

Mosina H. Jordan, of New York, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Central African Republic.

Nominee: Mosina H. Jordan.  
Post: Central African Republic.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. Self, none.
2. Spouse, none.
3. Children, George Michael Jordan, none; Mosina Michele Jordan, none; Frank Jordan, none.
4. Parents, Alice Mann, none; Frank Monterio, deceased.
5. Grandparents, maternal and paternal, deceased; Ellen and Joseph Jones, unknown.
6. Brothers, George Hitt, \$30; Johnny Hitt, none.

Lannon Walker, of Maryland, a career member of the Senior Foreign Service, class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cote d'Ivoire.

Nominee: Lannon Walker.  
Post: Cote d'Ivoire.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses, Rachelle and Tom Crowley, none; Anne, none.
4. Parents, deceased on both sides, none.
5. Grandparents, deceased on both sides, none.
6. Brothers, no siblings.
7. Sisters, no siblings.

Timothy Michael Carney, of Washington, a career member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sudan.

Nominee: Timothy Michael Carney.

Post: Ambassador to the Republic of the Sudan.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. Self, none.
2. Spouse, Victoria A. Butler, none.
3. Children, Anne H.D. Carney, unmarried, none.
4. Parents, Clement E. Carney, deceased; Marjorie S. Carney, stepmother, declines to specify. (Mrs. M. Carney said that she gave less than \$1,000 and contributed only to local level, rather than national level candidates); Kenneth Booth, stepfather, and Jane Booth, mother, none.
5. Grandparents, Mr. and Mrs. P. Carney, deceased; Mr. and Mrs. J. Byrne, deceased.
6. Brother and spouse, Brian B. Carney, and Jane V. Carney, none.
7. Sister, Sharon J. Carney, divorced, none.

James Alan Williams, of Virginia, a career member of the Senior Foreign Service, class

of Minister-Counselor, for the rank of Ambassador during his tenure of service as the Special Coordinator for Cyprus.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. HELMS. Mr. President, for the Committee on Foreign Relations, I also report favorably two nomination lists in the Foreign Service which were printed in full in the RECORDS of March 23, 1995 and May 15, 1995, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of March 23, and May 15, 1995 at the end of the Senate proceedings.)

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SIMON (for himself, Ms. MOSELEY-BRAUN, and Mr. COATS):

S. 944. A bill to provide for the establishment of the Ohio River Corridor Study Commission, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SIMON (for himself and Ms. MOSELEY-BRAUN):

S. 945. A bill to amend the Illinois and Michigan Canal Heritage Corridor Act of 1984 to modify the boundaries of the corridor, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. COHEN (for himself and Mr. LEVIN):

S. 946. A bill to facilitate, encourage, and provide for efficient and effective acquisition and use of modern information technology by executive agencies; to establish the position of Chief Information Officer of the United States in the Office of Management and Budget; to increase the responsibility and public accountability of the heads of the departments and agencies of the Federal Government for achieving substantial improvements in the delivery of services to the public and in other program activities through the use of modern information technology in support of agency missions; and for other purposes; to the Committee on Governmental Affairs.

By Mr. PRESSLER (for himself and Mr. DASCHLE):

S. 947. A bill to amend title VIII of the Elementary and Secondary Education Act of 1965 regarding impact aid payments, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DORGAN (for himself, Mr. HELMS, Mr. INOUE, Mr. LEAHY, Mr. MURKOWSKI, and Mr. ROBB):

S. 948. A bill to encourage organ donation through the inclusion of an organ donation card with individual income refund payments, and for other purposes; to the Committee on Finance.

By Mr. GRAHAM (for himself, Mr. ROBB, Mr. WARNER, Mr. HEFLIN, Mrs.

KASSEBAUM, Mr. INOUE, and Mr. SHELBY):

S. 949. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the death of George Washington; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. BOXER (for herself, Mr. KENNEDY, Mr. KERRY, Mr. SARBANES, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. AKAKA, Mr. INOUE, Mrs. MURRAY, Mrs. FEINSTEIN, Mr. HOLLINGS, Mr. ROBB, Mr. GRAHAM, and Mr. LAUTENBERG):

S. 950. A bill to amend the Outer Continental Shelf Lands Act to direct the Secretary of the Interior to cease mineral leasing activity on submerged land of the outer Continental Shelf that is adjacent to a coastal State that has declared a moratorium on mineral exploration, development, or production activity in adjacent State waters, and for other purposes; to the Committee on Energy and Natural Resources.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself and Mr. DASCHLE):

S. Res. 137. A resolution to provide for the deposit of funds for the Senate page residence; considered and agreed to.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SIMON (for himself, Ms. MOSELEY-BRAUN, and Mr. COATS):

S. 944. A bill to provide for the establishment of the Ohio River Corridor Study Commission, and for other purposes; to the Committee on Energy and Natural Resources.

#### OHIO RIVER CORRIDOR STUDY COMMISSION ESTABLISHMENT ACT

Mr. SIMON. Mr. President, today I am introducing a bill to provide for the establishment of the Ohio River Corridor Study Commission. The purpose of this legislation is to focus attention on the distinctive and nationally important resources of the Ohio River corridor. My intention is to provide for long-term preservation, betterment, enjoyment, and utilization of the opportunities in the Ohio River corridor.

The Ohio River is a unique riverine system and is recognized as one of the great rivers of the world. In our Nation's early years, the Ohio was the way west; later the transportation opportunities provided by the river brought resources and people together to help build our country into a great industrial power.

The Ohio River starts in Pittsburgh, PA, and flows to the west and to the south toward its confluence in my home State of Illinois at the Mississippi River at Cairo, IL. The Ohio River covers 981 miles and flows through or borders on the States of Pennsylvania, Ohio, West Virginia, Kentucky, Indiana, and Illinois.

Our great American rivers even after years of neglect and abuse, remain

among the most scenic areas of the country. After a preliminary investigation, the ad hoc Ohio River Group believes that an indepth study of the waterway would result in a favorable recommendation for a joint local, State, and national endeavor resulting in the designation of the river valley as a national heritage corridor.

Mr. President, as with other national heritage corridors there is a high degree of coordination and cooperation required by the various governmental entities along the river if the project is to be successful. I believe that establishing the Ohio River Corridor Study Commission—whose membership would include the Director, or designee, of the National Park Service—would be the most appropriate mechanism to begin implementation of the conceptual study.

By Mr. SIMON (for himself and Ms. MOSELEY-BRAUN):

S. 945. A bill to amend the Illinois and Michigan Canal Heritage Corridor Act of 1984 to modify the boundaries of the corridor, and for other purposes; to the Committee on Energy and Natural Resources.

ILLINOIS AND MICHIGAN CANAL HERITAGE  
CORRIDOR ESTABLISHMENT ACT

Mr. SIMON. Mr. President, today I am introducing a bill to provide for the Illinois & Michigan Canal Heritage Corridor. The purpose of this legislation is to preserve and enhance a corridor known for its nationally significant cultural and natural resources. My intention is to provide for long-term preservation, betterment, and utilization of the opportunities in the Illinois & Michigan Canal.

The Illinois & Michigan Canal National Heritage Corridor extends itself over 120 miles from Chicago to LaSalle/Peru. The Illinois & Michigan Canal was the first to be designated as a National Heritage Corridor in 1984. For years Illinoisans have been able to appreciate not only the natural beauty of the canal but also its historical interest. On both banks of the river, forests, prairies, and bird sanctuaries have been preserved. The unique architecture of this area includes buildings constructed between 1836 and 1848, architecture which no longer existed farther east, destroyed by the Chicago Fire of 1871.

The Illinois & Michigan Corridor is an innovative concept. It is the first partnership park of its kind and it is now a model for such parks throughout the Nation.

Mr. President, as with other national heritage corridors there is a high degree of coordination and cooperation required by the various governmental entities along the canal if the project is to be successful. The high historical, recreational, educational value of the canal is evident. It is my duty to seek to help preserving and protecting one of our national treasuries. I believe that extending the Illinois and Michigan Canal National Heritage Corridor

Commission would be the most appropriate way to reach those goals.

By Mr. COHEN (for himself and Mr. LEVIN):

S. 946. A bill to facilitate, encourage, and provide for efficient and effective acquisition and use of modern information technology by executive agencies; to establish the position of Chief Information Officer of the United States in the Office of Management and Budget; to increase the responsibility and public accountability of the heads of the departments and agencies of the Federal Government for achieving substantial improvements in the delivery of services to the public and in other program activities through the use of modern information technology in support of agency missions; and for other purposes; to the Committee on Governmental Affairs.

FEDERAL INFORMATION TECHNOLOGY REFORM  
ACT OF 1995

Mr. COHEN. Mr. President, today I rise to introduce the Federal Information Technology Reform Act of 1995. This legislation will provide much needed reform to the way the government acquires and uses computers and information technology. This legislation is critical to the future of Government as information technology becomes increasingly important in the way we manage Federal programs and responsibilities.

It was not all that long ago—less than two decades—when the business tools in most offices consisted of rotary dial telephones, IBM Selectric typewriters, sheets of carbon paper, and gallons of white-out. Today, however, it is a much different world. Offices now rely on digital telephone systems, voice and electronic mail, personal computers, and copy and fax machines. And while the office tools in Government and the private sector are similar, the Government is finding itself falling further and further behind the technology curve. The disparity between the tools of the private sector and the tools of Government is growing daily; especially in the area of information management.

The Government is the largest information manager in the world. The IRS collects more than 200 million tax forms a year. The Department of Defense has warehouses of information containing everything from declassified battle plans from the Spanish American War to financial records for the Aegis Destroyer.

The Department of Veterans Affairs has medical, educational, and insurance records for tens of millions of veterans scattered throughout the country. The Social Security Administration has hundreds of millions of records dealing with disability claims, educational benefits and payment records. In addition, all of these agencies have records dealing with personnel, travel and supply expenses. The list is endless.

The ability of Government to manage this information has a profound affect

on the daily lives of all of us. When senior citizens receive their Social Security checks, it is because a Government computer told the Treasury Department to send a check.

When we pay taxes or receive a refund, it is a Government computer that examines our tax forms, checks our math, and determines if we have paid the right amount or if we are due a refund.

When we fly, we rely on Government computers to keep planes from crashing into one another. When we watch weather reports on the evening news, the information comes from Government computers.

Government computers also keep track of patents, Government-insured loans, contractor payments, personnel and payroll records, criminal records, military inventory, and Medicaid and Medicare billings. In short, the Government keeps track of information that ensures our financial well being and is also critical to our public safety and national security needs.

But these Government information systems are headed for catastrophic failure if we fail to address the challenge of modernization. The Federal Aviation Administration, for example, relies on 1950's vacuum tube technology to monitor the safety of millions of airline passengers on a daily basis. Occasionally this antiquated technology fails, potentially putting airline passengers at risk.

Other Government computers are also failing to do the job such as failing to detect fraud in the Federal student loan program and preventing excess inventories at the Department of Defense. Inadequate technology is also largely to blame for the Justice Department's failure to collect millions in civil penalties, the Internal Revenue Service's failure to collect billions in overdue taxes, and the Department of Health and Human Service's failure to detect fraud in the Medicare program.

The underlying theme in all of the examples is that the Government does not do a good job managing its information. Poor information management is, in fact, one of the biggest threats to the Government Treasury because it leaves Government programs susceptible to waste, fraud, and abuse.

When the average taxpayer hears horror stories such as the Federal payroll clerk who was paying phantom employees and pocketing the money, or the case of the finance clerk who billed the Navy for ship parts that were never delivered, or the tax preparer who stole millions from the IRS through fictitious filings, they may not think about information management. But they certainly lose confidence in the Government's ability to manage.

My purpose in relating these incidents is not to simply recite a litany of Government horror stories. We have all heard too many of those. Instead, my purpose is to highlight how Government technology affects the lives of ordinary citizens, and to demonstrate

that the common denominator in these examples is the Government's failure to effectively manage information.

The problems are clear. It is equally clear that focusing on reforming how the Government approaches and acquires information technology can have a profound impact on the way Government does business in much the same way it has changed corporate America.

Last fall, I issued a report examining the Government's purchase and use of information technology. While I do not want to rehash all of the findings and recommendations, I do think some key observations are worth repeating.

Government is falling further behind the private sector in its ability to successfully apply information technology. First, the Federal Government rarely if ever examines how it does business before it automates. I recently held hearings which examined how the Pentagon could save more than \$4 billion over 5 years simply by changing the way it processed travel vouchers. Automating the current voucher processing system will neither achieve the projected savings nor the efficiencies that are accomplished through reengineering.

Second, the Federal Government has wasted billions of dollars by maintaining and updating so-called legacy or antiquated computers from the 1960's and 1970's which are ill-suited for the Government's needs and by today's standards will never be efficient or reliable.

Third, the Government wastes additional billions when we do buy replacement systems because we try to do too much at one time. These so-called megasystems are difficult to manage and are rarely successful. Without exception, megasystems cost much more than envisioned and when completed, which is rare, are generally years behind schedule. The private sector recognizes the megasystem approach as too risky and instead takes an incremental and more manageable approach. We need only look to the IRS and FAA to see examples of old systems that continue to deteriorate but have yet to be replaced because of failed modernization efforts.

Fourth, the process for buying Federal computer systems takes too long, largely because the process is inflexible and bureaucratic. In most cases, technology is obsolete by the time the new system is delivered. In a world where technology doubles every 18 months, Government can no longer afford systems that take 3 and 4 years to procure. In addition, once systems are finally delivered, agencies are then at the mercy of winning vendors for needed upgrades. These upgrades are purchased noncompetitively and any savings derived from the earlier competition are lost.

Finally, protests and the threat of protests add further delay and cost. In some cases, protests are lodged to obtain information that was not disclosed

at debriefings, to interrupt revenue flow to competitors, or to gain other competitive advantages.

The current approach to buying computers is outdated and takes little account of the competitive and fast-changing nature of the global computer industry. Markets and prices change daily, yet Government often gets locked into paying today's prices for yesterday's technology.

It is time to move Government information technology into the 21st century. That is why today I am introducing the Information Technology Management Reform Act of 1995. This legislation will significantly alter how the Government approaches and acquires information technology. The legislation would repeal the Brooks Act and establish a framework that will respond more efficiently to the needs of Government now and in the foreseeable future.

Mr. President, this legislation will make it easier for the Government to buy technology. More importantly, it is intended to make sure that before investing a dime in information technology, Government agencies will have carefully planned and justified their expenditures. Federal spending on information technology will be treated like an investment. Similar to managing an investment portfolio, decisions on whether to invest will be made based on potential return, and decisions to terminate or make additional investments will be based on performance. Much like a broker, agency management and vendor performance will be measured and rewarded based on managing risk and achieving results.

One of the most important features of the bill is that it changes the way Government approaches technology. Agencies will be encouraged—indeed required—to take a hard look at how they do business before they can spend a dollar on information technology. The idea is to ensure that we are not automating for the sake of automation. The greatest benefit from an investment in information technology can come from automating efficient processes.

The bill will make it easier to invest in information technology by replacing the current procurement system with one that is less bureaucratic and process driven. The new system is designed to allow Government to buy technology faster and for less money. This will enable us to make significant progress in replacing the inefficient and unreliable legacy systems which currently waste a significant portion of the Federal Government's \$27 billion annual information technology budget.

Specifically, the bill eliminates the delegation of procurement authority at the GSA, and establishes a National Chief Information Officer at OMB and Chief Information Officers at the major Federal agencies whose jobs are to emphasize up front planning, monitor risk management, and work with vendors to

achieve workable solutions to the Federal Government's information needs.

The legislation will also fundamentally change the Government's focus of information technology from a technical issue to a management issue. We have seen how failing to recognize information technology as a management issue has resulted in billions of dollars lost to inefficiency and abuse. From now on, Government information technology will have the attention of top management because the CIO's will have seats at the top levels of Government.

My legislation will also discourage the so-called megasystem buys. Following the private sector model, agencies will be encouraged to take an incremental approach that is more manageable and less risky.

We can no longer afford Government-unique systems. My bill makes it easy for agencies to buy commercially available products. While I understand that there are some unique needs, standard commercially available systems should be utilized for payroll and travel operations that are similar in both business and Government and for other operations whenever practicable.

The bill eliminates the current system for resolving bid protests involving information technology. Consequently, all protests will be resolved by the agencies, General Accounting Office, or the courts. While some are concerned that without the current system fairness cannot be ensured, I believe that other improvements in the procurement process required by the legislation eliminate the need for this redundancy.

I am excited about the prospect of this legislation to transform the way the Government does business. If Government is going to regain the confidence of taxpayers, it must successfully modernize. And, as you know, we cannot successfully modernize unless we can buy the tools which will enable us to automate. My legislation will lay the foundation to fundamentally change how the Government approaches the application and purchases of information technology.

If passed and implemented properly, this legislation can save taxpayers hundreds of billions of dollars by reducing overhead expenses and enabling our Government to become significantly more efficient. Changing the way Government does business and realizing the full promise and potential of technology, we can reduce the financial burden for this and future generations of Americans.

Mr. President, I urge my colleagues to support this legislation and move swiftly toward its adoption. We simply cannot afford to miss this opportunity to improve the delivery of services to the public; to increase detection of waste and fraud; and significantly reduce the cost of Government.

I ask unanimous consent to have the full text of my statement and Senator LEVIN's statement printed in the

RECORD as if read, and that the bill and section-by-section analysis be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 946

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

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

(a) SHORT TITLE.—This Act may be cited as the "Information Technology Management Reform Act of 1995".

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Purposes.
- Sec. 4. Definitions.

**TITLE I—RESPONSIBILITY FOR ACQUISITIONS OF INFORMATION TECHNOLOGY**

**Subtitle A—General Authority**

- Sec. 101. Authority of heads of executive agencies.
- Sec. 102. Superior authority of Director of Office of Management and Budget.
- Sec. 103. Repeal of central authority of the Administrator of General Services.

**Subtitle B—Director of the Office of Management and Budget**

- Sec. 121. Responsibility of Director.
- Sec. 122. Specific responsibilities.
- Sec. 123. Performance-based and results-based management.
- Sec. 124. Standards and guidelines for Federal information systems.
- Sec. 125. Contracting for performance of information resources management functions.
- Sec. 126. Regulations.

**Subtitle C—Chief Information Officer of the United States**

- Sec. 131. Office of the Chief Information Officer of the United States.
- Sec. 132. Relationship of Chief Information Officer to Director of the Office of Management and Budget; principal duties.
- Sec. 133. Additional duties.
- Sec. 134. Acquisitions under high-risk information technology programs.
- Sec. 135. Electronic data base on contractor performance.

**Subtitle D—Executive Agencies**

- Sec. 141. Responsibilities.
- Sec. 142. Specific authority.
- Sec. 143. Agency chief information officer.
- Sec. 144. Accountability.
- Sec. 145. Agency missions and the appropriateness of information technology initiatives.
- Sec. 146. Significant failures of programs to achieve cost, performance, or schedule goals.
- Sec. 147. Interagency support.
- Sec. 148. Monitoring of modifications in information technology acquisition programs.
- Sec. 149. Special provisions for Department of Defense.
- Sec. 150. Special provisions for Central Intelligence Agency.

**Subtitle E—Federal Information Council**

- Sec. 151. Establishment of Federal Information Council.
- Sec. 152. Membership.
- Sec. 153. Chairman; executive director.
- Sec. 154. Duties.
- Sec. 155. Software Review Council.

**Subtitle F—Interagency Functional Groups**

- Sec. 161. Establishment.
- Sec. 162. Specific functions.

**Subtitle G—Congressional Oversight**

- Sec. 171. Establishment and organization of Joint Committee on Information.
- Sec. 172. Responsibilities of Joint Committee on Information.
- Sec. 173. Rulemaking authority of Congress.

**Subtitle H—Other Responsibilities**

- Sec. 181. Responsibilities under the National Institute of Standards and Technology Act.
- Sec. 182. Responsibilities under the Computer Security Act of 1987.

**TITLE II—PROCESS FOR ACQUISITIONS OF INFORMATION TECHNOLOGY**

**Subtitle A—Procedures**

- Sec. 201. Procurement procedures.
- Sec. 202. Agency process.
- Sec. 203. Incremental acquisition of information technology.
- Sec. 204. Authority to limit number of offerors.
- Sec. 205. Exception from truth in negotiation requirements.
- Sec. 206. Unrestricted competitive procurement of commercial off-the-shelf items of information technology.
- Sec. 207. Task and delivery order contracts.
- Sec. 208. Two-phase selection procedures.
- Sec. 209. Contractor share of gains and losses from cost, schedule, and performance experience.

**Subtitle B—Acquisition Management**

- Sec. 221. Acquisition management team.
- Sec. 222. Oversight of acquisitions.

**TITLE III—SPECIAL FISCAL SUPPORT FOR INFORMATION INNOVATION**

**Subtitle A—Information Technology Fund**

- Sec. 301. Establishment.
- Sec. 302. Accounts.

**Subtitle B—Innovation Loan Account**

- Sec. 321. Availability of fund for loans in support of information innovation.
- Sec. 322. Repayment of loans.
- Sec. 323. Savings from information innovations.
- Sec. 324. Funding.

**Subtitle C—Common Use Account**

- Sec. 331. Support of multiagency acquisitions of information technology.
- Sec. 332. Funding.

**Subtitle D—Other Fiscal Policies**

- Sec. 341. Limitation on use of funds.
- Sec. 342. Sense of Congress.
- Sec. 343. Review by GAO and inspectors general.

**TITLE IV—INFORMATION TECHNOLOGY ACQUISITION PILOT PROGRAMS**

**Subtitle A—Conduct of Pilot Programs**

- Sec. 401. Requirement to conduct pilot programs.
- Sec. 402. Tests of innovative procurement methods and procedures.
- Sec. 403. Evaluation criteria and plans.
- Sec. 404. Report.
- Sec. 405. Recommended legislation.
- Sec. 406. Rule of construction.

**Subtitle B—Specific Pilot Programs**

- Sec. 421. Share-in-savings pilot program.
- Sec. 422. Solutions-based contracting pilot program.
- Sec. 423. Pilot program for contracting for performance of acquisition functions.
- Sec. 424. Major acquisitions pilot programs.

**TITLE V—OTHER INFORMATION RESOURCES MANAGEMENT REFORMS**

- Sec. 501. Transfer of responsibility for FACNET.

Sec. 502. On-line multiple award schedule ordering.

Sec. 503. Upgrading information equipment in agency field offices.

Sec. 504. Disposal of excess computer equipment.

Sec. 505. Leasing information technology.

Sec. 506. Continuation of eligibility of contractor for award of information technology contract after providing design and engineering services.

Sec. 507. Enhanced performance incentives for information technology acquisition workforce.

**TITLE VI—ACTIONS REGARDING CURRENT INFORMATION TECHNOLOGY PROGRAMS**

Sec. 601. Performance measurements.

Sec. 602. Independent assessment of programs.

Sec. 603. Current information technology acquisition program defined.

