13 under chapters 21, 29, 31, and 33.

14 “(4) The Director shall issue guidance for and over-
15 see the implementation of the requirements of this sub-
16 section.”.

17 (3) Section 3506(g) of such title is amended—

18 (A) by adding “and” at the end of paragraph

19 (1);

20 (B) in paragraph (2)—

21 (i) by striking “section 11332 of title 40”
22 and inserting “subchapter II of this chapter”;
23 and

24 (ii) by striking “; and” and inserting a pe-
25 riod; and

1 (C) by striking paragraph (3).

2 **TITLE IV—AUTHORIZATION OF**
3 **APPROPRIATIONS AND EF-**
4 **FECTIVE DATES**

5 **SEC. 401. AUTHORIZATION OF APPROPRIATIONS.**

6 Except for those purposes for which an authorization
7 of appropriations is specifically provided in title I or II,
8 including the amendments made by such titles, there are
9 authorized to be appropriated such sums as are necessary
10 to carry out titles I and II for each of fiscal years 2003
11 through 2007.

12 **SEC. 402. EFFECTIVE DATES.**

13 (a) TITLES I AND II.—

14 (1) IN GENERAL.—Except as provided under
15 paragraph (2), titles I and II and the amendments
16 made by such titles shall take effect 120 days after
17 the date of enactment of this Act.

18 (2) IMMEDIATE ENACTMENT.—Sections 207,
19 214, and 215 shall take effect on the date of enact-
20 ment of this Act.

21 (b) TITLES III AND IV.—Title III and this title shall
22 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
11 agency” 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” means an individual—

15 (A)(i) who is an employee of a private or-
16 ganization or a researcher affiliated with an in-
17 stitution 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,
20 United States Code), and with whom a contract
21 or other agreement is executed, on a temporary
22 basis, by an executive agency to perform exclu-
23 sively statistical activities under the control and
24 supervision of an officer or employee of that
25 agency;

1 (ii) who is working under the authority of
2 a government entity with which a contract or
3 other agreement is executed by an executive
4 agency to perform exclusively statistical activi-
5 ties under the control of an officer or employee
6 of that agency;

7 (iii) who is a self-employed researcher, a
8 consultant, a contractor, or an employee of a
9 contractor, and with whom a contract or other
10 agreement is executed by an executive agency to
11 perform a statistical activity under the control
12 of an officer or employee of that agency; or

13 (iv) who is a contractor or an employee of
14 a contractor, and who is engaged by the agency
15 to design or maintain the systems for handling
16 or storage of data received under this title; and

17 (B) who agrees in writing to comply with
18 all provisions of law that affect information ac-
19 quired by that agency.

20 (3) The term “business data” means operating
21 and financial data and information about businesses,
22 tax-exempt organizations, and government entities.

23 (4) The term “identifiable form” means any
24 representation of information that permits the iden-
25 tity of the respondent to whom the information ap-

1 plies to be reasonably inferred by either direct or in-
2 direct means.

3 (5) The term “nonstatistical purpose”—

4 (A) means the use of data in identifiable
5 form for any purpose that is not a statistical
6 purpose, including any administrative, regu-
7 latory, law enforcement, adjudicatory, or other
8 purpose that affects the rights, privileges, or
9 benefits of a particular identifiable respondent;
10 and

11 (B) includes the disclosure under section
12 552 of title 5, United States Code (popularly
13 known as the Freedom of Information Act) of
14 data that are acquired for exclusively statistical
15 purposes under a pledge of confidentiality.

16 (6) The term “respondent” means a person
17 who, or organization that, is requested or required
18 to supply information to an agency, is the subject of
19 information requested or required to be supplied to
20 an agency, or provides that information to an agen-
21 cy.