**TITLE VII—PROCUREMENT PROTEST AUTHORITY OF THE COMPTROLLER GENERAL**

Sec. 701. Remedies.

Sec. 702. Period for processing protests.

Sec. 703. Definition.

**TITLE VIII—RELATED TERMINATIONS, CONFORMING AMENDMENTS, AND CLERICAL AMENDMENTS**

**Subtitle A—Related Terminations**

Sec. 801. Office of Information and Regulatory Affairs.

Sec. 802. Senior information resources management officials.

**Subtitle B—Conforming Amendments**

Sec. 811. Amendments to title 10, United States Code.

Sec. 812. Amendments to title 28, United States Code.

Sec. 813. Amendments to title 31, United States Code.

Sec. 814. Amendments to title 38, United States Code.

Sec. 815. Provisions of title 44, United States Code, and other laws relating to certain joint committees of Congress.

Sec. 816. Provisions of title 44, United States Code, relating to paperwork reduction.

Sec. 817. Amendment to title 49, United States Code.

Sec. 818. Other laws.

**Subtitle B—Clerical Amendments**

Sec. 821. Amendment to title 10, United States Code.

Sec. 822. Amendment to title 38, United States Code.

Sec. 823. Amendments to title 44, United States Code.

**TITLE IX—SAVINGS PROVISIONS**

Sec. 901. Savings provisions.

**TITLE X—EFFECTIVE DATES**

Sec. 1001. Effective dates.

**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) Federal information systems are critical to the lives of every American.

(2) The efficiency and effectiveness of the Federal Government is dependent upon the effective use of information.

(3) The Federal Government annually spends billions of dollars operating obsolete information systems.

(4) The use of obsolete information systems severely limits the quality of the services that the Federal Government provides, the efficiency of Federal Government operations, and the capabilities of the Federal Government to account for how taxpayer dollars are spent.

(5) The failure to modernize Federal Government information systems, despite efforts to do so, has resulted in the waste of billions of dollars that cannot be recovered.

(6) Despite improvements achieved through implementation of the Chief Financial Officers Act of 1990, most Federal agencies cannot track the expenditures of Federal dollars and, thus, expose the taxpayers to billions of dollars in waste, fraud, abuse, and mismanagement.

(7) Weak oversight and a lengthy acquisition process have resulted in the American taxpayers not getting their money's worth from the expenditure of \$200,000,000,000 on information systems during the decade preceding the enactment of this Act.

(8) The Federal Government does an inadequate job of planning for information technology acquisitions and how such acquisitions will support the accomplishment of agency missions.

(9) Many Federal Government personnel lack the basic skills necessary to effectively and efficiently use information technology and other information resources in support of agency programs and missions.

(10) Federal regulations governing information technology acquisitions are outdated, focus on process rather than results, and prevent the Federal Government from taking timely advantage of the rapid advances taking place in the competitive and fast changing global information technology industry.

(11) Buying, leasing, or developing information systems should be a top priority for Federal agency management because the high potential for the systems to substantially improve Federal Government operations, including the delivery of services to the public.

(12) Organizational changes are necessary in the Federal Government in order to improve Federal information management and to facilitate Federal Government acquisition of the state-of-the-art information technology that is critical for improving the efficiency and effectiveness of Federal Government operations.

### SEC. 3. PURPOSES.

The purposes of this Act are as follows:

(1) To create incentives for the Federal Government to strategically use information technology in order to achieve efficient and effective operations of the Federal Government, to provide cost effective and efficient delivery of Federal Government services to the taxpayers, to provide greater protection of the health and safety of Americans, and to enhance the national security of the United States.

(2) To provide for the cost effective and timely acquisition, management, and use of effective information technology solutions.

(3) To transform the process-oriented procurement system of the Federal Government, as it relates to the acquisition of information technology, into a results-oriented procurement system.

(4) To increase the responsibility of officials of the Office of Management and Budget and other Federal Government agencies, and the accountability of such officials to Congress and the public, for achieving agency missions, including achieving improvements in the efficiency and effectiveness of Federal Government programs through the use of information technology and other information resources in support of agency missions.

(5) To ensure that the heads of Federal Government agencies are responsible and accountable for acquiring, using, and strategically managing information resources in a manner that achieves significant improvements in the performance of agency missions

in pursuit of a goal of achieving service delivery levels and project management performance comparable to the best in the private sector.

(6) To promote the development and operation of secure, multiple-agency and Governmentwide, interoperable, shared information resources to support the performance of Federal Government missions.

(7) To reduce fraud, waste, abuse, and errors resulting from a lack of, or poor implementation of, Federal Government information systems.

(8) To increase the capability of Federal Government agencies to restructure and improve processes before applying information technology.

(9) To increase the emphasis placed by Federal agency managers on completing effective planning and mission analysis before applying information technology to the execution of plans and the performance of agency missions.

(10) To coordinate, integrate, and, to the extent practicable and appropriate, establish uniform Federal information resources management policies and practices in order to improve the productivity, efficiency, and effectiveness of Federal Government programs and the delivery of services to the public.

(11) To strengthen the partnership between the Federal Government and State, local, and tribal governments for achieving Federal Government missions, goals, and objectives.

(12) To provide for the development of a well-trained core of professional Federal Government information resources managers.

### SEC. 4. DEFINITIONS.

In this Act:

(1) INFORMATION RESOURCES.—The term "information resources" means the resources used in the collection, processing, maintenance, use, sharing, dissemination, or disposition of information, including personnel, equipment, funds, and information technology.

(2) INFORMATION RESOURCES MANAGEMENT.—The term "information resources management" means the process of managing information resources to accomplish agency missions and to improve agency performance.

(3) INFORMATION SYSTEM.—The term "information system" means a discrete set of information resources, whether automated or manual, that are organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information in accordance with defined procedures and includes computer systems.

(4) INFORMATION TECHNOLOGY.—The term "information technology", with respect to an executive agency—

(A) means any equipment or interconnected system or subsystem of equipment, including software, services, satellites, sensors, an information system, or a telecommunication system, that is used in the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the executive agency or under a contract with the executive agency which (i) requires the use of such system or subsystem of equipment, or (ii) requires the use, to a significant extent, of such system or subsystem of equipment in the performance of a service or the furnishing of a product; and

(B) does not include any such equipment that is acquired by a Federal contractor incidental to a Federal contract.

(5) INFORMATION ARCHITECTURE.—The term "information architecture", with respect to an executive agency, means a framework or plan for evolving or maintaining existing in-

formation technology, acquiring new information technology, and integrating the agency's information technology to achieve the agency's strategic goals and information resources management goals.

(6) EXECUTIVE DEPARTMENT.—The term "executive department" means an executive department specified in section 101 of title 5, United States Code.

(7) EXECUTIVE AGENCY.—The term "executive agency" has the meaning given the term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

(8) HIGH-RISK INFORMATION TECHNOLOGY PROGRAM.—The term "high-risk information technology program" means an acquisition of an information system, or components of an information system, that requires special management attention because—

(A) the program cost is at least \$100,000,000;

(B) the system being developed under the program is critical to the success of an executive agency in fulfilling the agency's mission;

(C) there is a significant risk in the development of the system because of—

(i) the size or scope of the development project;

(ii) the period necessary for completing the project;

(iii) technical configurations;

(iv) unusual security requirements;

(v) the special management skills necessary for the management of the project; or

(vi) the highly technical expertise necessary for the project; or

(D) it is or will be necessary to allocate a significant percentage of the information technology budget of an executive agency to paying the costs of developing, operating, or maintaining the system.

(9) COMMERCIAL ITEM.—The term "commercial item" has the meaning given that term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

(10) NONDEVELOPMENTAL ITEM.—The term "nondevelopmental item" has the meaning given that term in section 4(13) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(13)).

## TITLE I—RESPONSIBILITY FOR ACQUISITIONS OF INFORMATION TECHNOLOGY

### Subtitle A—General Authority

#### SEC. 101. AUTHORITY OF HEADS OF EXECUTIVE AGENCIES.

The heads of the executive agencies may conduct acquisitions of information technology pursuant to their respective authorities under title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251, et seq.), chapters 4 and 137 of title 10, United States Code, and the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451 et seq.).

#### SEC. 102. SUPERIOR AUTHORITY OF DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET.

Notwithstanding section 101 and the authorities referred to in such section, the conduct of an acquisition of information technology by the head of an executive agency is subject to (1) the authority, direction, and control of the Director of the Office of Management and Budget and the Chief Information Officer of the United States, and (2) the provisions of this Act.

#### SEC. 103. REPEAL OF CENTRAL AUTHORITY OF THE ADMINISTRATOR OF GENERAL SERVICES.

Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) is repealed.

### Subtitle B—Director of the Office of Management and Budget

#### SEC. 121. RESPONSIBILITY OF DIRECTOR.

(a) IN GENERAL.—The Director of the Office of Management and Budget is responsible for

the effective and efficient acquisition, use, and disposal of information technology and other information resources by the executive agencies.

(b) **GOAL.**—It shall be a goal of the Director to maximize the productivity, efficiency, and effectiveness of the information resources of the Federal Government to serve executive agency missions.

(c) **ACTIONS TO BE TAKEN THROUGH CHIEF INFORMATION OFFICER.**—The Director shall act through the Chief Information Officer of the United States in the exercise of authority under this Act.

**SEC. 122. SPECIFIC RESPONSIBILITIES.**

(a) **RESPONSIBILITIES STATED.**—The Director of the Office of Management and Budget has the following responsibilities with respect to the executive agencies:

(1) To provide direction for, and oversee, the acquisition and management of information resources.

(2) To develop, coordinate, and supervise the implementation of policies, principles, standards, and guidelines for information resources, performance of information resources management functions and activities, and investment in information resources.

(3) To determine the information resources that are to be provided in common for executive agencies.

(4) To designate (as the Director considers appropriate) one or more heads of executive agencies as an executive agent to contract for Governmentwide information technology.

(5) To maintain a registry of most effective agency sources of information technology program management and contracting services, and to facilitate interagency use of such sources.

(6) To promulgate standards and guidelines pertaining to Federal information systems in accordance with section 124.

(7) To carry out an information systems security and privacy program for the information systems of the Federal Government, including to administer the provisions of section 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-4) relating to the Computer System Security and Privacy Advisory Board.

(8) To provide for Federal information system security training in accordance with section 5(c) of the Computer Security Act of 1987 (40 U.S.C. 759(c)).

(9) To encourage and advocate the adoption of national and international information technology standards that are technically and economically beneficial to the Federal Government and the private sector.

(b) **CONSULTATION WITH FEDERAL INFORMATION COUNCIL.**—(1) The Director shall consult with the Federal Information Council regarding actions to be taken under paragraphs (3) and (4) of subsection (a).

(2) The Director may consult with the Federal Information Council regarding the performance of any other responsibility of the Director under this Act.

**SEC. 123. PERFORMANCE-BASED AND RESULTS-BASED MANAGEMENT.**

(a) **EVALUATION OF AGENCY PROGRAMS AND INVESTMENTS.**—

(1) **REQUIREMENT.**—The Director of the Office of Management and Budget shall evaluate the information resources management practices of the executive agencies and the performance and results of the information technology investments of executive agencies.

(2) **CONSIDERATION OF ADVICE AND RECOMMENDATIONS.**—In performing the evaluation, the Director shall consider any advice and recommendations provided by the Federal Information Council or in any inter-

agency or independent review or vendor or user survey conducted pursuant to this section.

(b) **CONTINUOUS REVIEW REQUIRED.**—The Director shall ensure, by reviewing each executive agency's budget proposals, information resources management plans, and performance measurements, and by other means, that—

(1) the agency—

(A) provides adequately for the integration of the agency's information resources management plans, strategic plans prepared pursuant to section 306 of title 5, United States Code, and performance plans prepared pursuant to section 1115 of title 31, United States Code; and

(B) budgets for the acquisition and use of information technology;

(2) the agency analyzes its missions and, based on the analysis, revises its mission-related processes and administrative processes as appropriate before making significant investments in information technology to be used in support of agency missions;

(3) the agency's information resources management plan is current and adequate and, to the maximum extent practicable, specifically identifies how new information technology to be acquired is expected to improve agency operations and otherwise expected to benefit the agency;

(4) efficient and effective interagency and Governmentwide information technology investments are undertaken to improve the accomplishment of common agency missions; and

(5) agency information security is adequate.

(c) **PERIODIC REVIEWS.**—

(1) **REVIEWS REQUIRED.**—The Director shall periodically review selected information resources management activities of the executive agencies in order to ascertain the efficiency and effectiveness of such activities in improving agency performance and the accomplishment of agency missions.

(2) **INDEPENDENT REVIEWERS.**—(A) The Director may carry out a review of an executive agency under this subsection through—

(i) the Comptroller General of the United States (with the consent of the Comptroller General);

(ii) the Inspector General of the agency (in the case of an agency having an Inspector General); or

(iii) in the case of a review requiring an expertise not available to the Director for the review, a panel of officials of executive agencies or a contractor.

(B) The Director shall notify the head of a Federal agency of any determination made by the Director to provide for a review to be performed by an independent reviewer from outside the agency.

(C) A review of an executive agency by the Comptroller General of the United States may be carried out only pursuant to an interagency agreement entered into by the Director and the Comptroller General. The agreement shall provide for the Director to pay the Comptroller General the amount necessary to reimburse the Comptroller General for the costs of performing the review.

(3) **FUNDING.**—Funds available to an executive agency for acquisition or use of information technology shall be available for paying the costs of a review of activity of that agency under this subsection.

(4) **REPORT AND RESPONSE.**—The Director shall transmit to the head of an executive agency reviewed under this subsection a report on the results of the review. Within 30 days after receiving the report, the head of the executive agency shall submit to the Director a written plan (including milestones) on the actions that the head of the executive agency determines necessary in order—

(A) to resolve any information resources management problems identified in the report; and

(B) to improve the performance of agency missions and other agency performance.

(d) **VENDOR SURVEYS.**—The Director shall conduct surveys of vendors and other sources of information technology acquired by an executive agency in order to determine the level of satisfaction of those sources with the performance of the executive agency in conducting the acquisition or acquisitions involved. The Director shall afford the sources the opportunity to rate the executive agency anonymously.

(e) **USER SURVEYS.**—

(1) **REQUIREMENT.**—The Director shall conduct surveys of users of information technology acquired by an executive agency in order to determine the level of satisfaction of the users with the performance of the vendor.

(2) **COMPILATION OF SURVEY RESULTS.**—The Director shall compile the results of the surveys into an annual report and make the annual report available electronically to the heads of the executive agencies.

(f) **ENFORCEMENT OF ACCOUNTABILITY.**—

(1) **IN GENERAL.**—The Director may take any action that the Director considers appropriate, including an action involving the budgetary process or appropriations management process, to enforce accountability for poor performance of information resources management in an executive agency.

(2) **SPECIFIC ACTIONS.**—Actions taken by the Director in the case of an executive agency may include such actions as the following:

(A) Reduce the amount proposed by the head of the executive agency to be included for information resources in the budget submitted to Congress under section 1105(a) of title 31, United States Code.

(B) Reduce or otherwise adjust apportionments and reapportionments of appropriations for information resources.

(C) Use other authorized administrative controls over appropriations to restrict the availability of funds for information resources.

(D) Disapprove the commencement or continuance of an information technology investment by the executive agency.

(E) Designate for the executive agency an executive agent to contract with private sector sources for—

(i) the performance of information resources management (subject to the approval and continued oversight of the Director); or

(ii) the acquisition of information technology.

(F) Withdraw all or part of the head of the executive agency's authority to contract directly for information technology.

(g) **ENFORCEMENT ACTIONS RELATED TO COST, PERFORMANCE, AND SCHEDULE GOALS.**—

(1) **REQUIRED TERMINATIONS OF ACQUISITIONS.**—The Director shall terminate any high-risk information technology program or phase or increment of the program that—

(A) is more than 50 percent over the cost goal established for the program or a phase or increment of the program;

(B) fails to achieve at least 50 percent of the performance goals established for the program or a phase or increment of a program; or

(C) is more than 50 percent behind schedule as determined in accordance with the schedule goal established for the program or a phase or increment of the program.

(2) **AUTHORIZED TERMINATIONS OF ACQUISITIONS.**—The Director shall consider terminating any information technology acquisition that—

(A) is more than 10 percent over the cost goal established for the program or a phase or increment of the program;

(B) fails to achieve at least 90 percent of the performance goals established for the program or a phase or increment of a program; or

(C) is more than 10 percent behind schedule as determined in accordance with the schedule goal established for the program or a phase or increment of the program.

**SEC. 124. STANDARDS AND GUIDELINES FOR FEDERAL INFORMATION SYSTEMS.**

(a) **PROMULGATION RESPONSIBILITY.**—The Director of the Office of Management and Budget shall, on the basis of standards and guidelines developed pursuant to paragraphs (2) and (3) of section 20(a) of the National Institute of Standards and Technology Act (20 U.S.C. 278g-3(a)), promulgate standards and guidelines pertaining to Federal information systems, making such standards compulsory and binding to the extent to which the Director determines necessary to improve the efficiency of operation, interoperability, security, and privacy of Federal information systems. In promulgating standards, the Director should minimize the use of unique standards and adopt market standards to the extent practicable.

(b) **MORE STRINGENT STANDARDS AUTHORIZED.**—The head of an executive agency may employ standards for the security and privacy of sensitive information in a Federal information system within or under the supervision of that agency that are more stringent than the standards promulgated by the Director, if such standards are approved by the Director, are cost effective, maintain interoperability, and contain, at a minimum, the provisions of those applicable standards made compulsory and binding by the Director.

(c) **WAIVER AUTHORITY.**—The standards determined to be compulsory and binding may be waived by the Director in writing upon a determination that compliance would adversely affect the accomplishment of the mission of an operator of a Federal information system, or cause a major adverse financial impact on the operator which is not offset by Governmentwide savings.

(d) **SPECIAL RULE OF APPLICABILITY.**—(1) Security standards promulgated by the Director of the Office of Management and Budget do not apply to information systems of the Department of Defense or the Central Intelligence Agency.

(2) The Secretary of Defense shall prescribe security standards applicable to the information systems of the Department of Defense.

(3) The Director of Central Intelligence shall prescribe security standards applicable to the information systems of the Central Intelligence Agency.

**SEC. 125. CONTRACTING FOR PERFORMANCE OF INFORMATION RESOURCES MANAGEMENT FUNCTIONS.**

The Director of the Office of Management and Budget may contract for the performance of an information resources management function for the executive branch.

**SEC. 126. REGULATIONS.**

(a) **AUTHORITY.**—The Director of the Office of Management and Budget may prescribe regulations to carry out the provisions of this Act.

(b) **SIMPLICITY OF REGULATIONS.**—To the maximum extent practicable, the Director shall minimize the length and complexity of the regulations and establish clear and concise implementing regulations.

(c) **INCORPORATION INTO FAR.**—The regulations shall be made a part of the Federal Acquisition Regulation.

(d) **PROHIBITION AGAINST AGENCY SUPPLEMENTAL REGULATIONS.**—The head of an executive

agency may not prescribe supplemental regulations for the regulations prescribed by the Director under subsection (a).

**Subtitle C—Chief Information Officer of the United States**

**SEC. 131. OFFICE OF THE CHIEF INFORMATION OFFICER OF THE UNITED STATES.**

(a) **ESTABLISHMENT.**—There is established in the Office of Management and Budget an Office of the Chief Information Officer of the United States.

(b) **CHIEF INFORMATION OFFICER OF THE UNITED STATES.**—

(1) **APPOINTMENT.**—The Chief Information Officer of the United States is appointed by the President, by and with the advice and consent of the Senate, from among persons who have demonstrated the knowledge, skills, and abilities in management and in information resources management that are necessary to perform the functions of the Office of the Chief Information Officer of the United States effectively. The qualifications considered shall include education, work experience, and professional activities related to information resources management.

(2) **HEAD OF OFFICE.**—The Chief Information Officer is the head of the Office of the Chief Information Officer of the United States.

(3) **EXECUTIVE LEVEL II.**—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

“Chief Information Officer of the United States.”

(c) **ADMINISTRATIVE PROVISIONS.**—

(1) **APPOINTMENT OF EMPLOYEES.**—The Chief Information Officer appoints the employees of the office.

(2) **EMPLOYEE QUALIFICATIONS.**—In selecting a person for appointment as an employee in an information resources management position, the Chief Information Officer shall afford special attention to the person's demonstrated abilities to perform the information resources management functions of the position. The qualifications considered shall include education, work experience, and professional activities related to information resources management.

(3) **PAY FOR PERFORMANCE.**—(A) The Chief Information Officer shall establish a pay for performance system for the employees of the office and pay the employees in accordance with that system.

(B) Subject to the approval of the Director of the Office of Management and Budget, the Chief Information Officer may submit to Congress any recommendations for legislation that the Chief Information Officer considers necessary to implement fully the pay for performance system.

(4) **SUPPORT FROM OTHER AGENCIES.**—Upon the request of the Chief Information Officer, the head of an executive agency (other than an independent regulatory agency) shall, to the extent practicable, make services, personnel, or facilities of the agency available to the Office of the Chief Information Officer of the United States for the performance of functions of the Chief Information Officer.

**SEC. 132. RELATIONSHIP OF CHIEF INFORMATION OFFICER TO DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET; PRINCIPAL DUTIES.**

(a) **REPORTING AUTHORITY.**—The Chief Information Officer of the United States reports directly to the Director.

(b) **PRINCIPAL ADVISER TO DIRECTOR OF OMB ON INFORMATION RESOURCES MANAGEMENT.**—The Chief Information Officer is the principal adviser to the Director on information resources management policy, including policy on acquisition of information technology for the Federal Government.

(c) **PERFORMANCE OF DUTIES OF DIRECTOR OF OMB.**—

(1) **IN GENERAL.**—The Chief Information Officer shall perform the responsibilities of the Director under this Act.

(2) **CONTINUED RESPONSIBILITY OF DIRECTOR.**—Paragraph (1) does not relieve the Director of responsibility and accountability for the performance of such responsibilities.

(d) **AUTHORITY SUBJECT TO CONTROL OF DIRECTOR OF OMB.**—The performance of duties and exercise of authority by the Chief Information Officer is subject to the authority, direction, and control of the Director of the Office of Management and Budget.

**SEC. 133. ADDITIONAL DUTIES.**

The Chief Information Officer has the following additional duties:

(1) To encourage the executive agencies to develop and use the best practices in information resources management and in acquisitions of information technology by—

(A) identifying and collecting information regarding the best practices, including information on the development and implementation of the best practices by the executive agencies; and

(B) providing the executive agencies with information on the best practices and with advice and assistance regarding use of the best practices.

(2) To assess, on a continuing basis, the experiences of executive agencies, State and local governments, international organizations, and the private sector in managing information resources.

(3) To compare the performances of the executive agencies in using information resources and to disseminate the comparisons to the executive agencies.