22 (7) The term “statistical activities”—

23 (A) means the collection, compilation,
24 processing, or analysis of data for the purpose
25 of describing or making estimates concerning

1 the whole, or relevant groups or components
2 within, the economy, society, or the natural en-
3 vironment; and

4 (B) includes the development of methods
5 or resources that support those activities, such
6 as measurement methods, models, statistical
7 classifications, 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, with-
16 out identifying the individuals or organizations
17 that comprise such groups; and

18 (B) includes the development, implementa-
19 tion, or maintenance of methods, technical or
20 administrative procedures, or information re-
21 sources that support the purposes described in
22 subparagraph (A).

23 **SEC. 503. COORDINATION AND OVERSIGHT OF POLICIES.**

24 (a) IN GENERAL.—The Director of the Office of
25 Management and Budget shall coordinate and oversee the

1 confidentiality and disclosure policies established by this
2 title. The Director may promulgate rules or provide other
3 guidance to ensure consistent interpretation of this title
4 by the affected agencies.

5 (b) AGENCY RULES.—Subject to subsection (c),
6 agencies may promulgate rules to implement this title.
7 Rules governing disclosures of information that are au-
8 thorized by this title shall be promulgated by the agency
9 that originally collected the information.

10 (c) REVIEW AND APPROVAL OF RULES.—The Direc-
11 tor shall review any rules proposed by an agency pursuant
12 to this title for consistency with the provisions of this title
13 and chapter 35 of title 44, United States Code, and such
14 rules shall be subject to the approval of the Director.

15 (d) REPORTS.—

16 (1) The head of each agency shall provide to
17 the Director of the Office of Management and Budget
18 such reports and other information as the Direc-
19 tor requests.

20 (2) Each Designated Statistical Agency referred
21 to in section 522 shall report annually to the Direc-
22 tor of the Office of Management and Budget, the
23 Committee on Government Reform of the House of
24 Representatives, and the Committee on Govern-
25 mental Affairs of the Senate on the actions it has

1 taken to implement sections 523 and 524. The re-
2 port shall include copies of each written agreement
3 entered into pursuant to section 524(a) for the ap-
4 plicable year.

5 (3) The Director of the Office of Management
6 and Budget shall include a summary of reports sub-
7 mitted to the Director under paragraph (2) and ac-
8 tions taken by the Director to advance the purposes
9 of this title in the annual report to the Congress on
10 statistical programs prepared under section
11 3504(e)(2) of title 44, United States Code.

12 **SEC. 504. EFFECT ON OTHER LAWS.**

13 (a) TITLE 44, UNITED STATES CODE.—This title, in-
14 cluding amendments made by this title, does not diminish
15 the authority under section 3510 of title 44, United States
16 Code, of the Director of the Office of Management and
17 Budget to direct, and of an agency to make, disclosures
18 that are not inconsistent with any applicable law.

19 (b) TITLE 13 AND TITLE 44, UNITED STATES
20 CODE.—This title, including amendments made by this
21 title, does not diminish the authority of the Bureau of the
22 Census to provide information in accordance with sections
23 8, 16, 301, and 401 of title 13, United States Code, and
24 section 2108 of title 44, United States Code.

1 (c) TITLE 13, UNITED STATES CODE.—This title, in-
2 cluding amendments made by this title, shall not be con-
3 strued as authorizing the disclosure for nonstatistical pur-
4 poses of demographic data or information collected by the
5 Census Bureau pursuant to section 9 of title 13, United
6 States Code.

7 (d) VARIOUS ENERGY STATUTES.—Data or informa-
8 tion acquired by the Energy Information Administration
9 under a pledge of confidentiality and designated by the
10 Energy Information Administration to be used for exclu-
11 sively statistical purposes shall not be disclosed in identifi-
12 able form for nonstatistical purposes under—

13 (1) section 12, 20, or 59 of the Federal Energy
14 Administration Act of 1974 (15 U.S.C. 771, 779,
15 790h);

16 (2) section 11 of the Energy Supply and Envi-
17 ronmental Coordination Act of 1974 (15 U.S.C.
18 796); or

19 (3) section 205 or 407 of the Department of
20 the Energy Organization Act of 1977 (42 U.S.C.
21 7135, 7177).