(4) To develop and maintain a Governmentwide strategic plan for information resources management and acquisitions of information technology, including guidelines and standards for the development of an information resources management plan to be used by the executive agencies.

(5) To ensure that the information resources management plan and the information systems of executive agencies conform to the guidelines and standards set forth in the Governmentwide strategic plan.

(6) To develop and submit to the Director of the Office of Management and Budget proposed legislation and proposed changes or additions to regulations and agency procedures as the Chief Information Officer considers necessary in order to improve information resources management by the executive agencies.

(7) To review the regulations, policies, and practices of executive agencies regarding information resources management and acquisitions of information technology in order to identify the regulations, policies, and practices that should be eliminated or adjusted so as not to hinder or impede information resources management or acquisitions of information technology.

(8) To monitor the development and implementation of training in information resources management for executive agency management personnel and staff.

(9) To keep Congress fully informed on high-risk information technology programs of the executive agencies, and the extent to which the executive agencies are improving program performance and the accomplishment of agency missions through the use of the best practices in information resources management.

(10) To review Federal procurement policies on acquisitions of information technology and to coordinate with the Administrator for Federal Procurement Policy regarding the development of Federal procurement policies for such acquisitions.

(11) To facilitate the establishment and maintenance of an electronic clearinghouse

of information on the availability of nondevelopmental items of information technology for the Federal Government.

(12) To perform the functions of the Director of the Office of Management and Budget under chapter 35 of title 44, United States Code.

**SEC. 134. ACQUISITIONS UNDER HIGH-RISK INFORMATION TECHNOLOGY PROGRAMS.**

(a) **ADVANCE PROGRAM REVIEW.**—The Chief Information Officer of the United States shall review each proposed high-risk information technology program.

(b) **ADVANCE APPROVAL REQUIRED.**—No program referred to in subsection (a) may be carried out by the head of an executive agency without the advance approval of the Chief Information Officer of the United States.

**SEC. 135. ELECTRONIC DATA BASE ON CONTRACTOR PERFORMANCE.**

(a) **ESTABLISHMENT.**—The Chief Information Officer of the United States shall establish in the Office of the Chief Information Officer of the United States an electronic data base containing a record of the performance of each contractor under a Federal Government contract for the acquisition of information technology or other information resources.

(b) **REPORTING OF INFORMATION TO DATA BASE.**—

(1) **REQUIREMENT.**—The head of each executive agency shall, in accordance with regulations prescribed by the Director of the Office of Management and Budget, report to the Chief Information Officer information on contractor performance that is to be included in the data base.

(2) **WHEN SUBMITTED.**—The head of an executive agency shall submit to the Director—

(A) an annual report on contractor performance during the year covered by the report; and

(B) upon the completion or termination of performance under a contract, a report on the contractor performance under that contract.

(c) **PERIOD FOR INFORMATION TO BE MAINTAINED.**—Information on the performance of a contractor under a contract shall be maintained in the data base for five years following completion of the performance under that contract. Information not required to be maintained under the preceding sentence shall be removed from the data base or rendered inaccessible.

**Subtitle D—Executive Agencies**

**SEC. 141. RESPONSIBILITIES.**

(a) **IN GENERAL.**—The head of an executive agency is responsible for—

(1) carrying out the information resources management activities of the agency in a manner that fulfills the agency's missions and improves agency productivity, efficiency, and effectiveness; and

(2) complying with the requirements of this Act and the policies, regulations, and directives issued by the Director of the Office of Management and Budget or the Chief Information Officer of the United States under the provisions of this Act.

(b) **INFORMATION RESOURCES MANAGEMENT PLAN.**—

(1) **PLAN REQUIRED.**—The head of an executive agency shall develop, maintain, and oversee the implementation of an agency-wide information resources management plan that is consistent with the strategic plan prepared by the head of the agency pursuant to section 306 of title 5, United States Code, and the agency head's mission analysis, and ensure that the agency information systems conform to those plans.

(2) **CONTENT OF PLAN.**—The information resources management plan shall provide for applying information technology and other

information resources in support of the performance of the missions of the agency and shall include the following:

(A) A statement of goals for improving the contribution of information resources to program productivity, efficiency, and effectiveness.

(B) Methods for measuring progress toward achieving the goals.

(C) Assignment of clear roles, responsibilities, and accountability for achieving the goals.

(D) Identification of—

(i) the existing and planned information technology components (such as information systems and telecommunication networks) of the agency and the relationship among the information technology components; and

(ii) the information architecture for the agency.

(c) **AGENCY RECORDS.**—The head of an executive agency shall periodically evaluate and, as necessary, improve the accuracy, completeness, and reliability of data and records in the information systems of the agency.

(d) **BUDGETING.**—The head of an executive agency shall use the strategic plan, performance plans, and information resources management plan of the agency in preparing and justifying the agency's budget proposals to the Director of the Office of Management and Budget and to Congress.

**SEC. 142. SPECIFIC AUTHORITY.**

The authority of the head of an executive agency under section 101 and the authorities referred to in such section includes the following authorities:

(1) To acquire information technology—

(A) in the case of an acquisition of less than \$100,000,000, without the advance approval of the Chief Information Officer of the United States; and

(B) in the case of an acquisition of a high-risk information technology program, with the advance approval of the Director of the Office of Management and Budget.

(2) To enter into a contract that provides for multi-agency acquisitions of information technology subject to the approval and guidance of the Federal Information Council.

(3) If the Federal Information Council and the heads of the executive agencies concerned find that it would be advantageous for the Federal Government to do so, to enter into a multi-agency contract for procurement of commercial items that requires each agency covered by the contract, when procuring such items, either to procure the items under that contract or to justify an alternative procurement of the items.

(4) To establish one or more independent technical review committees, composed of diverse agency personnel (including users) and outside experts selected by the head of the executive agency, to advise the head of the executive agency about information systems programs.

**SEC. 143. AGENCY CHIEF INFORMATION OFFICER.**

(a) **DESIGNATION OF CHIEF INFORMATION OFFICERS.**—

(1) **AGENCIES REQUIRED TO HAVE CHIEF INFORMATION OFFICERS.**—There shall be a chief information officer within each executive agency named in section 901(b) of title 31, United States Code. The head of the executive agency shall designate the chief information officer for the executive agency.

(2) **AGENCIES AUTHORIZED TO HAVE CHIEF INFORMATION OFFICERS.**—The head of any executive agency not required by paragraph (1) to have a chief information officer may designate a chief information officer for the executive agency.

(b) **RELATIONSHIP TO AGENCY HEAD.**—

(1) **PRINCIPAL ADVISER.**—The chief information officer of an executive agency is the principal adviser to the head of the executive

agency regarding acquisition of information technology and management of information resources for the agency.

(2) **REPORTING AUTHORITY.**—The chief information officer of an executive agency reports directly to the head of the executive agency.

(3) **CONTROL BY AGENCY HEAD.**—The performance of duties and exercise of authority by the chief information officer of an executive agency is subject to the authority, direction, and control of the head of the executive agency.

(c) **DUTIES.**—

(1) **IN GENERAL.**—The chief information officer of an executive agency shall provide advice and other assistance to the head of the executive agency and other senior management personnel of the executive agency to ensure that information technology is acquired and information resources are managed for the agency in a manner that—

(A) maximizes—

(i) the benefits derived by the agency and the public served by the agency from use of information technology; and

(ii) the public accountability of the agency for delivery of services and accomplishment of the agency's mission; and

(B) is consistent with the policies, requirements, and procedures that are applicable in accordance with this Act to the acquisition and management of information technology.

(2) **ESTABLISHMENT OF GOALS.**—The chief information officer of an executive agency shall—

(A) establish goals for improving the efficiency and effectiveness of agency operations and the delivery of services to the public through the effective use of information resources; and

(B) submit to the head of the executive agency an annual report, to be included in the budget submission for the executive agency, on the progress in achieving the goals.

(3) **INFORMATION RESOURCES MANAGEMENT.**—

(A) The chief information officer of an executive agency shall administer the information resources management functions, including the acquisition functions, of the head of the executive agency.

(B) Subparagraph (A) does not relieve the head of an executive agency of responsibility and accountability for the administration of such functions.

(4) **AGENCY POLICIES.**—The chief information officer shall prescribe policies and procedures that—

(A) minimize the layers of review for acquisitions of information technology within the executive agency;

(B) foster timely communications between vendors of information technology and the agency; and

(C) set forth and require the use of information resources management practices and information technology acquisition practices that the chief information officer considers as being among the best of such practices.

(5) **AGENCY PLANNING.**—The chief information officer shall—

(A) develop and maintain an information resources management plan for management of information resources and acquisition of information technology for the executive agency; and

(B) ensure that there is adequate advance planning for acquisitions of information technology, including assessing and revising the mission-related processes and administrative processes of the agency as determined appropriate before making information system investments.

(6) **PERFORMANCE MEASUREMENTS.**—(A) The chief information officer shall ensure that—

(i) performance measurements are prescribed for information technology used by

or to be acquired for the executive agency; and

(ii) the performance measurements measure how well the information technology supports agency programs.

(B) In carrying out the duty set forth in subparagraph (A), the chief information officer shall consult with the head of the executive agency, agency managers, users, and program managers regarding the performance measurements that are to be prescribed for information technology.

(7) MONITORING OF PROGRAM PERFORMANCE.—The chief information officer shall monitor the performance of information technology programs of the executive agency, evaluate the performance on the basis of the applicable performance measurements, and advise the head of the executive agency regarding whether to continue or terminate programs.

(8) PROGRAM PERFORMANCE REPORTS.—(A) Not later than February 1, 1997, and not later than February 1 of each year thereafter, the chief information officer of an executive agency shall prepare and submit to the head of the executive agency an annual program performance report for the information technology programs of the executive agency. The report shall satisfy the requirements of section 1116(d) of title 31, United States Code.

(B) The head of the executive agency shall transmit a copy of the annual report to the Chief Information Officer of the United States.

(9) ADDITIONAL ASSIGNED DUTIES.—A chief information officer designated under subsection (a)(1) may not be assigned any duty that is not related to information resources management.

(d) OFFICE OF CHIEF INFORMATION OFFICER.—

(1) ESTABLISHMENT.—The head of an executive agency designating a chief information officer shall establish within the agency an Office of the Chief Information Officer.

(2) HEAD OF OFFICE.—The chief information officer of the executive agency shall be the head of the office.

(3) STAFF.—(A) The head of the executive agency appoints the employees of the office. The chief information officer of the executive agency may make recommendations for appointments to positions in the office.

(B) In selecting a person for appointment to an information resources management position in the office, the head of the executive agency shall afford special attention to the demonstrated abilities of the person to perform the information resources management functions of the position. To the maximum extent practicable, the head of the executive agency shall appoint to the position a person who has direct and substantial experience in successfully achieving major improvements in organizational performance through the use of information technology.

(e) EXECUTIVE LEVEL IV.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

“Chief information officers designated under section 143 of the Information Technology Management Reform Act of 1995.”

#### SEC. 144. ACCOUNTABILITY.

(a) INFORMATION TECHNOLOGY INVESTMENTS.—The head of an executive agency shall be accountable to the Director of the Office of Management and Budget, through the budget process and otherwise as the Director may prescribe, for attaining or failing to attain success in the achievement of the program objectives established for the information technology investments of the agency.

(b) SYSTEM OF CONTROLS.—The head of an executive agency, in consultation with the

chief financial officer of the agency (or, in the case of an agency without a chief financial officer, any comparable official) shall establish policies and procedures that—

(1) provide for sound management of expenditures for information technology investments of the agency;

(2) ensure that the accounting, financial, and asset management systems and other information systems of the agency are designed, developed, maintained, and used effectively to provide financial or program performance data for financial statements of the agency;

(3) ensure that financial and related program performance data are provided on a reliable, consistent, and timely basis to agency financial management systems;

(4) ensure that there is a full and accurate accounting for information technology expenditures, including expenditures for related expenses, and for the results derived by the agency from the expenditures; and

(5) ensure that financial statements support—

(A) assessment and revision of mission-related processes and administrative processes of the agency; and

(B) performance measurement in the case of information system investments made by the agency.

(c) PROTECTION OF SENSITIVE INFORMATION.—Section 6 of the Computer Security Act of 1987 (Public Law 100-235; 101 Stat. 1729) is amended—

(1) in subsection (a), by striking out “Within 6 months after the date of enactment of this Act, each” and inserting in lieu thereof “Each”; and

(2) in the first sentence of subsection (b)—  
(A) by striking out “Within one year after the date of enactment of this Act, each” and inserting in lieu thereof “Each”; and

(B) by striking out “section 111(d) of the Federal Property and Administrative Services Act of 1949” and inserting in lieu thereof “section 124 of the Information Technology Management Reform Act of 1995”.

#### SEC. 145. AGENCY MISSIONS AND THE APPROPRIATENESS OF INFORMATION TECHNOLOGY INITIATIVES.

(a) PROVIDING FOR APPROPRIATE INITIATIVES.—Before making investments in information technology or other information resources for the performance of agency missions, the head of each executive agency shall—

(1) identify opportunities to revise mission-related processes and administrative processes, assess the desirability of making the revisions, and, if determined desirable, take appropriate action to make and complete the revisions; and

(2) determine the most efficient and effective manner for carrying out the agency missions.

(b) MISSION ANALYSIS.—

(1) CONTINUOUS STUDIES.—In order to be prepared to carry out subsection (a) in an efficient, effective, and timely manner, the head of an executive agency shall provide for studies to be conducted on a continuing basis within the agency for the purpose of analyzing the missions of the agency.

(2) ANALYSIS.—The purpose of an analysis of a mission under subsection (a) is to determine—

(A) whether the mission should be performed in the private sector rather than by an agency of the Federal Government and, if so, whether the component of the agency performing that function should be converted from a governmental organization to a private sector organization; or

(B) whether the mission should be performed by the executive agency and, if so, whether the mission should be performed by—

(i) a private sector source under a contract entered into by head of the executive agency; or

(ii) executive agency personnel.

(c) PROCESS IMPROVEMENT STUDIES.—The head of the executive agency shall require that studies be conducted of ways to improve processes used in the performance of missions determined, in accordance with subsection (b) or otherwise, as being appropriate for the agency to perform.

#### SEC. 146. SIGNIFICANT FAILURES OF PROGRAMS TO ACHIEVE COST, PERFORMANCE, OR SCHEDULE GOALS.

(a) IN GENERAL.—The head of an executive agency shall monitor the performance of information technology acquisition programs of the executive agency with regard to meeting the cost, performance, and schedule goals approved or defined for the programs pursuant to section 313(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 263(b)) or section 2220(a) of title 10, United States Code.

(b) REQUIRED TERMINATIONS OF ACQUISITIONS.—The head of an executive agency shall terminate any information technology acquisition program of the executive agency, or any phase or increment of such a program, that—

(1) is more than 50 percent over the cost goal established for the program or any phase or increment of the program;

(2) fails to achieve at least 50 percent of the performance goals established for the program or any phase or increment of the program; or

(3) is more than 50 percent behind schedule as determined in accordance with the schedule goal established for the program or any phase or increment of the program.

(c) ACQUISITIONS REQUIRED TO BE CONSIDERED FOR TERMINATION.—The head of an executive agency shall consider for termination any information technology acquisition program of the executive agency, or any phase or increment of such a program, that—

(1) is more than 10 percent over the cost goal established for the program or any phase or increment of the program;

(2) fails to achieve at least 90 percent of the performance goals established for the program or any phase or increment of the program; or

(3) is more than 10 percent behind schedule as determined in accordance with the schedule goal established for the program or any phase or increment of the program.

#### SEC. 147. INTERAGENCY SUPPORT.

The head of an executive agency shall make personnel of the agency and other forms of support available for Government-wide independent review committees and interagency groups established under this Act.

#### SEC. 148. MONITORING OF MODIFICATIONS IN INFORMATION TECHNOLOGY ACQUISITION PROGRAMS.

(a) REQUIREMENT TO MONITOR AND REPORT.—The program manager for an information technology acquisition program of an executive agency shall monitor the modifications made in the program or any phase or increment of the program, including modifications of cost, schedule, or performance goals, and shall periodically report on such modifications to the chief information officer of the agency.

(b) DETERMINATIONS OF HIGH RISK.—The number and type of the modifications in a program shall be a critical consideration in determinations of whether the program is a high-risk information technology program (without regard to the cost of the program).

(c) ASSESSMENTS OF AGENCY PERFORMANCE.—The Chief Information Officer of the United States shall consider the number and

type of the modifications in an information technology acquisition program of an executive agency for purposes of assessing agency performance.

(d) **CONTRACT TERMINATIONS.**—The chief information officer of an executive agency shall—

(1) closely review the modifications in an information technology acquisition program of the agency;

(2) consider whether the frequency and extent of the modifications justify termination of a contract under the program; and

(3) if a termination is determined justified, submit to the head of the executive agency a recommendation to terminate the contract.

**SEC. 149. SPECIAL PROVISIONS FOR DEPARTMENT OF DEFENSE.**

(a) **OVERSIGHT OF IMPLEMENTATION WITHIN THE DEPARTMENT OF DEFENSE.**—

(1) **DELEGATION OF AUTHORITY FOR INDIVIDUAL PROGRAMS AND SYSTEMS.**—(A) Subject to subparagraph (B), the Director of the Office of Management and Budget shall delegate to the Secretary of Defense the authority to perform the responsibilities of the Director for supervision of the implementation of the requirements of this Act and the policies, regulations, and procedures prescribed by the Director under this Act in the case of individual information technology programs, including acquisition programs, and information systems of the Department of Defense.

(B) The Director may revoke, in whole or in part, the delegation of authority under subparagraph (A) at any time that the Director determines that it is in the interests of the United States to do so. In considering whether to revoke the authority, the Director shall take into consideration the reports received under subsection (d).

(2) **RESPONSIBILITY OF DIRECTOR OF OMB.**—The Director of the Office of Management and Budget shall continue to exercise overall responsibility for compliance by the Department of Defense with the provisions of this Act and the policies, regulations, and procedures prescribed by the Director under this Act.

(b) **IMPLEMENTATION.**—

(1) **REQUIREMENT.**—The Secretary of Defense shall implement the provisions of this Act within the Department of Defense.

(2) **COVERED PROGRAMS.**—The Secretary of Defense shall ensure that the provisions of this Act and the policies and regulations prescribed by the Director of the Office of Management and Budget are applied to all information technology programs of the Department of Defense, including—

(A) all such programs that are acquisition programs, including major defense acquisition programs;

(B) programs that involve intelligence activities, cryptologic activities related to national security, command and control of military forces, and information technology integral to a weapon or weapons system; and

(C) programs that are critical to the direct fulfillment of military or intelligence missions.

(c) **CHIEF INFORMATION OFFICER.**—

(1) **DESIGNATION.**—The Secretary of Defense shall—

(A) designate the Under Secretary of Defense for Acquisition and Technology as the chief information officer of the Department of Defense; and

(B) delegate to the Under Secretary the duty to perform the responsibilities of the Secretary under this Act.

(2) **OTHER DUTIES.**—Section 143(c)(9) does not apply to the chief information officer of the Department of Defense.

(d) **ANNUAL REPORT.**—The Secretary of Defense shall submit to the Director of the Office of Management and Budget an annual

report on the implementation of this Act within the Department of Defense.

(e) **PILOT PROGRAMS.**—

(1) **RECOMMENDATIONS BY SECRETARY OF DEFENSE.**—The Secretary of Defense may submit to the Chief Information Officer of the United States a recommendation that a specific information technology pilot program be carried out under section 401.

(2) **OVERSIGHT OF RECOMMENDED PROGRAM.**—If the Chief Information Officer determines to carry out a pilot program in the Department of Defense under section 401, the Director of the Office of Management and Budget shall supervise the pilot program without regard to any delegation of authority under subsection (a).

**SEC. 150. SPECIAL PROVISIONS FOR CENTRAL INTELLIGENCE AGENCY.**

(a) **OVERSIGHT OF IMPLEMENTATION WITHIN THE CIA.**—

(1) **DELEGATION OF AUTHORITY FOR INDIVIDUAL PROGRAMS AND SYSTEMS.**—(A) Subject to subparagraph (B), the Director of the Office of Management and Budget shall delegate to the Director of Central Intelligence the authority to perform the responsibilities of the Director of the Office of Management and Budget for supervision of the implementation of the requirements of this Act and the policies, regulations, and procedures prescribed by the Director of the Office of Management and Budget under this Act in the case of individual information technology programs (including acquisition programs) and information systems of the Central Intelligence Agency.

(B) The Director of the Office of Management and Budget may revoke, in whole or in part, the delegation of authority under subparagraph (A) at any time that the Director determines that it is in the interests of the United States to do so. In considering whether to revoke the authority, the Director shall take into consideration the reports received under subsection (d).

(2) **RESPONSIBILITY OF DIRECTOR OF OMB.**—The Director of the Office of Management and Budget shall continue to exercise overall responsibility for compliance by the Central Intelligence Agency with the provisions of this Act and the policies, regulations, and procedures prescribed by the Director under this Act.

(b) **IMPLEMENTATION.**—

(1) **REQUIREMENT.**—The Director of Central Intelligence shall implement the provisions of this Act within the Central Intelligence Agency.

(2) **COVERED PROGRAMS.**—The Director of Central Intelligence shall ensure that the provisions of this Act and the policies and regulations prescribed by the Director of the Office of Management and Budget are applied to all information technology programs of the Central Intelligence Agency, including information technology acquisition programs.

(c) **CHIEF INFORMATION OFFICER.**—

(1) **DESIGNATION.**—The Director of Central Intelligence shall—

(A) designate the Deputy Director of Central Intelligence as the chief information officer of the Central Intelligence Agency; and

(B) delegate to the Deputy Director the duty to perform the responsibilities of the Director of Central Intelligence under this Act.

(2) **OTHER DUTIES.**—Section 143(c)(9) does not apply to the chief information officer of the Central Intelligence Agency.

(d) **ANNUAL REPORT.**—The Director of Central Intelligence shall submit to the Director of the Office of Management and Budget an annual report on the implementation of this Act within the Central Intelligence Agency.

(e) **PILOT PROGRAMS.**—

(1) **RECOMMENDATIONS BY DIRECTOR OF CENTRAL INTELLIGENCE.**—The Director of Central Intelligence may submit to the Chief Information Officer of the United States a recommendation that a specific information technology pilot program be carried out under section 401.

(2) **OVERSIGHT OF RECOMMENDED PROGRAM.**—If the Chief Information Officer determines to carry out a pilot program in the Central Intelligence Agency under section 401, the Director of the Office of Management and Budget shall supervise the pilot program without regard to any delegation of authority under subsection (a).

**Subtitle E—Federal Information Council**

**SEC. 151. ESTABLISHMENT OF FEDERAL INFORMATION COUNCIL.**

There is established in the executive branch a "Federal Information Council".

**SEC. 152. MEMBERSHIP.**

The members of the Federal Information Council are as follows:

(1) The chief information officer of each executive department.

(2) The chief information officer or senior information resources management official of each executive agency who is designated as a member of the Council by the Director of the Office of Management and Budget.

(3) Other officers or employees of the Federal Government designated by the Director.

**SEC. 153. CHAIRMAN; EXECUTIVE DIRECTOR.**

(a) **CHAIRMAN.**—The Director of the Office of Management and Budget is the Chairman of the Federal Information Council.

(b) **EXECUTIVE DIRECTOR.**—The Chief Information Officer of the United States is the Executive Director of the Council. The Executive Director provides administrative and other support for the Council.

**SEC. 154. DUTIES.**

The duties of the Federal Information Council are as follows:

(1) To obtain advice on information resources, information resources management, and information technology from State, local, and tribal governments and from the private sector.

(2) To make recommendations to the Director of the Office of Management and Budget regarding Federal policies and practices on information resources management.

(3) To establish strategic direction and priorities for a Governmentwide information infrastructure.

(4) To assist the Chief Information Officer of the United States in developing and maintaining the Governmentwide strategic information resources management plan.

(5) To coordinate Governmentwide and multi-agency programs and projects for achieving improvements in the performance of Federal Government missions, including taking such actions as—

(A) identifying program goals and requirements that are common to several agencies;

(B) establishing interagency functional groups under section 161;

(C) establishing an interagency group of senior managers of information resources to review high-risk information technology programs;

(D) identifying opportunities for undertaking information technology programs on a shared basis or providing information technology services on a shared basis;

(E) providing for the establishment of temporary special advisory groups, composed of senior officials from industry and the Federal Government, to review Governmentwide information technology programs, high-risk information technology acquisitions, and issues of information technology policy;

(F) coordinating budget estimates and information technology acquisitions in order

to develop a coordinated approach for meeting common information technology goals and requirements; and

(G) reviewing agency programs and processes, to identify opportunities for consolidation of activities or cooperation.

(6) To coordinate the provision, planning, and acquisition of common infrastructure services, such as telecommunications, Governmentwide E-mail, electronic benefits transfer, electronic commerce, and Governmentwide data sharing, by—

(A) making recommendations to the Director of the Office of Management and Budget regarding services that can be provided in common;

(B) making recommendations to the Director regarding designation of an executive agent to contract for common infrastructure services on behalf of the Federal Government;

(C) approving overhead charges by executive agents;

(D) approving a surcharge which may be imposed on selected common infrastructure services and is to be credited to the Common Use Account established by section 331; and

(E) monitoring and providing guidance for the administration of the Common Use Account established by section 331 and the Innovation Loan Account established by section 321 for purposes of encouraging innovation by making financing available for high-opportunity information technology programs, including common infrastructure systems and services.

(7) To assess ways to revise and reorganize Federal Government mission-related and administrative processes before acquiring information technology in support of agency missions.

(8) To monitor and provide guidance for the development of performance measures for agency information resources management activities for Governmentwide applicability.

(9) To submit to the Chief Information Officer of the United States recommendations for conducting pilot projects for the purpose of identifying better ways for Federal Government agencies to plan for, acquire, and manage information resources.

(10) To identify opportunities for sharing information at the Federal, State, and local levels of government and to improve information sharing and communications.

(11) To ensure that United States interests in international information-related activities are served, including coordinating United States participation in the activities of international information organizations.

#### SEC. 155. SOFTWARE REVIEW COUNCIL.

(a) ESTABLISHMENT.—The Federal Information Council shall establish a Federal Software Review Council.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Federal Information Council, in consultation with the Chief Information Officer of the United States, shall determine the membership of the Federal Software Review Council. The number of members of the Council may not exceed 10 members.

(2) CERTAIN REPRESENTATION REQUIRED.—The Federal Information Council shall provide for the Government, private industry, and college and universities to be represented on the membership of the Software Review Council.

(c) CHAIRMAN.—The Chief Information Officer of the United States shall serve as Chairman of the Federal Software Review Council.

(d) DUTIES.—

(1) CLEARINGHOUSE FUNCTION.—(A) The Federal Software Review Council shall act as a clearinghouse of information on the software that—

(i) is commercially available to the Federal Government; and

(ii) has been uniquely developed for use by one or more executive agencies.

(B) The Federal Software Review Council shall provide advice to heads of executive agencies regarding recommended software engineering techniques and commercial software solutions appropriate to the agency's needs.

(2) SOFTWARE FOR USE IN DEVELOPMENT OF AGENCY SYSTEMS.—The Federal Software Review Council shall submit to the Federal Information Council proposed guidelines and standards regarding the use of commercial software, nondevelopmental items of software, and uniquely developed software in the development of executive agency information systems.

(3) INTEGRATION OF MULTIPLE SOFTWARE.—The Federal Software Review Council shall submit to the Federal Information Council proposed guidance regarding integration of multiple software components into executive agency information systems.

(4) REVIEW OF PROPOSALS FOR UNIQUELY DEVELOPED ITEMS OF SOFTWARE.—(A) In each case in which an executive agency undertakes to acquire a uniquely developed item of software for an information system used or to be used by the agency, the Federal Software Review Council shall—

(i) determine whether it would be more beneficial to the executive agency to use commercial items or nondevelopmental items to meet the needs of the executive agency; and

(ii) submit the Federal Software Review Council's determination to the head of the executive agency.

(B) Subparagraph (A) applies to an information technology acquisition program in excess of \$1,000,000.

#### Subtitle F—Interagency Functional Groups

##### SEC. 161. ESTABLISHMENT.

(a) IN GENERAL.—The heads of executive agencies may jointly establish one or more interagency groups, known as "functional groups"—

(1) to examine issues that would benefit from a Governmentwide or multi-agency perspective;

(2) to submit to the Federal Information Council proposed solutions for problems in specific common operational areas; and

(3) to promote cooperation among agencies on information technology matters.

(b) REQUIREMENT FOR COMMON INTERESTS.—The representatives of the executive agencies participating in a functional group shall have the following common interests:

(1) Involvement in the same or similar functional areas of agency operations.

(2) Mission-related processes or administrative processes that would benefit from common or similar applications of information technology.

(3) The same or similar requirements for—

(A) information technology; or

(B) meeting needs of the common recipients of services of the agencies.

##### SEC. 162. SPECIFIC FUNCTIONS.

The functions of an interagency functional group are as follows:

(1) To identify common goals and requirements for common agency programs.

(2) To develop a coordinated approach to meeting agency requirements, including coordinated budget estimates and procurement programs.

(3) To identify opportunities to share information for improving the quality of the performance of agency functions, for reducing the cost of agency programs, and for reducing burdens of agency activities on the public.

(4) To coordinate activities and the sharing of information with other functional groups.

(5) To make recommendations to the heads of executive agencies and to the Director of the Office of Management and Budget regarding the selection of protocols and other standards for information technology, including security standards.

(6) To support interoperability among information systems.

(7) To perform other functions, related to the purposes set forth in section 161(a), that are assigned by the Federal Information Council.

#### Subtitle G—Congressional Oversight

##### SEC. 171. ESTABLISHMENT AND ORGANIZATION OF JOINT COMMITTEE ON INFORMATION.

(a) ESTABLISHMENT.—There is established in Congress a Joint Committee on Information composed of eight members as follows:

(1) Four members of the Committee on Governmental Affairs of the Senate appointed by the Chairman of that committee.

(2) Four members of the Committee on Government Reform and Oversight of the House of Representatives appointed by the Chairman of that committee.

(b) TERM OF APPOINTMENT.—The term of service of a member on the joint committee shall expire immediately before the convening of the Congress following the Congress during which the member is appointed. A member may be reappointed to serve on the joint committee.

(c) VACANCIES.—A vacancy in the membership of the joint committee does not affect the power of the remaining members to carry out the responsibilities of the joint committee. The vacancy shall be filled in the same manner as the original appointment.

(d) CHAIRMAN AND VICE CHAIRMAN.—

(1) ELECTION BY COMMITTEE.—The chairman and vice chairman of the joint committee shall be elected by the members of the joint committee from among the members of the joint committee.

(2) BICAMERAL COMMITTEE LEADERSHIP.—The chairman and vice chairman may not be members of the same house of Congress.

(3) ROTATION OF LEADERSHIP POSITIONS BETWEEN HOUSES.—The eligibility for election as chairman and for election as vice chairman shall alternate annually between the members of one house of Congress and the members of the other house of Congress.

##### SEC. 172. RESPONSIBILITIES OF JOINT COMMITTEE ON INFORMATION.

(a) IN GENERAL.—The Joint Committee on Information has the following responsibilities:

(1) To review information-related operations of the Federal Government, including the acquisition and management of information technology and other information resources.

(2) To perform studies of major information resources management issues regarding such matters as the following:

(A) Compatibility and interoperability of systems.

(B) Electronic commerce.

(C) Performance measurement.

(D) Process improvement.

(E) Paperwork and regulatory burdens imposed on the public.

(F) Statistics.

(G) Management and disposition of records.

(H) Privacy and confidentiality.

(I) Security and protection of information resources.

(J) Accessibility and dissemination of Government information.

(K) Information technology, including printing and other media.

(L) Information technology procurement policy, training, and personnel.

(3) To submit to the Committees on Governmental Affairs and on Appropriations of

the Senate and the Committees on Government Reform and Oversight and on Appropriations of the House of Representatives recommendations for legislation developed on the basis of the reviews and studies.

(4) To carry out the responsibilities of the joint committee under chapter 1 of title 44, United States Code.

(5) To carry out responsibilities regarding the Library of Congress as provided by the Senate and the House of Representatives.

(b) STUDY REQUIRED.—Upon the organization of the Joint Committee on Information, the joint committee shall consider and develop policies and procedures providing for cooperation among the committees of Congress having jurisdiction over authorizations of appropriations, appropriations, and oversight of departments and agencies of the Federal Government in order to provide incentives for such departments and agencies to maximize effectiveness in the administration of this Act and the amendments made by this Act.

(c) TRANSFERS.—

(1) FUNCTIONS.—The functions of the Joint Committee on Printing and the functions of the Joint Committee of Congress on the Library are transferred to the Joint Committee on Information.

(2) RECORDS.—The records of the Joint Committee on Printing and the records of the Joint Committee of Congress on the Library are transferred to the Joint Committee on Information.

(d) TERMINATION OF SUPERSEDED JOINT COMMITTEES.—The Joint Committee on Printing and the Joint Committee of Congress on the Library are terminated.

**SEC. 173. RULEMAKING AUTHORITY OF CONGRESS.**

This subtitle is enacted—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as the rules relate to that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

**Subtitle H—Other Responsibilities**

**SEC. 181. RESPONSIBILITIES UNDER THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT.**

(a) STANDARDS PROGRAM.—

(1) MISSION AND DUTIES.—Subsection (a) of section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3) is amended—

(A) by striking out “The Institute—” in the matter preceding paragraph (1) and inserting in lieu thereof “To the extent authorized by the Director of the Office of Management and Budget, the Director of the Institute shall—”;

(B) in paragraph (3), by striking out “have responsibility within the Federal Government” and inserting in lieu thereof “carry out the responsibility of the Director of the Office of Management and Budget”; and

(C) in paragraph (4), by striking out “to the Secretary of Commerce for promulgation under section 111(d) of the Federal Property and Administrative Services Act of 1949” and inserting in lieu thereof “to the Director of the Office of Management and Budget under section 124 of the Information Technology Management Reform Act of 1995”

(2) AUTHORITY.—Subsection (b) of such section is amended—

(A) by striking out “In fulfilling subsection (a) of this section, the Institute is authorized” in the matter preceding para-

graph (1) and inserting in lieu thereof “In order to carry out duties authorized under subsection (a), the Director of the Institute may, to the extent authorized by the Director of the Office of Management and Budget—”;

(B) in paragraph (2), by striking out “Administrator of General Services on policies and regulations proposed pursuant to section 111(d) of the Federal Property and Administrative Services Act of 1949” and inserting in lieu thereof “Director of the Office of Management and Budget on policies and regulations proposed pursuant section 124 of the Information Technology Management Reform Act of 1995”;

(C) in paragraph (3), by striking out “section 111(d) of the Federal Property and Administrative Services Act of 1949” and inserting in lieu thereof “section 124 of the Information Technology Management Reform Act of 1995”; and

(D) in paragraph (4), by striking out “Office of Personnel Management in developing regulations pertaining to training, as required by” and inserting in lieu thereof “Director of the Office of Management and Budget in carrying out the responsibilities regarding training regulations provided under”.

(3) AUTHORITY OF DIRECTOR OF OMB.—Such section is amended—

(A) by redesignating subsection (d) as subsection (e); and

(B) by inserting after subsection (c) the following new subsection (d):

“(d) AUTHORITY OF DIRECTOR OF OMB.—The Director of the Office of Management and Budget may—

“(1) authorize the Director of the Institute to perform any of the functions and take any of the actions provided in subsections (a), (b), or (c), or limit, withdraw, or withhold such authority;

“(2) perform any of the functions and take any of the actions provided in subsections (a), (b), or (c); and

“(3) designate any other officer of the Federal Government in the executive branch to perform any of such functions and exercise any of such authorities.”.

(4) TERMINOLOGY.—Such section is further amended by striking out “computer system” each place it appears and inserting in lieu thereof “information system”.

(5) DEFINITIONS.—Subsection (e) of such section, as redesignated by paragraph (3), is amended—

(A) in paragraph (1)(B)(v) by striking out “Administrator of General Services pursuant to section 111 of the Federal Property and Administrative Services Act of 1949” and inserting in lieu thereof “Director of the Office of Management and Budget”; and

(B) in paragraph (2)(B), by striking out “as that term is defined in section 111(a)(2) of the Federal Property and Administrative Services Act of 1949”.

(b) INFORMATION SYSTEM SECURITY AND PRIVACY ADVISORY BOARD.—

(1) ESTABLISHMENT.—Subsection (a) of section 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-4) is amended—

(A) by striking out “within the Department of Commerce” in the first sentence and inserting in lieu thereof “within the Office of the Chief Information Officer of the United States”; and

(B) by striking out “Secretary of Commerce” both places it appears and inserting in lieu thereof “Director of the Office of Management and Budget”.

(2) RECIPIENTS OF ADVICE AND REPORTS FROM BOARD.—Subsection (b) of such section is amended—

(A) by striking out “Institute and the Secretary of Commerce” in paragraph (2) and in-

serting in lieu thereof “Director of the Office of Management and Budget”; and

(B) by striking out “the Secretary of Commerce,” in paragraph (3).

(3) TERMINOLOGY.—Such section is further amended by striking out “computer system” each place it appears and inserting in lieu thereof “information system”.

(4) DEFINITIONS.—Subsection (g) of such section is amended by striking out “section 20(d)” and inserting in lieu thereof “section 20(e)”.

**SEC. 182. RESPONSIBILITIES UNDER THE COMPUTER SECURITY ACT OF 1987.**

(a) RESPONSIBILITY FOR TRAINING REGULATIONS.—Section 5(c) of the Computer Security Act of 1987 (Public Law 100-235; 101 Stat. 1729) is amended by striking out “Within six months after the date of the enactment of this Act, the Director of the Office of Personnel Management” and inserting in lieu thereof “The Director of the Office of Management and Budget”.

(b) REPEAL OF EXECUTED PROVISION.—Section 5(b) of such Act is amended by striking out “shall be started within 60 days after the issuance of the regulations described in subsection (c). Such training”.

**TITLE II—PROCESS FOR ACQUISITIONS OF INFORMATION TECHNOLOGY**

**Subtitle A—Procedures**

**SEC. 201. PROCUREMENT PROCEDURES.**

(a) RESPONSIBILITY.—The Director of the Office of Management and Budget of the United States shall prescribe in regulations the procedures to be used in conducting information technology acquisitions. The procedures shall be made a part of the Federal Acquisition Regulation.

(b) STANDARDS FOR PROCEDURES.—The Director shall ensure that the process for acquisition of information technology is, in general, a simplified, clear, and understandable process that, for higher cost and higher risk acquisitions, provides progressively more stringent precautions for ensuring that there is full and open competition in an acquisition and that each acquisition timely and effectively satisfies the needs of the Federal Government.

(c) PERFORMANCE MEASUREMENTS.—The regulations shall include performance measurements and other performance requirements that the Director determines appropriate.

(d) USE OF COMMERCIAL ITEMS.—The regulations shall require the head of each executive agency to use, to the maximum extent practicable, commercial items to meet the information technology requirements of the executive agency.

(e) DIFFERENTIATED PROCEDURES AND REQUIREMENTS.—Subject to subsection (b), the Director shall prescribe different sets of procedures and requirements for acquisitions in each of the following categories of acquisitions:

(1) Acquisitions not in excess of \$5,000,000.

(2) Acquisitions in excess of \$5,000,000 and not in excess of \$25,000,000.

(3) Acquisitions in excess of \$25,000,000 and not in excess of \$100,000,000.

(4) Acquisitions in excess of \$100,000,000.

(5) Acquisitions considered as high-risk acquisitions.

(f) DIFFERENTIATION ON THE BASIS OF OTHER FACTORS.—In prescribing regulations under this title, the Director shall consider whether and, to the extent appropriate, how to differentiate in the treatment and conduct of acquisitions of information technology on any of the following additional bases:

(1) The information technology to be acquired, including such considerations as whether the item is a commercial item or an item being developed or modified uniquely for use by one or more executive agencies.

(2) The complexity of the information technology acquisition, including such considerations as size and scope.

(3) The level of risk (at levels other than high risk covered by procedures and requirements prescribed pursuant to subsection (e)), including technical and schedule risks.

(4) The level of experience or expertise of the critical personnel in the program office, mission unit, or office of the chief information officer of the executive agency concerned.

(5) The extent to which the information technology may be used Government wide or by several agencies.

(g) **REQUIRED ACTIONS.**—The regulations shall require the heads of executive agencies, in planning for and undertaking acquisitions of information technology, to apply sound methodologies and approaches that result in realistic and comprehensive advance assessments of risks, reasonable management of the risks, and maximization of the benefit derived by the Federal Government toward meeting the requirements for which the technology is acquired.

**SEC. 202. AGENCY PROCESS.**

(a) **RESPONSIBILITY.**—The head of each executive agency shall, consistent with the regulations prescribed under section 201, design and apply in the executive agency a process for maximizing the value and assessing and managing the risks of the information technology acquisitions of the agency.

(b) **DESIGN OF PROCESS.**—The process shall—

(1) provide for the selection, control, and evaluation of the results of information technology investments of the agency;

(2) be integrated with budget, financial, and program management decisions of the agency; and

(3) incorporate the procedures and satisfy the requirements, including procedures and requirements applicable under various threshold criteria, that are prescribed pursuant to section 201.

(c) **BENEFIT AND RISK MEASUREMENTS.**—

(1) **REQUIREMENT.**—The process shall provide for clearly identifying in advance of the acquisition quantifiable measurements for determining the net benefits and risks of each proposed information technology investment.

(2) **EXAMPLES OF MEASURES.**—(A) Measurements of net benefits could include such measures as cost reductions, decreases in program cycle time, return on investment, increases in productivity, enhanced capability, reductions in the paperwork burden imposed on the public, and improvements in the level of public satisfaction with services provided.

(B) Measures of risk could include such measures as project size and scope, project longevity, technical configurations, unusual security requirements, special project management skills, software complexity, system integration requirements, and existing technical and management expertise.

(d) **EVALUATION OF VALUE OF PROPOSED INVESTMENTS.**—The process shall require evaluation of the value of a proposed information technology investment to the performance of agency missions, including the provision of services to the public, on the basis of—

(1) the measurements applicable under subsection (c) as well as other applicable criteria and standards; and

(2) a comparison of that investment with other information technology investments proposed to be undertaken by or for the agency.

(e) **PERIODIC REVIEW BY SENIOR MANAGERS.**—

(1) **IN GENERAL.**—The process shall provide for senior managers of the executive agency—

(A) to review on a periodic basis the development, implementation, and operation of information technology investments undertaken or to be undertaken by the agency and the information technology acquired under such investments; and

(B) in the case of each investment, to make recommendations to the head of the executive agency regarding actions that should be taken in order to ensure that suitable progress is made toward achieving the goals established for the investment or that the investment, if not making suitable progress, is terminated in a timely manner.

(2) **REVIEWS AFTER IMPLEMENTATION.**—The implementation and operation reviews provided for under paragraph (1) shall include provisions for senior managers of the executive agency—

(A) upon the implementation of the investment, to evaluate the results of the investment in order to determine whether the benefits projected for the investment were achieved; and

(B) after operation of information systems under the investment begins, to conduct periodic reviews of the systems in order—

(i) to determine whether the benefits to mission performance resulting from the use of such systems are satisfactory; and

(ii) to identify opportunities for additional improvement in mission performance that can be derived from use of such systems.

(f) **SPECIFIC ACQUISITION PROCEDURES.**—In the awarding of contracts for the acquisition of information technology, the head of an executive agency shall consider the information on the past performance of offerors that is available from the Director of the Office of Management and Budget.

**SEC. 203. INCREMENTAL ACQUISITION OF INFORMATION TECHNOLOGY.**

(a) **IN GENERAL.**—The regulations prescribed under section 201 shall require that, to the maximum extent practicable, an executive agency's needs for information technology be satisfied in successive, incremental acquisitions of interoperable systems the characteristics of which comply with readily available standards and, therefore, can be connected to other systems that comply with such standards.

(b) **DIVISION OF ACQUISITIONS INTO INCREMENTS.**—Under the successive, incremental acquisition process, an extensive acquisition of information technology shall be divided into several smaller acquisition increments that—

(1) are easier to manage individually than would be one extensive acquisition;

(2) address complex information technology problems incrementally in order to enhance the likelihood of achieving workable solutions for those problems;

(3) provide for delivery, implementation, and testing of workable systems or solutions in discrete increments each of which comprises a system or solution that is not dependent on any other increment in order to be workable for the purposes for which acquired; and

(4) provide an opportunity for later increments of the acquisition to take advantage of any evolution in technology or needs that occurs during conduct of the earlier increments.

(c) **TIMELY ACQUISITIONS.**—

(1) **AWARD OF CONTRACT.**—If a contract for an increment of an information technology acquisition is not awarded within 180 days after the date on which the solicitation is issued, that increment of the acquisition shall be canceled. A subsequent solicitation for that increment of the solicitation, or for a revision of that increment, may be issued. A contract may be awarded on the basis of offers received in response to a subsequent solicitation.

(2) **DELIVERY.**—(A) The information technology provided for in a contract for acquisition of information technology shall be delivered within 18 months after the date on which the solicitation resulting in award of the contract was issued.

(B) The Chief Information Officer of the United States may waive the requirement under subparagraph (A) in the case of a particular contract. The Chief Information Officer shall notify Congress in writing of each waiver granted under this subparagraph.