22 (e) SECTION 201 OF CONGRESSIONAL BUDGET ACT
23 OF 1974.—This title, including amendments made by this
24 title, shall not be construed to limit any authorities of the
25 Congressional Budget Office to work (consistent with laws

1 governing the confidentiality of information the disclosure
2 of which would be a violation of law) with databases of
3 Designated Statistical Agencies (as defined in section
4 522), either separately or, for data that may be shared
5 pursuant to section 524 of this title or other authority,
6 jointly in order to improve the general utility of these
7 databases for the statistical purpose of analyzing pension
8 and health care financing issues.

9 (f) PREEMPTION OF STATE LAW.—Nothing in this
10 title shall preempt applicable State law regarding the con-
11 fidentiality of data collected by the States.

12 (g) STATUTES REGARDING FALSE STATEMENTS.—
13 Notwithstanding section 512, information collected by an
14 agency for exclusively statistical purposes under a pledge
15 of confidentiality may be provided by the collecting agency
16 to a law enforcement agency for the prosecution of submis-
17 sions to the collecting agency of false statistical informa-
18 tion under statutes that authorize criminal penalties (such
19 as section 221 of title 13, United States Code) or civil
20 penalties for the provision of false statistical information,
21 unless such disclosure or use would otherwise be prohib-
22 ited under Federal law.

23 (h) CONSTRUCTION.—Nothing in this title shall be
24 construed as restricting or diminishing any confidentiality
25 protections or penalties for unauthorized disclosure that

1 otherwise apply to data or information collected for statis-
2 tical purposes or nonstatistical purposes, including, but
3 not limited to, section 6103 of the Internal Revenue Code
4 of 1986 (26 U.S.C. 6103).

5 (i) **AUTHORITY OF CONGRESS.**—Nothing in this title
6 shall be construed to affect the authority of the Congress,
7 including its committees, members, or agents, to obtain
8 data or information for a statistical purpose, including for
9 oversight of an agency’s statistical activities.

10 **Subtitle A—Confidential** 11 **Information Protection**

12 **SEC. 511. FINDINGS AND PURPOSES.**

13 (a) **FINDINGS.**—The 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 agencies for strictly sta-
17 tistical purposes.

18 (2) Pledges of confidentiality by agencies pro-
19 vide assurances to the public that information about
20 individuals or organizations or provided by individ-
21 uals or organizations for exclusively statistical pur-
22 poses will be held in confidence and will not be used
23 against such individuals or organizations in any
24 agency action.

1 (3) Protecting the confidentiality interests of in-
2 dividuals or organizations who provide information
3 under a pledge of confidentiality for Federal statis-
4 tical programs serves both the interests of the public
5 and the needs of society.

6 (4) Declining trust of the public in the protec-
7 tion of information provided under a pledge of con-
8 fidentiality to the agencies adversely affects both the
9 accuracy and completeness of statistical analyses.

10 (5) Ensuring that information provided under a
11 pledge of confidentiality for statistical purposes re-
12 ceives protection is essential in continuing public co-
13 operation in statistical programs.

14 (b) PURPOSES.—The purposes of this subtitle are the
15 following:

16 (1) To ensure that information supplied by in-
17 dividuals or organizations to an agency for statistical
18 purposes under a pledge of confidentiality is used ex-
19 clusively for statistical purposes.

20 (2) To ensure that individuals or organizations
21 who supply information under a pledge of confiden-
22 tiality to agencies for statistical purposes will neither
23 have that information disclosed in identifiable form
24 to anyone not authorized by this title nor have that

1 information used for any purpose other than a sta-
2 tistical purpose.

3 (3) To safeguard the confidentiality of individ-
4 ually identifiable information acquired under a
5 pledge of confidentiality for statistical purposes by
6 controlling access to, and uses made of, such infor-
7 mation.