(C) If the information technology to be acquired under a contract is not timely delivered as provided in subparagraph (A) and a waiver is not granted in such case, the contract shall be terminated and the contracting official concerned may issue a new solicitation that—

(i) provides for taking advantage of advances in information technology that have occurred during the 18-month period described in subparagraph (A) and advances in information technology that are anticipated to occur within the period necessary for completion of the acquisition; and

(ii) adjusts for any changes in identified mission requirements to be satisfied by the information technology.

(d) **FULL-INCREMENT FUNDING FOR MAJOR AND HIGH-RISK ACQUISITIONS.**—

(1) **SUBMISSION OF PROGRAM INCREMENT DETAILS TO CONGRESS.**—Before initial funding is made available for an information technology acquisition program that is in excess of \$100,000,000, the head of the executive agency for which the program is carried out shall submit to Congress information about the objectives and plans for the conduct of that acquisition program and the funding requirements for each increment of the acquisition program. The information shall identify the intended user of the information technology items to be acquired under the program and each increment and shall include objective, quantifiable criteria for assessing the extent to which the objectives and goals established for the program are achieved.

(2) **REQUIREMENT FOR FULL INCREMENT FUNDING.**—(A) In authorizing appropriations for an increment of an information technology acquisition program, Congress shall provide an authorization of appropriations for the program increment in a single amount that is sufficient for carrying out that increment of the program. Each such authorization of appropriations shall be stated in the authorization law as a specific item.

(B) In each law making appropriations for an increment of information technology acquisition program, Congress shall specify the program increment for which an appropriation is made and the amount appropriated for that program increment.

(e) **COMMERCIAL ITEMS.**—

(1) **SOURCE.**—Except as provided in paragraph (2), a commercial item used in the development of an information system or otherwise being acquired for an executive agency shall be acquired through any of the following means available for the agency that can supply an item satisfying the needs of the agency for the acquisition:

(A) A multiple award schedule contract.

(B) A task or delivery order contract.

(C) A Federal Government on-line purchasing network established by the Chief Information Officer of the United States.

(2) **EXCEPTION.**—A commercial item need not be acquired from a source referred to in paragraph (1) if an item satisfying such needs is available at a lower cost from another source.

**SEC. 204. AUTHORITY TO LIMIT NUMBER OF OFFERORS.**

(a) CIVILIAN AGENCY ACQUISITIONS.—Section 303B(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b(d)) is amended by adding at the end the following:

“(3) Under regulations prescribed by the Director of the Office of Management and Budget, a contracting officer of an executive agency receiving more than three competitive proposals for a proposed contract for acquisition of information technology may solicit best and final offers from the three offerors who submitted the best offers within the competitive range, as determined on the basis of the evaluation factors established for the procurement. Notwithstanding paragraph (1)(A), the contracting officer should first conduct discussions with all of the responsible parties that submit offers within the competitive range.”.

(b) ARMED SERVICES ACQUISITIONS.—Section 2305(b) of title 10, United States Code, is amended by adding at the end the following:

“(5) Under regulations prescribed by the Director of the Office of Management and Budget, a contracting officer of an agency receiving more than three competitive proposals for a proposed contract for acquisition of information technology may solicit best and final offers from the three offerors who submitted the best offers within the competitive range. Notwithstanding paragraph (4)(A)(i), the contracting officer should first conduct discussions with all of the responsible parties that submit offers within the competitive range.”.

**SEC. 205. EXCEPTION FROM TRUTH IN NEGOTIATION REQUIREMENTS.**

(a) CIVILIAN AGENCY ACQUISITIONS.—Section 304A of the Federal Property and Administrative Services Act of 1949 is amended—

(1) by redesignating subsection (i) as subsection (j) and, as so redesignated, is amended by adding at the end the following:

“(4) The term ‘information technology’ has the meaning given that term in section 4 of the Information Technology Management Reform Act of 1995.”; and

(2) by inserting after subsection (h) the following new subsection (i):

“(i) ADDITIONAL EXCEPTION FOR INFORMATION TECHNOLOGY COMMERCIAL ITEMS.—The head of an executive agency may not require the submission of cost or pricing data in a procurement of any information technology that is a commercial item. However, the head of the executive agency shall seek to obtain from each offeror or contractor the information described in subsection (d)(2)(A)(ii) for the procurement.”.

(b) ARMED SERVICES ACQUISITIONS.—Section 2306a of title 10, United States Code, is amended—

(1) by redesignating subsection (i) as subsection (j) and, as so redesignated, is amended by adding at the end the following:

“(4) The term ‘information technology’ has the meaning given that term in section 4 of the Information Technology Management Reform Act of 1995.”; and

(2) by inserting after subsection (h) the following new subsection (i):

“(i) ADDITIONAL EXCEPTION FOR INFORMATION TECHNOLOGY COMMERCIAL ITEMS.—The head of an agency may not require the submission of cost or pricing data in a procurement of any information technology that is a commercial item. However, the head of an agency shall seek to obtain from each offeror or contractor the information described in subsection (d)(2)(A)(ii) for the procurement”.

**SEC. 206. UNRESTRICTED COMPETITIVE PROCUREMENT OF COMMERCIAL OFF-THE-SHELF ITEMS OF INFORMATION TECHNOLOGY.**

(a) FULL AND OPEN COMPETITION REQUIRED.—Full and open competition shall be used for each procurement of commercial off-the-shelf items of information technology by or for an executive agency.

(b) INAPPLICABILITY OF CERTAIN PROCUREMENT LAWS.—

(1) FAR LIST.—The Federal Acquisition Regulation shall include a list of provisions of law that are inapplicable to contracts for the procurement of commercial, off-the-shelf items of information technology. A provision of law that is properly included on the list pursuant to paragraph (2) may not be construed as being applicable to such contracts. Nothing in this section shall be construed to render inapplicable to such contracts any provision of law that is not included on such list.

(2) PROVISIONS TO BE INCLUDED.—A provision of law described in subsection (c) shall be included on the list of inapplicable provisions of law required by paragraph (1) unless the Chief Information Officer of the United States, in consultation with the Federal Information Council, makes a written determination that it would not be in the best interest of the United States to exempt such contracts from the applicability of that provision of law.

(c) COVERED LAW.—The list referred to in subsection (b)(1) shall include each provision of law that, as determined by the Chief Information Officer, sets forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Federal Government, except the following:

(1) A provision of this Act.

(2) A provision of law that is amended by this Act.

(3) A provision of law that is made applicable to procurements of commercial, off-the-shelf items of information technology by this Act.

(4) A provision of law that prohibits or limits the use of appropriated funds.

(5) A provision of law that specifically refers to this section and provides that, notwithstanding this section, such provision of law shall be applicable to contracts for the procurement of commercial off-the-shelf items of information technology.

(d) PETITION TO INCLUDE OMITTED PROVISION.—

(1) PETITION AUTHORIZED.—Any person may submit to the Chief Information Officer a petition to include on the list referred to in subsection (b)(1) a provision of law not included on that list.

(2) ACTION ON PETITION.—The Federal Acquisition Regulatory Council shall amend the Federal Acquisition Regulation to include the item on the list unless the Chief Information Officer, in consultation with the Federal Information Council—

(A) has made a written determination described in subsection (b)(2) with respect to that provision of law before receiving the request; or

(B) within 60 days after the date of receipt of the request, makes a such a written determination regarding the provision of law.

(e) DEFINITION.—In this subsection, the term “commercial, off-the-shelf item of information technology” means an item of information technology that—

(A) is a commercial item described in section 4(12)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 403);

(B) is sold in substantial quantities in the commercial marketplace; and

(C) is offered to the Government, without modification, in the same form in which it is sold in the commercial marketplace.

**SEC. 207. TASK AND DELIVERY ORDER CONTRACTS.**

(a) CIVILIAN AGENCY ACQUISITIONS.—

(1) REQUIREMENT FOR MULTIPLE AWARDS.—Section 303H(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253h(d)) is amended by adding at the end the following new paragraph:

“(4) In exercising the authority under this section for procurement of information technology, the head of an executive agency shall award at least two task or delivery order contracts for the same or similar information technology services or property unless the Chief Information Officer of the United States determines that, because of unusual circumstances, it is not in the best interests of the United States to award two such contracts.”.

(2) DEFINITION.—Section 303K of such Act (41 U.S.C. 253k) is amended by adding at the end the following new paragraph:

“(3) The term ‘information technology’ has the meaning given that term in section 4 of the Information Technology Management Reform Act of 1995.”.

(b) ARMED SERVICES ACQUISITIONS.—

(1) REQUIREMENT FOR MULTIPLE AWARDS.—Section 2304a(d) of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(4) In exercising the authority under this section for procurement of information technology, the head of an executive agency shall award at least two task or delivery order contracts for the same or similar information technology services or property unless the Chief Information Officer of the United States determines that, because of unusual circumstances, it is not in the best interests of the United States to award two such contracts.”.

(2) DEFINITION.—Section 2304d of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(3) The term ‘information technology’ has the meaning given that term in section 4 of the Information Technology Management Reform Act of 1995.”.

**SEC. 208. TWO-PHASE SELECTION PROCEDURES.**

(a) CIVILIAN AGENCIES.—

(1) PROCEDURES AUTHORIZED.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 303H the following new section:

**“TWO-PHASE SELECTION PROCEDURES**

“SEC. 303I. (a) PROCEDURES AUTHORIZED.—The head of an executive agency may use two-phase selection procedures for entering into a contract for the acquisition of information technology when the agency head determines that three or more offers will be received for such contract, substantial design work must be performed before an offeror can develop a reliable price or cost proposal for such contract, and the offerors will incur a substantial amount of expenses in preparing the offers.

“(b) PROCEDURES DESCRIBED.—Two-phase selection procedures consist of the following:

“(1) The agency head solicits proposals that—

“(A) include information on the offerors’—

“(i) technical approach; and

“(ii) technical and management qualifications; and

“(B) do not include—

“(i) detailed design information; or

“(ii) cost or price information.

“(2) The agency head evaluates the proposals on the basis of evaluation criteria set forth in the solicitation, except that the agency head does not consider cost-related or price-related evaluation factors.

"(3) The agency head selects at least three offerors as the most highly qualified to provide the property or services under the contract and requests the selected offerors to submit competitive proposals that include cost and price information.

"(4) The agency head awards the contract in accordance with section 303B(d).

"(c) RESOURCE COMPARISON CRITERIA REQUIRED.—In using two-phase selection procedures for entering into a contract, the agency head shall establish resource criteria and financial criteria applicable to the contract in order to provide a consistent basis for comparing the offerors and their proposals.

"(d) TWO-PHASE SELECTION PROCEDURES DEFINED.—In this section, the term 'two-phase selection procedures' means procedures described in subsection (b) that are used for the selection of a contractor on the basis of cost and price and other evaluation criteria to provide property or services in accordance with the provisions of a contract which requires the contractor to design the property to be acquired under the contract and produce or construct such property.

"(e) DEFINITION.—In this section, the term 'information technology' has the meaning given the term in section 4 of the Information Technology Management Reform Act of 1995."

(2) CLERICAL AMENDMENT.—The table of contents in the first section of such Act is amended by inserting after the item relating to section 303H the following new item:

"Sec. 303I. Two-phase selection procedures."

(b) DEPARTMENT OF DEFENSE.—

(1) PROCEDURES AUTHORIZED.—Chapter 137 of title 10, United States Code, is amended by inserting after section 2305 the following new section:

**"§ 2305a. Two-phase selection procedures**

"(a) PROCEDURES AUTHORIZED.—The head of an agency may use two-phase selection procedures for entering into a contract for the acquisition of information technology when the head of the agency determines that three or more offers will be received for such contract, substantial design work must be performed before an offeror can develop a reliable price or cost proposal for such contract, and the offerors will incur a substantial amount of expenses in preparing the offers.

"(b) PROCEDURES DESCRIBED.—Two-phase selection procedures consist of the following:

"(1) The head of the agency solicits proposals that—

"(A) include information on the offerors'—

"(i) technical approach; and

"(ii) technical and management qualifications; and

"(B) do not include—

"(i) detailed design information; and

"(ii) cost or price information.

"(2) The head of the agency evaluates the proposals on the basis of evaluation criteria set forth in the solicitation, except that the head of the agency does not consider cost-related or price-related evaluation factors.

"(3) The head of the agency selects at least three offerors as the most highly qualified to provide the property or services under the contract and requests the selected offerors to submit competitive proposals that include cost and price information.

"(4) The head of the agency awards the contract in accordance with section 2305(b)(4) of this title.

"(c) RESOURCE COMPARISON CRITERIA REQUIRED.—In using two-phase selection procedures for entering into a contract, the head of the agency shall establish resource criteria and financial criteria applicable to the contract in order to provide a consistent basis for comparing the offerors and their proposals.

"(d) TWO-PHASE SELECTION PROCEDURES DEFINED.—In this section, the term 'two-

phase selection procedures' means procedures described in subsection (b) that are used for the selection of a contractor on the basis of cost and price and other evaluation criteria to provide property or services in accordance with the provisions of a contract which requires the contractor to design the property to be acquired under the contract and produce or construct such property.

"(e) DEFINITION.—In this section, the term 'information technology' has the meaning given the term in section 4 of the Information Technology Management Reform Act of 1995."

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2305 the following:

"2305a. Two-phase selection procedures."

**SEC. 209. CONTRACTOR SHARE OF GAINS AND LOSSES FROM COST, SCHEDULE, AND PERFORMANCE EXPERIENCE.**

The Director of the Office of Management and Budget shall prescribe in regulations a clause, to be included in each cost-type or incentive-type contract for procurement of information technology for an executive agency, that provides a system for the contractor—

(1) to be rewarded for contract performance exceeding the contract cost, schedule, or performance goals to the benefit of the United States; and

(2) to be penalized for failing—

(A) to adhere to cost, schedule, or performance goals to the detriment of the United States; or

(B) to provide an operationally effective solution for the information technology problem covered by the contract.

**Subtitle B—Acquisition Management**

**SEC. 221. ACQUISITION MANAGEMENT TEAM.**

(a) IN GENERAL.—

(1) USE OF AGENCY PERSONNEL.—The head of each executive agency planning an acquisition of information technology shall determine whether agency personnel satisfying the requirements of subsection (b) are available and are to be used for carrying out the acquisition.

(2) USE OF OUTSIDE ACQUISITION TEAM.—If the head of the executive agency determines that such personnel are not available for carrying out the acquisition, the head of that agency shall consider designating a capable executive agent to carry out the acquisition.

(b) CAPABILITIES OF AGENCY PERSONNEL.—

(1) IN GENERAL.—The head of each executive agency shall ensure that the agency personnel involved in an acquisition of information technology have the experience, and have demonstrated the skills and knowledge, necessary to carry out the acquisition competently.

(2) HIGH-RISK INFORMATION TECHNOLOGY PROGRAM ACQUISITIONS.—For an acquisition under a high-risk information technology program—

(A) each of the members of the acquisition program management team (including the management, technical, program, procurement, and legal personnel) shall have experience and demonstrated competence in the team member's area of responsibility; and

(B) the team manager, deputy team manager, and each procurement official on the acquisition management team shall have demonstrated competence in participating in other major information system acquisitions or have other comparable experience.

(c) ACQUISITION WORKFORCE TRAINING.—The head of each executive agency shall ensure that agency personnel used for information technology acquisitions of the agency receive continuing training in management of information resources and the acquisition of information technology in order to maintain

the competence of such personnel in the skills and knowledge necessary for carrying out such acquisitions successfully.

**SEC. 222. OVERSIGHT OF ACQUISITIONS.**

It is the sense of Congress that the Director of the Office of Management and Budget, the Chief Information Officer of the United States, the heads of executive agencies, and the inspectors general of executive agencies, in performing responsibilities for oversight of information technology acquisitions, should emphasize reviews of the operational justifications for the acquisitions, the results of the acquisition programs, and the performance measurements established for the information technology rather than reviews of the acquisition process.

**TITLE III—SPECIAL FISCAL SUPPORT FOR INFORMATION INNOVATION**

**Subtitle A—Information Technology Fund**

**SEC. 301. ESTABLISHMENT.**

There is established on the books of the Treasury a fund to be known as the "Information Technology Fund".

**SEC. 302. ACCOUNTS.**

The Information Technology Fund shall have two accounts as follows:

(1) The Innovation Loan Account.

(2) The Common Use Account.

**Subtitle B—Innovation Loan Account**

**SEC. 321. AVAILABILITY OF FUND FOR LOANS IN SUPPORT OF INFORMATION INNOVATION.**

Amounts in the Innovation Loan Account shall be available to the Director of the Office of Management and Budget, without fiscal year limitation, for lending to an executive agency for carrying out an information innovation program to improve the productivity of the agency.

**SEC. 322. REPAYMENT OF LOANS.**

(a) REPAYMENT REQUIRED.—The head of an executive agency shall repay the Innovation Loan Account the amount loaned to the executive agency.

(b) TERMS AND CONDITIONS.—The Director of the Office of Management and Budget shall prescribe the terms and conditions for repayment of the loan.

(c) REPAYMENT OUT OF SAVINGS.—The funds to be used by the head of an executive agency for repaying a loan shall be derived as provided in section 323 from savings realized by the agency through increases in the productivity of the agency that result from the information innovation funded (in whole or in part) by the loan. The Director shall prescribe guidelines for computing the amount of the savings.

**SEC. 323. SAVINGS FROM INFORMATION INNOVATIONS.**

(a) DISPOSITION OF SAVINGS.—Of the total amount saved by an executive agency in a fiscal year through increases in the productivity of the agency that result from information innovations funded (in whole or in part) by loans from the Innovation Loan Account 50 percent shall be credited to the Innovation Loan Account in repayment of loans to the agency from the Fund.

(b) EMPLOYEE INCENTIVES.—The head of an executive agency is authorized to pay monetary incentives to agency personnel who made significant contributions to the achievement of increases in agency productivity that resulted in the savings.

(c) COMPUTATION OF SAVINGS.—For purposes of this section, the amount saved by an executive agency in a fiscal year as a result of increases in the productivity of the agency that are attributable to information innovations funded (in whole or in part) by loans from the Innovation Loan Account shall be computed by the head of the agency in consultation with the chief information officer and chief financial officer of the agency and

in accordance with the guidelines prescribed pursuant to section 322(c).

**SEC. 324. FUNDING.**

(a) INITIAL CAPITALIZATION.—The head of each executive agency shall transfer to the Innovation Loan Account at the beginning of each fiscal year for fiscal years 1996 through 2000 the amount equal to 5 percent of the total amount available to that executive agency for such fiscal year for information resources, as determined by the Chief Information Officer of the United States.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Innovation Loan Account, to be available without fiscal year limitation, such sums as may be necessary for making loans authorized by section 321.

**Subtitle C—Common Use Account**

**SEC. 331. SUPPORT OF MULTIAGENCY ACQUISITIONS OF INFORMATION TECHNOLOGY.**

(a) IN GENERAL.—Amounts in the Common Use Account shall be available to the Director of the Office of Management and Budget, without fiscal year limitation for the following purposes:

(1) Acquisitions of information technology to be used by two or more executive agencies.

(2) Expenses, including cost of personal services, incurred for developing and implementing information technology for support of two or more executive agencies.

(b) PROJECTS FUNDED.—The Director of the Office of Management and Budget shall select for funding out of the Common Use Account projects that are projected to meet the following requirements:

(1) Demonstrate the innovative use of information technology to reorganize and improve work processes or to integrate programs and link the information systems of executive agencies.

(2) Provide substantial benefits to the public, such as improved dissemination of information, increased timeliness in delivery of services, and increased quality of services.

(3) Substantially lower the operating costs of two or more executive agencies or programs.

(c) LIMITATION OF FUNDING.—Funding for a particular project shall ordinarily be limited to two fiscal years.

(d) ADDITIONAL REQUIREMENT FOR SELECTION.—In addition to meeting the requirements in subsection (b), the proposal for a project shall include a transition plan for proceeding from a pilot program or the initial stage of the project into operation of the information technology. The transition plan shall identify funding sources for the transition and for the sustainment of operations.

**SEC. 332. FUNDING.**

(a) INITIAL CAPITALIZATION.—

(1) TRANSFER OF FUNDS.—The initial capitalization of the Common Use Account shall be accomplished by transfer of funds under paragraph (2).

(2) AMOUNT AND SOURCE.—For purposes of paragraph (1), the Administrator of General Services shall transfer, out of the Information Technology Fund established by section 110 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757), the amount equal to the excess of—

(A) the amount of the unobligated balance in that Fund, over

(B) the portion of that unobligated balance that the Administrator, with the approval of the Director of the Office of Management and Budget, determines is necessary to retain for meeting the requirements of the fund for the remainder of the fiscal year in which this Act takes effect under section 1001(a) and the next fiscal year.

(3) TERMINATION OF INFORMATION TECHNOLOGY FUND.—Effective at the end of the

fiscal year immediately following the fiscal year in which this Act takes effect under section 1001(a)—

(A) section 110 of the Federal Property and Administrative Services Act (40 U.S.C. 757) is repealed; and

(B) the Information Technology Fund established by that section is terminated.

(b) CHARGES FOR COMMON INFRASTRUCTURE SERVICES.—The Director of the Office of Management and Budget may impose on executive agencies a charge for common infrastructure services to fund the Common Use Account.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Common Use Account, to be available without fiscal year limitation, such sums as may be necessary to fund multiagency acquisitions of information technology.

**Subtitle D—Other Fiscal Policies**

**SEC. 341. LIMITATION ON USE OF FUNDS.**

Funds available to an executive agency for information technology may not be expended for a proposed information technology acquisition until the head of the agency certifies in writing in the agency records of that acquisition that the head of the agency has completed a review of the agency's mission-related processes and administrative processes to be supported by the proposed investment in information technology and has established performance measurements for determining improvements in agency performance.

**SEC. 342. SENSE OF CONGRESS.**

It is the sense of Congress that executive agencies should achieve a 5 percent per year decrease in the cost incurred by the agency for operating and maintaining information technology, and a 5 percent per year increase in the efficiency of the agency operations, by reason of improvements in information resources management by the agency.

**SEC. 343. REVIEW BY GAO AND INSPECTORS GENERAL.**

(a) REVIEW REQUIRED.—During fiscal year 1996 and each of the first four fiscal years following that fiscal year, the Comptroller General of the United States and the Inspector General of each executive agency or (in the case of an executive agency that does not have an Inspector General) an appropriate audit agency shall, in coordination with each other, review the plans of the executive agency for acquisitions of information technology, the information technology acquisition programs being carried out by the executive agency, and the information resources management of the executive agency.

(b) PURPOSE OF REVIEWS.—The purpose of each of the reviews of an executive agency is to determine, for each of the agency's functional areas supported by information technology, the following:

(1) Whether the cost of operating and maintaining information technology for the agency has decreased below the cost incurred by the agency for operating and maintaining information technology for the agency for fiscal year 1995 by at least 5 percent (in constant fiscal year 1995 dollars) for each of five fiscal years.

(2) Whether, in terms of the applicable performance measurements established by the head of the executive agency, the efficiency of the operations of the agency has increased over the efficiency of the operations of the agency in fiscal year 1995 by at least 5 percent by reason of improvements in information resources management by the agency for each of five fiscal years.

**TITLE IV—INFORMATION TECHNOLOGY ACQUISITION PILOT PROGRAMS**

**Subtitle A—Conduct of Pilot Programs**

**SEC. 401. REQUIREMENT TO CONDUCT PILOT PROGRAMS.**

(a) IN GENERAL.—

(1) PURPOSE.—The Chief Information Officer of the United States shall conduct pilot programs in order to test alternative approaches for acquisition of information technology and other information resources by executive agencies.

(2) MULTIAGENCY, MULTI-ACTIVITY CONDUCT OF EACH PROGRAM.—Except as otherwise provided in this title, each pilot program conducted under this title shall be carried out in not more than two procuring activities in each of two executive agencies designated by the Chief Information Officer. The head of each designated executive agency shall, with the approval of the Chief Information Officer, select the procuring activities of the agency to participate in the test and shall designate a procurement testing official who shall be responsible for the conduct and evaluation of the pilot program within the agency.

(b) LIMITATIONS.—

(1) NUMBER.—Not more than five pilot programs shall be conducted under the authority of this title, including one pilot program each pursuant to the requirements of sections 421, 422, and 423, and two pilot programs pursuant to section 424.

(2) AMOUNT.—The total amount obligated for contracts entered into under the pilot programs conducted under the authority of this title may not exceed \$1,500,000,000. The Chief Information Officer shall monitor such contracts and ensure that contracts are not entered into in violation of the limitation in the preceding sentence.

(c) INVOLVEMENT OF FEDERAL INFORMATION COUNCIL.—The Chief Information Officer may—

(1) conduct pilot programs recommended by the Federal Information Council; and

(2) consult with the Federal Information Council regarding development of pilot programs to be conducted under this section.

(d) PERIOD OF PROGRAMS.—

(1) IN GENERAL.—Subject to paragraph (2), the Chief Information Officer shall conduct a pilot program for the period, not in excess of five years, that is determined by the Chief Information Officer to be sufficient to establish reliable results.

(2) CONTINUING VALIDITY OF CONTRACTS.—A contract entered into under the pilot program before the expiration of that program shall remain in effect according to the terms of the contract after the expiration of the program.

**SEC. 402. TESTS OF INNOVATIVE PROCUREMENT METHODS AND PROCEDURES.**

(a) IN GENERAL.—The Chief Information Officer of the United States shall exercise the authority of the Administrator for Federal Procurement Policy under section 15 of the Office of Federal Procurement Policy Act (41 U.S.C. 413) with regard to the acquisition of information technology and other information resources by executive agencies.

(b) RELATIONSHIP TO PILOT PROGRAM AUTHORITY.—The authority under paragraph (1) is in addition to the authority provided in this title to conduct pilot programs. A test program conducted under subsection (a), and each contract awarded under such test program, are not subject to the limitations on pilot programs provided in this title.

**SEC. 403. EVALUATION CRITERIA AND PLANS.**

(a) MEASURABLE TEST CRITERIA.—The Chief Information Officer of the United States shall require the head of each executive agency conducting a pilot program under section 401 or a test program under section

402 to establish, to the maximum extent practicable, measurable criteria for evaluating the effects of the procedures or techniques to be tested under the program.

(b) **TEST PLAN.**—Before a pilot program or a test program may be conducted under section 401 or 402, respectively, the Chief Information Officer shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives a detailed test plan for the program, including a detailed description of the procedures to be used and a list of any regulations that are to be waived.

**SEC. 404. REPORT.**

(a) **REQUIREMENT.**—Not later than 180 days after the completion of a pilot program conducted under this title or a test program conducted under section 402, the Chief Information Officer of the United States shall—

(A) submit to the Director of the Office of Management and Budget a report on the results and findings under the program; and

(B) provide a copy of the report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives.

(b) **CONTENT.**—The report shall include the following:

(1) A detailed description of the results of the program, as measured by the criteria established for the program.

(2) A discussion of any legislation that the Chief Information Officer recommends, or changes in regulations that the Chief Information Officer considers necessary, in order to improve overall information resources management within the Federal Government.

**SEC. 405. RECOMMENDED LEGISLATION.**

If the Director of the Office of Management and Budget determines that the results and findings under a pilot program under this title indicate that legislation is necessary or desirable in order to improve the process for acquisition of information technology, the Director shall transmit the Director's recommendations for such legislation to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives.

**SEC. 406. RULE OF CONSTRUCTION.**

Nothing in this title shall be construed as authorizing the appropriation or obligation of funds for the pilot programs or test programs conducted pursuant to this title.

**Subtitle B—Specific Pilot Programs**

**SEC. 421. SHARE-IN-SAVINGS PILOT PROGRAM.**

(a) **REQUIREMENT.**—The Chief Information Officer of the United States shall carry out a pilot program to test the feasibility of—

(1) contracting on a competitive basis with a private sector source to provide the Federal Government with an information technology solution for improving mission-related or administrative processes of the Federal Government; and

(2) paying the private sector source an amount equal to a portion of the savings derived by the Federal Government from any improvements in mission-related processes and administrative processes that result from implementation of the solution, as determined by the Chief Information Officer.

(b) **PROGRAM CONTRACTS.**—Up to five contracts for one project each may be entered into under the pilot program.

(c) **SELECTION OF PROJECTS.**—The projects shall be selected by the Chief Information Officer from among projects recommended by the Federal Information Council.

**SEC. 422. SOLUTIONS-BASED CONTRACTING PILOT PROGRAM.**

(a) **IN GENERAL.**—The Chief Information Officer shall carry out a pilot program to test

the feasibility of the use of solutions-based contracting for acquisition of information technology.

(b) **SOLUTIONS-BASED CONTRACTING DEFINED.**—For purposes of this section, solutions-based contracting is an acquisition method under which the Federal Government user of the technology to be acquired defines the acquisition objectives, uses a streamlined contractor selection process, and allows industry sources to provide solutions that attain the objectives effectively. The emphasis of the method is on obtaining from industry an optimal solution.

(c) **PROCESS.**—The Chief Information Officer shall require use of the following process for acquisitions under the pilot program:

(1) **ACQUISITION PLAN EMPHASIZING DESIRED RESULT.**—Preparation of an acquisition plan that defines the functional requirements of the intended users of the information technology to be acquired, identifies the operational improvement results to be achieved, and defines the performance measurements to be applied in determining whether the information technology acquired satisfies the defined requirements and attains the identified results.

(2) **RESULTS-ORIENTED STATEMENT OF WORK.**—Use of a statement of work that is limited to an expression of the end results or performance capabilities desired under the acquisition plan.

(3) **SMALL ACQUISITION ORGANIZATION.**—Assembly of small acquisition organization consisting of the following:

(A) An acquisition management team, the members of which are to be evaluated and rewarded under the pilot program for contributions toward attainment of the desired results identified in the acquisition plan.

(B) A small source selection team composed of representatives in the specific mission or administrative area to be supported by the information technology to be acquired, a contracting officer, and persons with relevant expertise.

(4) **USE OF SOURCE SELECTION FACTORS EMPHASIZING SOURCE QUALIFICATIONS.**—Use of source selection factors that are limited to determining the qualifications of the offeror, including such factors as personnel skills, previous experience in providing other private or public sector organizations with solutions for attaining objectives similar to the objectives to be attained in the acquisition, past contract performance, qualifications of the proposed program manager, and the proposed management plan.

(5) **OPEN COMMUNICATIONS WITH CONTRACTOR COMMUNITY.**—Open availability of the following information to potential offerors:

(A) The agency mission to be served by the acquisition.

(B) The functional process to be performed by use of information technology.

(C) The process improvements to be attained.

(6) **SIMPLE SOLICITATION.**—Use of a simple solicitation that sets forth only the functional work description, source selection factors, the required terms and conditions, instructions regarding submission of offers, and the estimate of the Federal Government's budget for the desired work.

(7) **SIMPLE PROPOSALS.**—Submission of oral proposals and acceptance of written supplemental submissions that are limited in size and scope and contain information on the offeror's qualifications to perform the desired work together with information of past contract performance.

(8) **SIMPLE EVALUATION.**—Use of a simple evaluation process, to be completed within 45 days after receipt of proposals, which consists of the following:

(A) Identification of the offerors that are within the competitive range of most of the qualified offerors.

(B) Issuance of invitations for at least three and not more than five of the identified offerors to make oral presentations to, and engage in discussions with, the evaluating personnel regarding the qualifications of the offerors, including how the qualifications of each offeror relate to the approaches proposed to be taken by the offeror in the acquisition.

(C) Evaluation of the qualifications of the identified offerors on the basis of submissions required under the process and any oral presentations made by, and any discussions with, the offerors.

(9) **SELECTION OF MOST QUALIFIED OFFEROR.**—A selection process consisting of the following:

(A) Identification of the most qualified source, and ranking of alternative sources, primarily on the basis of the oral proposals, presentations, and discussions, but taking into consideration supplemental written submissions.

(B) Conduct for 30 to 60 days of a program definition phase, funded by the Federal Government—

(i) during which the selected source, in consultation with one or more intended users, develops a conceptual system design and technical approach, defines logical phases for the project, and estimates the total cost and the cost for each phase; and

(ii) after which a contract for performance of the work may be awarded to that source on the basis of cost, the responsiveness, reasonableness, and quality of the proposed performance, and a sharing of risk and benefits between the source and the Government.

(C) Conduct of as many successive program definition phases with the alternative sources (in the order ranked) as is necessary in order to award a contract in accordance with subparagraph (B).

(10) **SYSTEM IMPLEMENTATION PHASING.**—System implementation to be executed in phases that are tailored to the solution, with various contract arrangements being used, as appropriate, for various phases and activities.

(11) **MUTUAL AUTHORITY TO TERMINATE.**—Authority for the Federal Government or the contractor to terminate the contract without penalty at the end of any phase defined for the project.

(12) **TIME MANAGEMENT DISCIPLINE.**—Application of a standard for awarding a contract within 60 to 90 days after issuance of the solicitation.

(d) **PILOT PROGRAM DESIGN.**—

(1) **JOINT PUBLIC-PRIVATE WORKING GROUP.**—The Chief Information Officer shall establish a joint working group of Federal Government personnel and representatives of the information technology industry to design a plan for conduct of the pilot program.

(2) **CONTENT OF PLAN.**—The plan shall provide for use of solutions-based contracting in the Department of Defense and not more than two other executive agencies for a total of—

(A) 10 projects, each of which has an estimated cost of between \$25,000,000 and \$100,000,000; and

(B) 10 projects, each of which has an estimated cost of between \$1,000,000 and \$5,000,000, to be set aside for small business concerns.

(3) **COMPLEXITY OF PROJECTS.**—(A) Subject to subparagraph (C), each acquisition project under the pilot program shall be sufficiently complex to provide for meaningful evaluation of the use of solutions-based contracting for acquisition of information technology for executive agencies.

(B) In order for an acquisition project to satisfy the requirement in subparagraph (A)—

(i) the solution for attainment of the executive agency's objectives under the project should not be obvious, but rather shall involve a need for some innovative development; and

(ii) the project shall incorporate all elements of system integration.

(C) An acquisition project should not be so extensive or lengthy as to result in undue delay in the evaluation of the use of solutions-based contracting.

(e) USE OF EXPERIENCED FEDERAL PERSONNEL.—Only Federal Government personnel who are experienced, and have demonstrated success, in managing or otherwise performing significant functions in complex acquisitions shall be used for evaluating offers, selecting sources, and carrying out the performance phases in an acquisition under the pilot program.

(f) MONITORING BY GAO.—

(1) REQUIREMENT.—The Comptroller General of the United States shall—

(A) monitor the conduct, and review the results, of acquisitions under the pilot program; and

(B) submit to Congress periodic reports containing the views of the Comptroller General on the activities, results, and findings under the pilot program.

(2) EXPIRATION OF REQUIREMENT.—The requirement under paragraph (1)(B) shall terminate after submission of the report that contains the final views of the Comptroller General on the last of the acquisition projects completed under the pilot program.

**SEC. 423. PILOT PROGRAM FOR CONTRACTING FOR PERFORMANCE OF ACQUISITION FUNCTIONS.**

(a) REQUIREMENT.—The Chief Information Officer of the United States shall carry out a pilot program which provides for the head of an executive agency, or an executive agent acting for the head of an executive agency, to contract for the performance of the contracting and program management functions for an information technology acquisition for the agency.

(b) PARTICIPATING AGENCIES.—The Chief Information Officer shall select five executive agencies to participate, with the consent of the head of the agency, in the pilot program.

(c) OBLIGATION OF FUNDS TO BE BY FEDERAL OFFICIALS.—Funds of the United States may not be obligated by a contractor in the performance of contracting or program management functions of an executive agency under the pilot program.

(d) GAO REVIEW AND ANALYSIS.—The Comptroller General of the United States shall—

(1) monitor and review the results of the pilot program;

(2) compare the use of contract personnel for performance of the contracting and program management functions for an information technology acquisition under the pilot program with the use of agency personnel to perform such functions; and

(3) submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight a report on the comparison, including any conclusions of the Comptroller General.

**SEC. 424. MAJOR ACQUISITIONS PILOT PROGRAMS.**

(a) FLEXIBLE ACQUISITIONS PILOT PROGRAMS.—The Chief Information Officer of the United States shall carry out two pilot programs, one in the Department of Defense and one in another executive agency, to test and demonstrate for use in major information technology acquisition programs flexible acquisition procedures that accommodate the following during the conduct of the acquisition:

(1) Continuous refinement of—

(A) the agency information architecture for which the information technology is being procured; and

(B) the requirements to be satisfied by such technology within that information architecture.

(2) Incremental development of system capabilities.

(3) Integration of new technology as it becomes available.

(4) Rapid fielding of effective systems.

(5) Completion of the operational increments of the acquisition within 18 months (subject to supplementation or further evolution of the agency information system through follow-on procurements).

(b) COVERED ACQUISITION PROGRAMS.—Each pilot program shall involve one acquisition of information technology that satisfies the following requirements:

(1) The acquisition is in an amount greater than \$100,000,000, but the amount of the increments of the acquisition covered by the pilot program does not exceed \$300,000,000.

(2) The information technology is to be procured for support of one or more agency processes or missions that have been, or are being, reevaluated and substantially revised to improve the efficiency with which the agency performs agency missions or delivers services.

(3) The acquisition is to be conducted as part of a sustained effort of the executive agency concerned to attain a planned overall information architecture for the agency that is designed to support improved performance of the agency missions and improved delivery of services.

(4) The acquisition program provides for an evolution of an information system that is guided by the overall information architecture planned for the agency.

(5) The acquisition is being conducted with a goal of completing two or more major increments in the evolution of the agency's information system within a 3-year period.

(c) WAIVER OF PROCUREMENT LAWS.—

(1) WAIVER AUTHORITY.—The head of an executive agency carrying out a pilot program under this section may, with the approval of the Chief Information Officer of the United States, waive any provision of procurement law referred to in paragraph (2) to the extent that the head of the agency considers necessary to carry out the pilot program in accordance with this section.

(2) COVERED PROCUREMENT LAWS.—The waiver authority under paragraph (1) applies to the following procurement laws:

(A) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.).

(B) Chapter 137 of title 10, United States Code.

(C) The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.).

(D) Sections 8, 9, and 15 of the Small Business Act (15 U.S.C. 637, 638, and 644).

(E) Any provision of law that, pursuant to section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430), is listed in the Federal Acquisition Regulation as being inapplicable—

(i) to contracts for the procurement of commercial items; or

(ii) in the case of a subcontract under the pilot program, to subcontracts for the procurement of commercial items.

(F) Any other provision of law that imposes requirements, restrictions, limitations, or conditions on Federal Government contracting (other than a limitation on use of appropriated funds), as determined by the Chief Information Officer of the United States.

(d) OMB INVOLVEMENT.—

(1) IN GENERAL.—The Chief Information Officer of the United States shall closely and continuously monitor the conduct of the pilot programs carried out under this section.

(2) ASSIGNMENT OF OMB PERSONNEL TO PROGRAM TEAM.—In order to carry out paragraph (1) effectively, the Chief Information Officer of the United States shall assign one or more representatives to the acquisition program management team for each pilot program.

(e) TERMINATION OF PILOT PROGRAM FOR UNSATISFACTORY PERFORMANCE.—The Chief Information Officer of the United States shall terminate a pilot program under this section at any time that the Chief Information Officer determines that the acquisition under the program has failed to a significant extent to satisfy cost, schedule, and performance requirements established for the acquisition.

(f) REPORTS TO CONGRESS.—

(1) REQUIREMENT.—The Director of the Office of Management and Budget shall submit to Congress reports on each pilot program carried out under this section as follows:

(A) An interim report upon the completion of each increment of the acquisition under the pilot program.

(B) A final report upon completion of the pilot program.

(2) CONTENT OF FINAL REPORT.—The final report on a pilot program shall include any recommendations for waiver of the applicability of procurement laws to further evolution of information systems acquired under the pilot program.

**TITLE V—OTHER INFORMATION RESOURCES MANAGEMENT REFORMS**

**SEC. 501. TRANSFER OF RESPONSIBILITY FOR FACNET.**

Section 30 of the Office of Federal Procurement Policy Act (41 U.S.C. 426) is amended—

(1) in subsection (a), by striking out "Administrator" the first place it appears inserting in lieu thereof "Chief Information Officer of the United States"; and

(2) by striking out "Administrator" each place it appears and inserting in lieu thereof "Chief Information Officer".

**SEC. 502. ON-LINE MULTIPLE AWARD SCHEDULE ORDERING.**

(a) DEVELOPMENT AND IMPLEMENTATION OF SYSTEM DESIGNS.—In order to provide for the economic and efficient procurement of commercial information technology, the Chief Information Officer of the United States shall establish competing programs for the development and testing of up to three system designs for providing for Government-wide, on-line computer purchasing of commercial items of information technology.

(b) REQUIRED SYSTEM CAPABILITIES.—Each of the system designs shall be established as an element of the Federal acquisition computer network (FACNET) architecture and shall, at a minimum—

(1) provide basic information on the prices, features, and performance of all commercial items of information technology available for purchasing;

(2) provide for updating that information to reflect changes in prices, features, and performance as soon as information on the changes becomes available;

(3) enable users to make on-line computer comparisons of the prices, features, and performance of similar products and services offered by various vendors;

(4) enable users to place, and vendors to receive, on-line computer orders for products and services available for purchasing;

(5) enable ordering users to make payments to vendors by bank card, electronic funds transfer, or other automated methods in cases in which it is practicable and in the interest of the Federal Government to do so; and

(6) archive data relating to each order placed against multiple award schedule contracts using such system, including, at a minimum, data on—

- (A) the agency or office placing the order;
- (B) the vendor receiving the order;
- (C) the products or services ordered; and
- (D) the total price of the order.

(c) USE OF SYSTEMS.—Under guidelines and procedures prescribed pursuant to subsection (d), the head of an executive agency may use a system developed and tested under this section to make purchases in a total amount of not more than \$5,000,000 for each order.

(d) GUIDELINES AND PROCEDURES.—The Chief Information Officer shall prescribe guidelines and procedures for making purchases authorized by subsection (c). The guidelines and procedures shall ensure that orders placed on the system referred to in that subsection do not place any requirements on vendors that are not customary for transactions involving sales of the purchased commodities to private sector purchasers.

(e) REPORT TO CONGRESS.—Not later than one year after the date of the enactment of this Act, the Chief Information Officer shall submit to Congress a report on the Chief Information Officer's decision on implementation of an electronic marketplace for information technology. The report shall contain a description of the results of the programs established under subsection (a).

#### SEC. 503. UPGRADING INFORMATION EQUIPMENT IN AGENCY FIELD OFFICES.

(a) AUTHORITY TO USE MICRO-PURCHASE PROCEDURES.—Under the authority, direction, and control of the head of an executive agency and subject to subsection (b), the head of a field office of that agency may use micro-purchase procedures to procure up to \$20,000 of upgrades for the computer equipment of that office each year in increments not exceeding \$2,500 each. Procurements within that limitation shall not be counted against the \$20,000 annual limitation provided under section 32(c)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 428(c)(2)).

(b) CERTIFICATION REQUIREMENT.—The head of a field office may procure an upgrade for computer equipment in accordance with subsection (a) only if the head of the field office determines in writing that the cost of the upgrade does not exceed 50 percent of the cost of purchasing replacement equipment for the equipment to be upgraded. The head of the field office shall include a written record of the determination in the agency records of the procurement.

(c) MICRO-PURCHASE PROCEDURES DEFINED.—In this section, the term "micro-purchase procedures" means the procedures prescribed under section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) for purchases not in excess of the micro-purchase threshold (as defined in that section).

#### SEC. 504. DISPOSAL OF EXCESS COMPUTER EQUIPMENT.

(a) AUTHORITY TO DONATE.—The head of an executive agency may, without regard to the procedures otherwise applicable under title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.), convey without consideration all right, title, and interest of the United States in any computer equipment under the control of such official that is determined under title II of such Act as being excess property or surplus property to a recipient in the following order of priority:

- (1) Elementary and secondary schools under the jurisdiction of a local educational agency and schools funded by the Bureau of Indian Affairs.
- (2) Public libraries.
- (3) Public colleges and universities.

(b) INVENTORY REQUIRED.—Upon the enactment of this Act, the head of an executive agency shall inventory all computer equipment under the control of that official and identify in accordance with title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.) the equipment, if any, that is excess property or surplus property.

(c) DEFINITIONS.—In this section:

(1) The terms "excess property" and "surplus property" have the meanings given such terms in section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

(2) The terms "local educational agency", "elementary school", and "secondary school" have the meanings given such terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

#### SEC. 505. LEASING INFORMATION TECHNOLOGY.

(a) ANALYSIS BY GAO.—The Comptroller General of the United States shall perform a comparative analysis of—

(1) the costs and benefits of purchasing new information technology for executive agencies;

(2) the costs and benefits of leasing new information technology for executive agencies;

(3) the costs and benefits of leasing used information technology for executive agencies; and

(4) the costs and benefits of purchasing used information technology.

(b) LEASING GUIDELINES.—Based on the analysis, the Comptroller General shall develop recommended guidelines for leasing information technology for executive agencies.

#### SEC. 506. CONTINUATION OF ELIGIBILITY OF CONTRACTOR FOR AWARD OF INFORMATION TECHNOLOGY CONTRACT AFTER PROVIDING DESIGN AND ENGINEERING SERVICES.

Notwithstanding any other provision of law, a contractor that provides architectural design and engineering services for an information system under an information technology program of an executive agency is not, solely by reason of having provided such services, ineligible for award of a contract for procurement of information technology under that program or for a subcontract under such a contract.