8 **SEC. 512. LIMITATIONS ON USE AND DISCLOSURE OF DATA**
9 **AND INFORMATION.**

10 (a) **USE OF STATISTICAL DATA OR INFORMATION.—**
11 Data or information acquired by an agency under a pledge
12 of confidentiality and for exclusively statistical purposes
13 shall be used by officers, employees, or agents of the agen-
14 cy exclusively for statistical purposes.

15 (b) **DISCLOSURE OF STATISTICAL DATA OR INFOR-**
16 **MATION.—**

17 (1) Data or information acquired by an agency
18 under a pledge of confidentiality for exclusively sta-
19 tistical purposes shall not be disclosed by an agency
20 in identifiable form, for any use other than an exclu-
21 sively statistical purpose, except with the informed
22 consent of the respondent.

23 (2) A disclosure pursuant to paragraph (1) is
24 authorized only when the head of the agency ap-

1 proves such disclosure and the disclosure is not pro-
2 hibited by any other law.

3 (3) This section does not restrict or diminish
4 any confidentiality protections in law that otherwise
5 apply to data or information acquired by an agency
6 under a pledge of confidentiality for exclusively sta-
7 tistical purposes.

8 (c) **RULE FOR USE OF DATA OR INFORMATION FOR**
9 **NONSTATISTICAL PURPOSES.**—A statistical agency or
10 unit shall clearly distinguish any data or information it
11 collects for nonstatistical purposes (as authorized by law)
12 and provide notice to the public, before the data or infor-
13 mation is collected, that the data or information could be
14 used for nonstatistical purposes.

15 (d) **DESIGNATION OF AGENTS.**—A statistical agency
16 or unit may designate agents, by contract or by entering
17 into a special agreement containing the provisions re-
18 quired under section 502(2) for treatment as an agent
19 under that section, who may perform exclusively statistical
20 activities, subject to the limitations and penalties de-
21 scribed in this title.

22 **SEC. 513. FINES AND PENALTIES.**

23 Whoever, being an officer, employee, or agent of an
24 agency acquiring information for exclusively statistical
25 purposes, having taken and subscribed the oath of office,

1 or having sworn to observe the limitations imposed by sec-
2 tion 512, comes into possession of such information by
3 reason of his or her being an officer, employee, or agent
4 and, knowing that the disclosure of the specific informa-
5 tion is prohibited under the provisions of this title, will-
6 fully discloses the information in any manner to a person
7 or agency not entitled to receive it, shall be guilty of a
8 class E felony and imprisoned for not more than 5 years,
9 or fined not more than \$250,000, or both.

10 **Subtitle B—Statistical Efficiency**

11 **SEC. 521. FINDINGS AND PURPOSES.**

12 (a) FINDINGS.—The Congress finds the following:

13 (1) Federal statistics are an important source
14 of information for public and private decision-mak-
15 ers such as policymakers, consumers, businesses, in-
16 vestors, and workers.

17 (2) Federal statistical agencies should continu-
18 ously seek to improve their efficiency. Statutory con-
19 straints limit the ability of these agencies to share
20 data and thus to achieve higher efficiency for Fed-
21 eral statistical programs.

22 (3) The quality of Federal statistics depends on
23 the willingness of businesses to respond to statistical
24 surveys. Reducing reporting burdens will increase re-

1 sponse rates, and therefore lead to more accurate
2 characterizations of the economy.

3 (4) Enhanced sharing of business data among
4 the Bureau of the Census, the Bureau of Economic
5 Analysis, and the Bureau of Labor Statistics for ex-
6 clusively statistical purposes will improve their abil-
7 ity to track more accurately the large and rapidly
8 changing nature of United States business. In par-
9 ticular, the statistical agencies will be able to better
10 ensure that businesses are consistently classified in
11 appropriate industries, resolve data anomalies,
12 produce statistical samples that are consistently ad-
13 justed for the entry and exit of new businesses in a
14 timely manner, and correct faulty reporting errors
15 quickly and efficiently.