#### SEC. 507. ENHANCED PERFORMANCE INCENTIVES FOR INFORMATION TECHNOLOGY ACQUISITION WORKFORCE.

(a) ARMED SERVICES ACQUISITIONS.—

(1) CLARIFICATION OF REQUIREMENTS FOR SYSTEM OF INCENTIVES.—Subsection (b) of section 5001 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103-355; 108 Stat. 3350; 10 U.S.C. 2220 note) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by designating the second sentence as paragraph (2);

(C) by inserting "(1)" after "(b) ENHANCED SYSTEM OF PERFORMANCE INCENTIVES.—"; and

(D) by adding at the end the following:

"(3) The Secretary shall include in the enhanced system of incentives, to the extent that the system applies with respect to programs for the acquisition of information technology (as defined in section 4 of the Information Technology Management Reform Act of 1995), the following:

"(A) Pay bands.

"(B) Significant and material pay and performance incentives to be awarded, and significant and material unfavorable personnel actions to be imposed, under the system exclusively, or primarily, on the basis of the contributions of personnel to the performance of the information technology acquisition program in relation to cost goals, performance goals, and schedule goals.

"(C) Provisions for pay incentives and performance incentives to be awarded under the system only if—

"(i) the cost of the information technology acquisition program is less than 90 percent of the baseline established for the cost of the program;

"(ii) the period for completion of the information technology program is less than 90 percent of the period provided under the baseline established for the program schedule; and

"(iii) the results of the phase of the information technology program being executed exceed the performance baselines established for the system by more than 10 percent.

"(D) Provisions for unfavorable personnel actions to be taken under the system only if the information technology acquisition program performance for the phase being executed exceeds by more than 10 percent the cost and schedule parameters established for the program phase and the performance of the system acquired or to be acquired under the program fails to achieve at least 90 percent of the baseline goals established for performance of the program."

(2) RECOMMENDED LEGISLATION.—Subsection (c) of such section is amended by adding at the end the following: "The Secretary shall include in the recommendations provisions necessary to implement the requirements of subsection (b)(3)."

(3) IMPLEMENTATION OF INCENTIVES SYSTEM.—Section 5001 of the Federal Acquisition Streamlining Act of 1994 is further amended by adding at the end the following:

"(d) IMPLEMENTATION OF INCENTIVES SYSTEM.—(1) The Secretary shall complete the review required by subsection (b) and take such actions as are necessary to provide an enhanced system of incentives in accordance with such subsection not later than October 1, 1997.

"(2) Not later than October 1, 1996, the Secretary shall submit to the Committees on Armed Services and on Governmental Affairs of the Senate and the Committees on National Security and on Government Reform and Oversight of the House of Representatives a report on the actions taken to satisfy the requirements of paragraph (1)."

(b) CIVILIAN AGENCY ACQUISITIONS.—

(1) CLARIFICATION OF REQUIREMENTS FOR SYSTEM OF INCENTIVES.—Subsection (b) of section 5051 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103-355; 108 Stat. 3351; 41 U.S.C. 263 note) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by designating the second sentence as paragraph (2);

(C) by inserting "(1)" after "(b) ENHANCED SYSTEM OF PERFORMANCE INCENTIVES.—"; and

(D) by adding at the end the following:

"(3) The Deputy Director shall include in the enhanced system of incentives, to the extent that the system applies with respect to programs for the acquisition of information technology (as defined in section 4 of the Information Technology Management Act of 1995), the following:

"(A) Pay bands.

"(B) Significant and material pay and performance incentives to be awarded, and significant and material unfavorable personnel actions to be imposed, under the system exclusively, or primarily, on the basis of the contributions of personnel to the performance of the information technology acquisition program in relation to cost goals, performance goals, and schedule goals.

"(C) Provisions for pay incentives and performance incentives to be awarded under the system only if—

"(i) the cost of the information technology acquisition program is less than 90 percent of

the amount established as the cost goal for the program under section 313 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 263);

“(ii) the period for completion of the program is less than 90 percent of the period established as the schedule goal for the program under such section; and

“(iii) the results of the phase of the program being executed exceed the performance goal established for the program under such section by more than 10 percent.

“(D) Provisions for unfavorable personnel actions to be taken under the system only if the information technology acquisition program performance for the phase being executed exceeds by more than 10 percent the cost and schedule goals established for the program phase under section 313 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 263) and the performance of the system acquired or to be acquired under the program fails to achieve at least 90 percent of the performance goal established for the program under such section.”.

(2) **RECOMMENDED LEGISLATION.**—Subsection (c) of such section is amended by adding at the end the following: “The Deputy Director shall include in the recommendations provisions necessary to implement the requirements of subsection (b)(3).”.

(3) **IMPLEMENTATION OF INCENTIVES SYSTEM.**—Section 5051 of the Federal Acquisition Streamlining Act of 1994 is further amended by adding at the end the following:

“(d) **IMPLEMENTATION OF INCENTIVES SYSTEM.**—(1) The Deputy Director shall complete the review required by subsection (b) and take such actions as are necessary to provide an enhanced system of incentives in accordance with such subsection not later than October 1, 1997.

“(2) Not later than October 1, 1996, the Deputy Director shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives a report on the actions taken to satisfy the requirements of paragraph (1).”.

#### **TITLE VI—ACTIONS REGARDING CURRENT INFORMATION TECHNOLOGY PROGRAMS**

##### **SEC. 601. PERFORMANCE MEASUREMENTS.**

(a) **IMPLEMENTATION OF REQUIREMENT FOR PERFORMANCE MEASUREMENTS.**—The chief information officer of an executive agency shall ensure that performance measurements are prescribed for each significant current information technology acquisition program of the agency.

(b) **QUALITY OF MEASUREMENTS.**—The performance measurements shall be sufficient to provide—

(1) the head of the executive agency with adequate information for making determinations for purposes of subsections (b)(2) and (c)(2) of section 146; and

(2) the Director of the Office of Management and Budget with adequate information for making determinations for purposes of paragraphs (1)(B) and (2)(B) of section 123(g).

##### **SEC. 602. INDEPENDENT ASSESSMENT OF PROGRAMS.**

(a) **ASSESSMENT REQUIRED.**—The head of each executive agency shall provide for an assessment to be made of each of the current information technology acquisition programs of the agency that exceed \$100,000,000.

(b) **INDEPENDENCE OF ASSESSMENT.**—The head of the executive agency shall provide for the assessment to be carried out by the Inspector General of the agency (in the case of an agency having an Inspector General), a contractor, or another entity who is independent of the head of the executive agency.

(c) **PURPOSES.**—The purposes of the assessment of a program are to determine the following:

(1) To determine the status of the program in terms of performance objectives and cost and schedule baselines.

(2) To identify any need or opportunity for improving the process to be supported by the program.

(3) To determine the potential for use of the information technology by other executive agencies on a shared basis or otherwise.

(4) To determine the adequacy of the program plan, the architecture of the information technology being acquired, and the program management.

##### **SEC. 603. CURRENT INFORMATION TECHNOLOGY ACQUISITION PROGRAM DEFINED.**

For purposes of this title, a current information technology acquisition program is—

(1) an information technology acquisition program being carried out on the date of the enactment of this Act; and

(2) any other information technology acquisition program that is carried out through any contract entered into on the basis of offers received in response to a solicitation of offers issued before such date.

#### **TITLE VII—PROCUREMENT PROTEST AUTHORITY OF THE COMPTROLLER GENERAL**

##### **SEC. 701. REMEDIES.**

Section 3554(b) of title 31, United States Code, is amended by adding at the end the following:

“(4) If the Comptroller General makes a determination described in paragraph (1) in the case of a protest in a procurement of information technology, the Comptroller General may submit to the Chief Information Officer of the United States a recommendation to suspend the procurement authority of a Federal agency for the protested procurement.”.

##### **SEC. 702. PERIOD FOR PROCESSING PROTESTS.**

Section 3554(a) of title 31, United States Code, is amended—

(1) in paragraph (1), by striking out “paragraph (2)” in the second sentence and inserting in lieu thereof “paragraphs (2) and (5)”; and

(2) by adding at the end the following:

“(5)(A) The requirements and restrictions set forth in this paragraph apply in the case of a protest in a procurement of information technology.

“(B) The Comptroller General shall issue a final decision concerning a protest referred to in subparagraph (A) within 45 days after the date the protest is submitted to the Comptroller General.

“(C) The disposition under this subchapter of a protest in a procurement referred to in subparagraph (A) bars any further protest under this subchapter by the same interested party on the same procurement.”.

##### **SEC. 703. DEFINITION.**

Section 3551 of title 31, United States Code, is amended by adding at the end the following:

“(4) The term ‘information technology’ has the meaning given that term in section 4 of the Information Technology Management Reform Act of 1995.”.

#### **TITLE VIII—RELATED TERMINATIONS, CONFORMING AMENDMENTS, AND CLERICAL AMENDMENTS**

##### **Subtitle A—Related Terminations**

##### **SEC. 801. OFFICE OF INFORMATION AND REGULATORY AFFAIRS.**

The Office of Information and Regulatory Affairs in the Office of Management and Budget is terminated.

##### **SEC. 802. SENIOR INFORMATION RESOURCES MANAGEMENT OFFICIALS.**

In each executive agency for which a chief information officer is designated under sec-

tion 143(a), the designation of a senior information resources management official under section 3506(a)(2) of title 44, United States Code, is terminated.

##### **Subtitle B—Conforming Amendments**

##### **SEC. 811. AMENDMENTS TO TITLE 10, UNITED STATES CODE.**

(a) **MULTIYEAR CONTRACTS.**—Section 2306b(k) of title 10, United States Code, is amended by striking out “property to which section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) applies” and inserting in lieu thereof “information technology (as defined in section 4 of the Information Technology Management Reform Act of 1995”.

(b) **SENSITIVE DEFENSE ACTIVITIES.**—Section 2315 of such title is repealed.

##### **SEC. 812. AMENDMENTS TO TITLE 28, UNITED STATES CODE.**

Section 612 of title 28, United States Code, is amended—

(1) in subsection (f), by striking out “section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759)” and inserting in lieu thereof “the provisions of law, policies, and regulations applicable to executive agencies under the Information Technology Management Reform Act of 1995”;

(2) in subsection (g), by striking out “sections 111 and 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 and 759)” and inserting in lieu thereof “section 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481)”; and

(3) by striking out subsection (l); and

(4) by redesignating subsection (m) as subsection (l).

##### **SEC. 813. AMENDMENTS TO TITLE 31, UNITED STATES CODE.**

(a) **AVAILABILITY OF FUNDS FOLLOWING RESOLUTION OF A PROTEST.**—Section 1558(b) of title 31, United States Code, is amended by striking out “or under section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f))”.

(b) **GAO PROCUREMENT PROTEST SYSTEM.**—Section 3552 of such title is amended by striking out the second sentence.

##### **SEC. 814. AMENDMENTS TO TITLE 38, UNITED STATES CODE.**

Section 310 of title 38, United States Code, is amended to read as follows:

##### **“§ 310. Chief information officer**

“(a) The Secretary shall designate a chief information officer for the Department in accordance with section 143(a) of the Information Technology Management Reform Act of 1995.

“(b) The chief information officer shall perform the duties provided for chief information officers of executive agencies under the Information Technology Management Reform Act of 1995.”.

##### **SEC. 815. PROVISIONS OF TITLE 44, UNITED STATES CODE, AND OTHER LAWS RELATING TO CERTAIN JOINT COMMITTEES OF CONGRESS.**

(a) **JOINT COMMITTEE ON INFORMATION.**—

(1) **REPLACEMENT OF JOINT COMMITTEE ON PRINTING.**—Chapter 1 of title 44, United States Code, is amended by striking out the chapter heading and all that follows through the heading for section 103 and inserting in lieu thereof the following:

##### **“CHAPTER 1—JOINT COMMITTEE ON INFORMATION**

“Sec.

“101. Joint Committee on Information.

“102. Remedial powers.

##### **“§ 101. Joint Committee on Information**

“There is a Joint Committee on Information established by section 101 of the Information Technology Management Reform Act of 1995.

**“§ 102. Remedial powers”.**

(2) REFERENCES TO JOINT COMMITTEE.—The provisions of title 44, United States Code, are amended by striking out “Joint Committee on Printing” each place it appears and inserting in lieu thereof “Joint Committee on Information”.

(b) REFERENCES TO JOINT COMMITTEE OF CONGRESS ON THE LIBRARY.—

(1) MISCELLANEOUS REFERENCES.—Section 82 of the Revised Statutes (2 U.S.C. 132a), section 203(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 166(i)), section 1831 of the Revised Statutes (40 U.S.C. 188), and section 801(b)(2) of Public Law 100-696 (102 Stat. 4608; 40 U.S.C. 188a(b)(2)) are amended by striking out “Joint Committee of Congress on the Library” and inserting in lieu thereof “Joint Committee on Information”.

(2) SUPERSEDED PROVISION.—Section 223 of the Legislative Reorganization Act of 1946 (2 U.S.C. 132b) is repealed.

(3) CONTINUATION OF AUTHORITY.—Section 2 of the Act of March 3, 1883 (22 Stat. 587) is amended under the heading “SENATE.” by striking out the undesignated paragraph relating to the exercise of powers and discharge of duties of the Joint Committee of Congress upon the Library by the Senate members of the joint committee during the recess of Congress (22 Stat. 592; 2 U.S.C. 133).

(c) OTHER REFERENCES.—A reference to a joint committee of Congress terminated by section 102(d) in any law or in any document of the Federal Government shall be deemed to refer to the Joint Committee on Information established by section 101.

**SEC. 816. PROVISIONS OF TITLE 44, UNITED STATES CODE, RELATING TO PAPERWORK REDUCTION.**

(a) DEFINITION.—Section 3502 of title 44, United States Code, is amended by striking out paragraph (9) and inserting in lieu thereof the following:

“(9) the term ‘information technology’ has the meaning given that term in section 4 of the Information Technology Management Reform Act of 1995;”.

(b) OFFICE OF INFORMATION AND REGULATORY AFFAIRS.—Chapter 35 of such title is amended—

(1) by striking out section 3503 and inserting in lieu thereof the following:

**“§ 3503. Chief Information Officer of the United States**

“The Director of the Office of Management and Budget shall delegate to the Chief Information Officer of the United States the authority to administer all functions under this chapter, except that any such delegation shall not relieve the Director of responsibility for the administration of such functions.”; and

(2) by striking out section 3520.

(c) DEVELOPMENT OF STANDARDS AND GUIDELINES BY NIST.—Section 3504(h)(1)(B) of such title is amended by striking out “section 111(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(d))” and inserting in lieu thereof “paragraphs (2) and (3) of section 20(a) of the National Institute of Standards and Technology Act (20 U.S.C. 278g-3(a))”.

(d) COMPLIANCE WITH DIRECTIVES.—Section 3504(h)(2) of such title is amended by striking out “sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757 and 759)” and inserting in lieu thereof “the Information Technology Management Reform Act of 1995 and directives issued under section 110 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757)”.

(e) SENIOR INFORMATION RESOURCES MANAGEMENT OFFICIALS.—Section 3506(a)(2) of such title is amended—

(1) in subparagraph (A), by striking out “subparagraph (B)” and inserting in lieu thereof “subparagraphs (B) and (C)”; and

(2) by adding at the end the following:

“(C) An agency for which a chief information officer is designated under section 143(a) of the Information Technology Management Reform Act of 1995 may not designate a senior official under this paragraph.”.

**SEC. 817. AMENDMENT TO TITLE 49, UNITED STATES CODE.**

Section 40112(a) of title 49, United States Code, is amended by striking out “or a contract to purchase property to which section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) applies”.

**SEC. 818. OTHER LAWS.**

(a) COMPUTER SECURITY ACT OF 1987.—Section 2(b)(2) of the Computer Security Act of 1987 (Public Law 100-235; 101 Stat. 1724) is amended by striking out “by amending section 111(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(d))”.

(b) PUBLIC LAW 101-520.—Section 306(b) of Public Law 101-520 (40 U.S.C. 166 note) is amended by striking out paragraph (1) and inserting in lieu thereof the following:

“(1) the Information Technology Management Reform Act of 1995; and”.

(c) NATIONAL ENERGY CONSERVATION POLICY ACT.—Section 801(b)(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287(b)(3)) is amended by striking out the second sentence.

(d) NATIONAL SECURITY ACT OF 1947.—Section 3 of the National Security Act of 1947 (50 U.S.C. 403c) is amended by striking out subsection (e).

**Subtitle B—Clerical Amendments****SEC. 821. AMENDMENT TO TITLE 10, UNITED STATES CODE.**

The table of sections at the beginning of chapter 137 of title 10, United States Code, is amended by striking out the item relating to section 2315.

**SEC. 822. AMENDMENT TO TITLE 38, UNITED STATES CODE.**

The table of sections at the beginning of chapter 3 of title 38, United States Code, is amended by striking out the item relating to section 310 and inserting in lieu thereof the following:

“310. Chief information officer.”.

**SEC. 823. AMENDMENTS TO TITLE 44, UNITED STATES CODE.**

(a) CHAPTER 1.—The item relating to chapter 1 in the table of chapters at the beginning of title 44, United States Code, is amended to read as follows:

“1. Joint Committee on Information .. 101”.

(b) CHAPTER 35.—The table of sections at the beginning of chapter 35 of such title is amended—

(1) by striking out the item relating to section 3503 and inserting in lieu thereof the following:

“3503. Chief Information Officer of the United States.”;

and

(2) by striking out the item relating to section 3520.

**TITLE IX—SAVINGS PROVISIONS****SEC. 901. SAVINGS PROVISIONS.**

(a) REGULATIONS, INSTRUMENTS, RIGHTS, AND PRIVILEGES.—All rules, regulations, contracts, orders, determinations, permits, certificates, licenses, grants, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the Administrator of General Services or the General Services Administration Board of Contract Appeals, or by a court of competent jurisdiction, in connection with an acquisition ac-

tivity carried out under the section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759), and

(2) which are in effect on the effective date of this title,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Director of the Office of Management and Budget, the Chief Information Officer of the United States, any other authorized official, by a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS AND APPLICATIONS.—

(1) TRANSFERS OF FUNCTIONS NOT TO AFFECT PROCEEDINGS.—This Act and the amendments made by this Act shall not affect any proceeding, including any proceeding involving a claim or application, in connection with an acquisition activity carried out under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) that is pending before the Administrator of General Services or the General Services Administration Board of Contract Appeals on the effective date of this Act.

(2) ORDERS IN PROCEEDINGS.—Orders may be issued in any such proceeding, appeals may be taken therefrom, and payments may be made pursuant to such orders, as if this Act had not been enacted. An order issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by the Director of the Office of Management and Budget, the Chief Information Officer of the United States, or any other authorized official, by a court of competent jurisdiction, or by operation of law.

(3) DISCONTINUANCE OR MODIFICATION OF PROCEEDINGS NOT PROHIBITED.—Nothing in this subsection prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(4) REGULATIONS FOR TRANSFER OF PROCEEDINGS.—The Director of the Office of Management and Budget may prescribe regulations providing for the orderly transfer of proceedings continued under paragraph (1).

**TITLE X—EFFECTIVE DATES****SEC. 1001. EFFECTIVE DATES.**

(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect one year after the date of the enactment of this Act.

(b) TITLE VI.—Title VI shall take effect on the date of the enactment of this Act.

**SYNOPSIS OF THE INFORMATION TECHNOLOGY MANAGEMENT REFORM ACT**

The Act reflects the growing importance that information resources management plays in contributing to efficient government operations and provides more appropriate procedures for the procurement of information technology given today's realities. The Act places focus on the management of information technology as well as the processes supported by that technology, rather than simply on the procedures and process used to acquire information technology. Key features of this bill include the establishment of a national Chief Information Officer (CIO) within the Office of Management and Budget, creation of CIOs within each executive agency; simplification of the acquisition process; and emphasis on improving mission-related and administrative processes before acquiring information technology or automation. There are 10 titles to the bill which are summarized below.

Title I (Responsibility for Acquisition of Information Technology) contains Subtitle A (General Authority) repeals the Brooks Act and provides the heads of executive

agencies with direct authority to procure information technology. This authority is subject to the direction and control of the Director of the Office of Management and Budget (OMB).

Subtitle B (Director of the Office of Management and Budget) assigns responsibility for the efficient use and acquisition of information resources by the executive agencies to the Director of OMB. The Director is to act through the CIO defined in Subtitle C of this title.

The Director is responsible for maximizing the productivity, efficiency, effectiveness of information resources in the government, and for establishing policies and guidelines related to improving the performance of information resources functions and activities; investing in and acquiring information resources; and reviewing and revising (reengineering) mission-related and administrative processes. Concise, simple regulations to implement the above requirements and other provisions of the Act should be made part of the Federal Acquisition Regulations. The Director is responsible for reviewing overall agency information resources management performance and for establishing information technology standards for the government with the exception of those information system security requirements required by the Department of Defense and Central Intelligence Agency which shall be developed by the Department of Defense and Central Intelligence Agency.

The Director of OMB has the authority and responsibility and is required to terminate any high risk information technology program or program phase or increment that exceeds its established goals for cost or schedule by 50 percent or does not achieve at least 50 percent of its performance goals; and requires the Director to consider terminating any high risk information technology program or program phase or increment that exceeds its established goals for cost or schedule by 10 percent or does not achieve at least 90 percent of its performance goals.

Subtitle C (Chief Information Office of the United States) establishes the Office of the CIO within OMB. The CIO is appointed by the President, at Executive Level II, with Senate confirmation. The CIO is the principal advisor to the Director of OMB on matters of information resources management, and is delegated the responsibilities of the Director under this Act. The CIO is responsible for, among other things, developing and maintaining a governmentwide strategic information resources management plan; developing proposed legislative or regulatory changes needed to improve government information resources management; reviewing agency information resources management regulations and practices; and coordinating with the Administrator of the Office of Federal Procurement Policy on federal information technology procurement policies. The CIO is required to review all high risk information technology programs before an agency may carry out or proceed with that program.

Subtitle D (Executive Agencies) assigns responsibility and accountability for carrying out agency information resources management activities and for complying with the requirements of this Act and related policies established by the national CIO to the head of each executive agency. Agencies are allowed to procure information technology costing under \$100 million without OMB approval, while the national CIO must approve all information technology acquisitions over \$100 million. Each agency is required to establish an agency CIO. The agency CIO is responsible for ensuring that agency mission-related and administrative processes are reviewed and improvement opportunities iden-

tified, and appropriate changes made to those processes before investing in supporting information technology.

The head of the agency is required to terminate any information technology program or program phase or increment that exceeds its established goals for cost or schedule by 50 percent or does not achieve at least 50 percent of its performance goals; and consider terminating any program or program phase or increment that exceeds its established goals for cost or schedule by 10 percent or does not achieve at least 90 percent of its performance goals. The agency CIO is required to monitor program cost, schedule and performance goal modifications, and consider the number and impact of such changes when deciding whether to continue or terminate the program.