16 (5) The Congress enacted the International In-
17 vestment and Trade in Services Act of 1990 that al-
18 lowed the Bureau of the Census, the Bureau of Eco-
19 nomic Analysis, and the Bureau of Labor Statistics
20 to share data on foreign-owned companies. The Act
21 not only expanded detailed industry coverage from
22 135 industries to over 800 industries with no in-
23 crease in the data collected from respondents but
24 also demonstrated how data sharing can result in
25 the creation of valuable data products.

1 (6) With subtitle A of this title, the sharing of
2 business data among the Bureau of the Census, the
3 Bureau of Economic Analysis, and the Bureau of
4 Labor Statistics continues to ensure the highest level
5 of confidentiality for respondents to statistical sur-
6 veys.

7 (b) PURPOSES.—The purposes of this subtitle are the
8 following:

9 (1) To authorize the sharing of business data
10 among the Bureau of the Census, the Bureau of
11 Economic Analysis, and the Bureau of Labor Statis-
12 tics for exclusively statistical purposes.

13 (2) To reduce the paperwork burdens imposed
14 on businesses that provide requested information to
15 the Federal Government.

16 (3) To improve the comparability and accuracy
17 of Federal economic statistics by allowing the Bu-
18 reau of the Census, the Bureau of Economic Anal-
19 ysis, and the Bureau of Labor Statistics to update
20 sample frames, develop consistent classifications of
21 establishments and companies into industries, im-
22 prove coverage, and reconcile significant differences
23 in data produced by the three agencies.

24 (4) To increase understanding of the United
25 States economy, especially for key industry and re-

1 regional statistics, to develop more accurate measures
2 of the impact of technology on productivity growth,
3 and to enhance the reliability of the Nation’s most
4 important economic indicators, such as the National
5 Income and Product Accounts.

6 **SEC. 522. DESIGNATION OF STATISTICAL AGENCIES.**

7 For purposes of this subtitle, the term “Designated
8 Statistical Agency” means each of the following:

9 (1) The Bureau of the Census of the Depart-
10 ment of Commerce.

11 (2) The Bureau of Economic Analysis of the
12 Department of Commerce.

13 (3) The Bureau of Labor Statistics of the De-
14 partment of Labor.

15 **SEC. 523. RESPONSIBILITIES OF DESIGNATED STATISTICAL**
16 **AGENCIES.**

17 The head of each of the Designated Statistical Agen-
18 cies shall—

19 (1) identify opportunities to eliminate duplica-
20 tion and otherwise reduce reporting burden and cost
21 imposed on the public in providing information for
22 statistical purposes;

23 (2) enter into joint statistical projects to im-
24 prove the quality and reduce the cost of statistical
25 programs; and

1 (3) protect the confidentiality of individually
2 identifiable information acquired for statistical pur-
3 poses by adhering to safeguard principles, includ-
4 ing—

5 (A) emphasizing to their officers, employ-
6 ees, and agents the importance of protecting
7 the confidentiality of information in cases where
8 the identity of individual respondents can rea-
9 sonably be inferred by either direct or indirect
10 means;

11 (B) training their officers, employees, and
12 agents in their legal obligations to protect the
13 confidentiality of individually identifiable infor-
14 mation and in the procedures that must be fol-
15 lowed to provide access to such information;

16 (C) implementing appropriate measures to
17 assure the physical and electronic security of
18 confidential data;

19 (D) establishing a system of records that
20 identifies individuals accessing confidential data
21 and the project for which the data were re-
22 quired; and

23 (E) being prepared to document their com-
24 pliance with safeguard principles to other agen-

1 cies authorized by law to monitor such compli-
2 ance.

3 **SEC. 524. SHARING OF BUSINESS DATA AMONG DES-**
4 **IGNATED STATISTICAL AGENCIES.**

5 (a) IN GENERAL.—A Designated Statistical Agency
6 may provide business data in an identifiable form to an-
7 other Designated Statistical Agency under the terms of
8 a written agreement among the agencies sharing the busi-
9 ness data that specifies—

10 (1) the business data to be shared;

11 (2) the statistical purposes for which the busi-
12 ness data are to be used;

13 (3) the officers, employees, and agents author-
14 ized to examine the business data to be shared; and

15 (4) appropriate security procedures to safe-
16 guard the confidentiality of the business data.

17 (b) RESPONSIBILITIES OF AGENCIES UNDER OTHER
18 LAWS.—The provision of business data by an agency to
19 a Designated Statistical Agency under this subtitle shall
20 in no way alter the responsibility of the agency providing
21 the data under other statutes (including section 552 of
22 title 5, United States Code (popularly known as the Free-
23 dom of Information Act), and section 552b of title 5,
24 United States Code (popularly known as the Privacy Act

1 of 1974)) with respect to the provision or withholding of
2 such information by the agency providing the data.

3 (c) RESPONSIBILITIES OF OFFICERS, EMPLOYEES,
4 AND AGENTS.—Examination of business data in identifi-
5 able form shall be limited to the officers, employees, and
6 agents authorized to examine the individual reports in ac-
7 cordance with written agreements pursuant to this section.
8 Officers, employees, and agents of a Designated Statistical
9 Agency who receive data pursuant to this subtitle shall
10 be subject to all provisions of law, including penalties, that
11 relate—

12 (1) to the unlawful provision of the business
13 data that would apply to the officers, employees, and
14 agents of the agency that originally obtained the in-
15 formation; and

16 (2) to the unlawful disclosure of the business
17 data that would apply to officers, employees, and
18 agents of the agency that originally obtained the in-
19 formation.

20 (d) NOTICE.—Whenever a written agreement con-
21 cerns data that respondents were required by law to report
22 and the respondents were not informed that the data could
23 be shared among the Designated Statistical Agencies, for
24 exclusively statistical purposes, the terms of such agree-
25 ment shall be described in a public notice issued by the

1 agency that intends to provide the data. Such notice shall
2 allow a minimum of 60 days for public comment.

3 **SEC. 525. LIMITATIONS ON USE OF BUSINESS DATA PRO-**
4 **VIDED BY DESIGNATED STATISTICAL AGEN-**
5 **CIES.**

6 (a) USE, GENERALLY.—Business data provided by a
7 Designated Statistical Agency pursuant to this subtitle
8 shall be used exclusively for statistical purposes.

9 (b) PUBLICATION.—Publication of business data ac-
10 quired by a Designated Statistical Agency shall occur in
11 a manner whereby the data furnished by any particular
12 respondent are not in identifiable form.

13 **SEC. 526. CONFORMING AMENDMENTS.**

14 (a) DEPARTMENT OF COMMERCE.—Section 1 of the
15 Act of January 27, 1938 (15 U.S.C. 176a) is amended
16 by striking “The” and inserting “Except as provided in
17 the Confidential Information Protection and Statistical
18 Efficiency Act of 2002, the”.

19 (b) TITLE 13.—Chapter 10 of title 13, United States
20 Code, is amended—

21 (1) by adding after section 401 the following:

22 **“§ 402. Providing business data to Designated Statis-**
23 **tical Agencies**

24 “The Bureau of the Census may provide business
25 data to the Bureau of Economic Analysis and the Bureau

1 of Labor Statistics (‘Designated Statistical Agencies’) if
2 such information is required for an authorized statistical
3 purpose and the provision is the subject of a written agree-
4 ment with that Designated Statistical Agency, or their
5 successors, as defined in the Confidential Information
6 Protection and Statistical Efficiency Act of 2002.”; and

7 (2) in the table of sections for the chapter by
8 adding after the item relating to section 401 the fol-
9 lowing:

“402. Providing business data to Designated Statistical Agencies.”.

Passed the House of Representatives November 15
(legislative day, November 14), 2002.

Attest:

JEFF TRANDAHL,

Clerk.