The Department of Defense and Central Intelligence Agency are each delegated total responsibility for this Act, including that for high risk information technology programs. The delegation may be revoked, in whole or part, by the Director of OMB. Both agencies are required to provide the Director of OMB with an annual report on the status of their implementation of this Act.

Subtitle E (Federal Information Council) establishes a council composed of agency CIOs and others designated by the Director of OMB who shall serve as chairperson. The Council will establish strategic direction for the federal information infrastructure, offer information resources management advice and recommendations to the Director, and establish a committee of senior managers to review high risk information technology programs. A Software Review Council is established under the Federal Information Council to develop guidelines related to software engineering, integration of software systems, and use of commercial-off-the-shelf software.

Subtitle F (Interagency Functional Groups) authorizes agencies to jointly create governmentwide or multi-agency groups which will focus on functions, processes, or activities which are common to more than one agency and facilitate common information technology solutions for common problems and processes. Recommendations of the functional groups are provided to the Director of OMB or Federal Information Council as appropriate.

Subtitle G (Congressional Oversight) creates the Joint Committee on Information; composed of eight members, four appointed by the chair of both the Senate Committee on Governmental Affairs and the House of Representatives Committee on Government Reform and Oversight. Members serve for one Congress but may be reappointed. The Committee is responsible for reviewing the acquisition and management of information resources issues. This Act transfers functions and records of the Joint Committee on Printing and the Joint Committee of Congress on the Library to the Joint Committee on Information and terminates those Joint Committees.

Subtitle H (Other Responsibilities) transfers responsibilities related to development of information standards identified in the Computer Security Act of 1987 and the National Institute for Standards and Technology Act to the Director of OMB, and transfers responsibility for the Information Systems Security and Privacy Advisory board to the national CIO.

Title II (Process for Acquisitions of Information Technology) contains two subtitles. Subtitle A (Procedures) requires the Director of OMB to develop clear, concise information technology acquisition procedures and guidelines. The acquisition procedures and guidelines will be based on the following cost thresholds: under \$5 million, \$5-\$25 million, \$25-\$100 million, and \$100 million and above.

The procedures should reflect the increasing program risk associated with higher dollar acquisitions, the type of information technology procured (e.g., commodity, services), and other information technology issues. The procedures must include guidance for developing performance measures for information technology programs and using commercial items where appropriate.

Executive agencies are required to implement agency-wide acquisition procedures and guidelines which are based on and consistent with the above OMB-developed procedures, and establish a mechanism to periodically review agency information technology acquisitions. Agency acquisition procedures must include methods for determining program risks and benefits, guidelines for incremental acquisition and implementation of information technology, and establish an 18 month deadline for delivery of information technology program increments. Procurements of commercial off the shelf (COTS) information technology will be exempt from all procurement laws (identified by the national CIO in consultation with the Federal Information Council) except those which require full and open competition. Agencies will be allowed to limit to three the number of offerors who can submit best and final offers; use a two-phase solicitation process; and reward or penalize vendors based on contract performance measures.

Subtitle B (Acquisition Management) requires the head of an executive agency to establish minimum qualifications for information technology acquisition personnel and to provide for continuous training of those personnel. The head of each executive agency is required to determine whether agency personnel are available or whether an executive agent should be used to carry out an information technology acquisition. The subtitle expresses the sense of Congress that management oversight should focus on the mission-related and administrative processes supported by information technology and the results or effects of information technology acquisitions on those processes, rather than focus on the acquisition process and its procedures.

Title III (Special Fiscal Support for Information Innovation) contains four subtitles which address funding issues associated with this Act. Subtitle A (Information Technology Fund) establishes an information technology fund with two separate accounts in the Treasury, the Innovation Loan Account and the Common Use Account.

Subtitle B (Innovation Loan Account) directs that funds contained in the Innovation Loan Account be available for providing loans to agencies which have identified an innovative information technology solution to an agency problem. Loans are to be repaid by the agency by reimbursing the Account with 50 percent of the annual savings achieved by the information technology program funded by the such loans. This account will initially be funded by transferring five percent of each agency's information technology budget to the account for each of five fiscal years beginning in FY96.

Funds to support multi-agency and governmentwide information infrastructure services or acquisition programs will be funded by the second information technology fund account as defined in Subtitle C (Common Use Account). In selecting programs to be funded using the Common Use Account, the Director of OMB will consider criteria such as whether the program provides an innovative solution for reorganizing processes; supports interoperability among two or more agencies; or improves service to the public. Funding from this account is limited to two fiscal years. The Common Use Account will

be funded initially by the transfer of unobligated funds held in the existing GSA Information Technology Fund and in the future by fees assessed users of the common information technology service or program.

Subtitle D (Other Fiscal Policies) requires the head of each executive agency to certify that mission-related and/or administrative process(es) have been reviewed and revised (reengineered) before funds may be expended to acquire an information technology program that supports those process(es). The subtitle states that improvements in information resources management should enable agencies to decrease information technology operation and maintenance costs by five percent and increase efficiency of agency operations by five percent. The Comptroller General, agency Inspector General or other audit agency is required to conduct an independent review of the executive agency's information resources plans, acquisitions, and management for five fiscal years beginning in FY96 to determine whether the agency's information technology operating and maintenance costs have decreased by at least five percent annually and whether agency operational efficiency, as measured by performance goals, has increased at least five percent.

Title IV (Information Technology Acquisition Pilot Programs) contains two subtitles related to pilot programs authorized under this Act. Subtitle A (Conduct of Pilot Programs) authorizes the National CIO to conduct, with advice of the federal Information Council, five pilot programs designed to evaluate alternative approaches for acquiring and implementing information technology programs. The CIO is limited to a total of \$1.5 billion for the conduct of the pilot programs. Agencies selected to carry out a pilot program acquisition are required to develop criteria which can be used to measure the success of the effort, and the national CIO must submit to Congress a test plan that identifies how the pilot effort will be measured against its objectives. The national CIO to provide the results of pilot programs conducted under this Act to the Director, OMB and Congress within six (6) months of their completion, and recommendations regarding information technology legislation to Congress.

Subtitle B (Specific Pilot Programs) identifies the five specific pilot programs authorized under this Act. The first, the Share-in-Savings Pilot Program, is designed for information technology acquisitions in which the government seeks a creative or innovative solution from industry. Up to five contracts are authorized under the pilot. The savings achieved by the vendor's innovative solution will be shared between the vendor and government.

The second pilot, the Solutions-Based Contracting Pilot Program, is designed for programs in which the information technology need or problem is similar to one found in the private sector, and is based on industry providing proven business solutions to government problems. Contractors will be selected based primarily on the contractor's qualifications and past performance. A maximum of 10 programs valued between \$25 million and \$100 million and 10 programs valued between \$1 million and \$5 million for small business are authorized under this pilot program, and will be carried out by up to two civilian agencies and one defense agency.

Third, the Pilot Program for Contracting for Performance of Acquisition Functions, will allow up to five agencies to contract with the private sector to conduct procurement and management functions related to an information technology acquisition. An agency selected for this pilot program will award a contract to a vendor who will be responsible for performing all the work associ-

ated with procuring and managing an information technology acquisition.

The final two pilot programs, the Major Acquisitions Pilot Program, are authorized for acquisitions of information technology over \$100 million. The pilots will be carried out by a selected civilian agency and by a defense agency, and will be limited to a 3 year test period and \$300 million total funding limit. The two pilots initiated under this pilot program are intended to, among other things, identify ways to incrementally build information systems, allow systems to keep pace with technology advancements.

Title V (Other Information Resources Management Reforms) contains seven sections related to various information technology initiatives. This title transfers responsibility for the Federal Acquisition System Network (FACNET) to the national CIO, and authorizes the nation CIO to establish up to three competing programs for the development and testing of system designs which will be part of FACNET and which support the electronic purchase of commercial information technology items. Based on the results of the design and test, the CIO is to report recommendations regarding implementation of an electronic marketplace for purchasing commercial information technology to Congress.

The title authorizes the head of a field office, under authority and direction of the head of the executive agency for that field office, to sue micro-purchase procedures to procure up to \$20,000 per year for computer hardware upgrades in increments of \$2,500, in addition to the \$20,000 limit provided under the Federal Acquisition Streamlining Act of 1994.

The title authorizes the head of an executive agency to give excess or surplus information technology equipment to public elementary and secondary schools, public libraries, or public universities or colleges, and requires agencies to maintain an inventory of its equipment to support this process.

The Comptroller General of the U.S. is required to analyze the costs and benefits of buying versus leasing new or used information technology and develop guidelines for agencies based on that analysis. The title authorizes contractors who provide the design or engineering support for an information system design, to also compete for or be part of a contractor team which bids on and/or wins the contract for implementing the information system. Finally, the title contains provisions for pay and performance incentives for personnel involved in information technology acquisitions.

Title VI (Actions Regarding Current Information Technology Programs) contains three subsections related to ongoing or existing information technology programs. The title requires the head of an executive agency to establish performance measures for all ongoing agency information technology programs and requires that such measures be used to support decisions regarding program continuation or termination. The head of an executive agency is also required to obtain an independent assessment of each current agency information technology program over \$100 million to identify opportunities for improving or reengineering the process supported by the information technology program; and determine whether the program is meeting current agency needs and strategic plans.

Title VII (Procurement Protests) amends current law to allow the Comptroller General, in the case of information technology acquisition protests, to recommend that an agency's procurement authority be suspended for that acquisition. This title also requires the Comptroller General to issue a decision relating to an information tech-

nology protest within 45 days and bars further protest to the Comptroller General under this subchapter once a decision is made.

Title VII (Conforming and Clerical Amendments) contains three subtitles. Subtitle A (Related Terminations) eliminates the Office of the Information and Regulatory Affairs (OIRA) within OMB, and eliminates the position of Senior Information Resources Management Official in agencies which are required to have a CIO under this Act. Subtitle B (Conforming Amendments) identifies conforming amendments that modify Titles 10, 28, 31, 38, 44, 49 of the United States Code; the Computer Security Act of 1987; the National Security Act of 1947; National Energy Conservation Policy Act; and Public Law 101-520 for consistency with the provisions of this Act. Subtitle C (Clerical Amendments) provides clerical changes to Title 10, Title 38 and Title 44 of United States Code which provide consistency with this Act.

Title IX (Savings Provisions) allows selected information technology actions and acquisition proceedings, including claims or applications, which have been initiated by or are pending before the Administrator of the General Services Administration or the General Services Administration Board of Contract Appeals to be continued under their original terms until terminated, revoked, or superseded in accordance with law by the Director of OMB, the national CIO, by a court, or operation of law. The Director of OMB is authorized to establish regulations for transferring such actions and proceedings.

Title X (Enactment) makes this Act and amendments made by this Act, with the exception of Title VI, effective one (1) year after enactment. Title VI will take effect on the date of the enactment of this Act.

Mr. LEVIN. Mr. President, I am pleased to join my colleague, Senator COHEN, in cosponsoring the Information Technology Management Reform Act of 1995. This bill is the product of months of work by Senator COHEN and his staff, who have engaged in an extensive review of problems with Government purchases of information technology systems and endeavored to come up with a comprehensive legislative solution to those problems.

The bill that they have put together would dramatically revise federal procurement procedures for information technology products and services by repealing the Brooks Act of 1965, eliminating the requirement for a "delegation of procurement authority" by the General Services Administration, and ending the unique role of the General Services Board of Contract Appeals in information technology bid protests.

In the place of these laws, the Cohen bill would establish a new Chief Information Officer, or CIO in the Office of Management and Budget and in each of the 23 major Federal agencies and give them responsibility for information management and the acquisition of information technology. It would create a Federal Information Council to coordinate governmentwide and multi-agency information technology acquisitions and a Software Review Council to act as a clearinghouse for commercial and off-the-shelf software programs that could meet agency needs.

The bill would require governmentwide guidelines to assist agencies in assessing their information technology

needs, mandate up-front acquisition planning and risk management, establish goals for information technology costs and efficiency improvements, and provide performance incentives for vendors and agency personnel who perform well. It would favor incremental purchases of information technology over a period of years, streamline contracting requirements, establish a series of pilot programs to test innovative procedures, and consolidate administrative bid protests in the General Accounting Office.

Mr. President, much has changed in the 30 years since Congress adopted the Brooks Act. In 1965, we were buying main frame computers, which were centrally located, managed, and acquired by a small core of Government computer experts. Today, by contrast, every Government agency is trying to take advantage of a rapidly evolving commercial marketplace for personal computers, packaged software, and other information technology products and services. Our rigid and centralized Government computer acquisition systems are having increasing difficulty keeping up.

So it is very much time for us to re-examine those acquisition systems from the ground up. It is appropriate for us to ask why bid protest procedures and standards that have met our needs for products ranging from toasters to fighter aircraft cannot also meet our needs in the area of computer procurement. It is appropriate for us to ask whether we still need the centralized approach of the Brooks Act, under which the General Services Administration is responsible for approving computer purchases by other Federal agencies.

Just as important, I think it is time for us to take another look at the increasingly complex and unwieldy Government specifications used in computer procurements today. Does it really make sense that in an era of rapidly evolving commercial technology, the Government is still trying to design its own computer systems? Isn't there some way that we can better harness the know-how of the private sector to do this for us? The bill we are introducing today takes some steps in this direction; I hope that as we consider this issue in hearings and markup, we will be able to do even more.

So I congratulate Senator COHEN and his staff for the leadership they have shown in putting these issues on the table. I congratulate them for the bold and comprehensive approach that they have taken to the problems of acquiring information technology.

At the same time, Mr. President, there are some provisions in this bill which I do not support in their current form. For example, several provisions call for the automatic termination of contracts and solicitations, and even automatic pay adjustments for Federal employees, based on artificial formulas which are intended to reflect the performance of agency employees and con-

tractors. I believe that every acquisition program presents its own unique challenges, which cannot be evaluated with a single mechanistic formula. For this reason, I do not think that business judgments about contract terminations and pay adjustments can or should be made on the basis of such formulas.

Similarly, I am concerned by provisions of the bill that would overturn the prohibition on organizational conflicts of interest in acquisitions of information technology. I agree that we need to consider new types of competition, including design-build contracts and two-step procurements, in purchases of information technology. That does not mean, however, that we should abandon all concern about providing a level playing field for all participants in such purchases.

I am also reserving judgment on the new organizational structures established by the bill, including the chief information officers in OMB and each of the 23 major Federal agencies, and the two new councils. We recently passed the reauthorization of the Paperwork Reduction Act, which places responsibility for information management in the Office of Information and Regulatory Affairs. This bill would take those functions out of that office and establish a new position and a new office. I want to carefully review the consequences of such a proposal to determine whether this possible enlargement of the bureaucracy brings sufficient benefits to justify the cost.

Finally, I do not look with favor on the establishment of a new Joint Committee on Information. At a time when we are trying to down-size our own committee system, with particular attention being paid to the role of joint committees, I am very leery of creating a whole new congressional entity just to oversee information management. I believe it is fair for us to ask whether we need to establish new oversight structures, or whether we could instead trust Federal agencies to make their own information technology purchases pursuant existing congressional and agency oversight mechanisms and the streamlined policies and procedures established in the bill.

I hope that we will continue to work on these and other aspects of the bill in hearings and at markup. Overall, however, the Cohen bill is an impressive effort to address some very real problems with the way we purchase and manage information technology in the Federal Government today. I may not agree with everything in the bill, but I do believe that it points us in the right direction. I am pleased to be an original cosponsor of the bill, and I look forward to working with Senator COHEN as we move forward to modernize our information technology acquisition laws.

By Mr. PRESSLER (for himself and Mr. DASCHLE):

S. 947. A bill to amend title VIII of the Elementary and Secondary Edu-

cation Act of 1965 regarding impact aid payments, and for other purposes; to the Committee on Labor and Human Resources.

IMPACT AID PROGRAM TECHNICAL AMENDMENTS ACT

Mr. PRESSLER. Mr. President, today I am introducing a bill to make technical improvements in the Impact Aid Program. Last year, I was pleased to be the lead sponsor of the initial Impact Aid reauthorization. That bill was incorporated into the Improving America's Schools Act, now Public Law 103-382.

As my colleagues know, the Impact Aid Program is an ongoing Federal responsibility. More than 2,600 school districts enrolling more than 20 million children depend on the program. In South Dakota for example, Impact Aid is the lifeblood of more than 55 school districts. Without it, these districts could not recoup the lost tax base caused by a Federal presence.

As with any legislation of this scope, corrections often need to be made. The bill I am introducing today fine-tunes last year's reauthorization in several ways. The bill first makes technical changes in section 8002, which reimburses districts for Federal land. During the reauthorization, language was omitted which permitted districts which had been formerly consolidated to retain their eligibility. It was not the intent of the authorizing committees to exclude these districts. The provision in my bill would restore eligibility to more than 80 school districts, allowing them to receive the revenue they had planned on.

Second, a hold harmless agreement for section 8002 school districts also would be put in place. The reauthorization made dramatic changes in the formula for section 8002. The hold harmless provision would prevent a district's payment from being decreased below 85 percent of its payment for the previous year. This agreement would protect section 8002 school districts and expedite payments while the Department of Education works out the new calculations. This brings section 8002 into line with the other sections of the law, which also contain hold harmless provisions.

Third, the bill would make several clarifications in section 8003, the section which authorizes funding for heavily impacted districts. One of these provisions clarifies the legal use of supplemental funds received by section 8003 districts from the Department of Defense. These school districts should not have these supplemental payments counted against their regular section 8003 payments. The Department of Defense payments were intended as additional payments for capital outlay expenses, not as funds for day-to-day operations.

Fourth, the bill amends the law regarding "civilian b" students. "B" students are those whose parents either live or work on Federal property. In

the past, school districts could be eligible for "b" funds if either 15 percent or 2,000 students in impacted average daily attendance [ADA] are "b" students. The reauthorization changed this language so that only school districts with 15 percent impacted ADA and 2,000 impacted students may qualify. This change excluded many previously eligible schools from the program, especially in small States such as South Dakota. This change tilts the program in favor of large urban areas at the expense of small rural areas. Many, if not most, school districts in South Dakota do not have 2,000 students in ADA, much less 2,000 impacted students.

Finally, the bill would allow two districts in South Dakota, Bonesteel-Fairfax and Wagner, to claim eligibility for section 8003 for the current year. These two schools meet all the criteria for section 8003 funds, but could not qualify because of regulations that prevented them from amending their application after September 30. Allowing these two districts to claim eligibility would not alter section 8003 payments to other schools.

This bill represents no departures in policy from previous legislation. It would require no new funds. It simply would clear up several areas of uncertainty and enable the program to run more efficiently. This bill enjoys bipartisan support. The Impact Aid Program has been operating successfully for more than 40 years. These changes will help the program continue to run smoothly for years to come.

Mr. President, as we begin this year's appropriations process, the Impact Aid Program is in danger once again of being drastically cut. Again, I remind my colleagues that it is due to a Federal presence that nearby schools lose tax revenue and have to rely on the Impact Aid Program. It would be most unfair to federally impacted districts and the children they serve if the Federal government opted to deny them both a tax base and Federal support. Without this Federal support, local and county governments would be forced to either raise taxes or cut services to its citizens. A Federal presence should not force local governments to make that choice.

Impact Aid is a continuing responsibility that Congress cannot shirk. I look forward to working with my colleagues on both sides of the aisle to further enhance this program in the year ahead.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 947

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

#### SECTION 1. IMPACT AID.

(a) HOLD-HARMLESS AMOUNTS FOR PAYMENTS RELATING TO FEDERAL ACQUISITION OF

REAL PROPERTY.—Section 8002 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7702) is amended by adding at the end the following new subsections:

“(g) FORMER DISTRICTS.—

“(1) IN GENERAL.—Where the school district of any local educational agency described in paragraph (2) is formed at any time after 1938 by the consolidation of two or more former school districts, such agency may elect (at any time such agency files an application under section 8005) for any fiscal year to have (A) the eligibility of such local educational agency, and (B) the amount which such agency shall be eligible to receive, determined under this section only with respect to such of the former school districts comprising such consolidated school districts as such agency shall designate in such election.

“(2) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—A local educational agency referred to in paragraph (1) is any local educational agency that, for fiscal year 1994 or any preceding fiscal year, applied for and was determined eligible under section 2(c) of the Act of September 30, 1950 (Public Law 874, 81st Congress) as such section was in effect on September 30, 1994.

“(h) HOLD-HARMLESS AMOUNTS.—

“(1) IN GENERAL.—Except as provided in paragraph (2)(A), the total amount that the Secretary shall pay a local educational agency under subsection (b)—

“(A) for fiscal year 1995 shall not be less than 85 percent of the amount such agency received for fiscal year 1994 under section 2 of the Act of September 30, 1950 (Public Law 874, 81st Congress) as such section was in effect on September 30, 1994; or

“(B) for fiscal year 1996 shall not be less than 85 percent of the amount such agency received for fiscal year 1995 under subsection (b).

“(2) RATABLE REDUCTIONS.—(A)(i) If necessary in order to make payments to local educational agencies in accordance with paragraph (1) for any fiscal year, the Secretary first shall ratably reduce payments under subsection (b) for such year to local educational agencies that do not receive a payment under this subsection for such year.

“(ii) If additional funds become available for making payments under subsection (b) for such year, then payments that were reduced under clause (i) shall be increased on the same basis as such payments were reduced.

“(B)(i) If the sums made available under this title for any fiscal year are insufficient to pay the full amounts that all local educational agencies in all States are eligible to receive under paragraph (1) after the application of subparagraph (A) for such year, then the Secretary shall ratably reduce payments under paragraph (1) to all such agencies for such year.

“(ii) If additional funds become available for making payments under paragraph (1) for such fiscal year, then payments that were reduced under clause (i) shall be increased on the same basis as such payments were reduced.”

(b) COMPUTATION OF PAYMENT.—Paragraph (3) of section 8003(a) of such Act (20 U.S.C. 7703(a)) is amended by striking “and such” and inserting “, or such”.

(c) PAYMENTS FOR ELIGIBLE FEDERALLY CONNECTED CHILDREN.—Subsection (f) of section 8003 of such Act (20 U.S.C. 7703) is amended—

(1) in paragraph (2)—

(A) in the matter preceding clause (i) of subparagraph (A), by striking “only if such agency” and inserting “if such agency is eligible for a supplementary payment in accordance with subparagraph (B) or such agency”; and

(B) by adding at the end the following new subparagraph:

“(C) A local educational agency shall only be eligible to receive additional assistance under this subsection if the Secretary determines that—

“(i) such agency is exercising due diligence in availing itself of State and other financial assistance; and

“(ii) the eligibility of such agency under State law for State aid with respect to the free public education of children described in subsection (a)(1) and the amount of such aid are determined on a basis no less favorable to such agency than the basis used in determining the eligibility of local educational agencies for State aid, and the amount of such aid, with respect to the free public education of other children in the State.”; and

(2) in paragraph (3)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i), by inserting “(other than any amount received under paragraph (2)(B))” after “subsection”; and

(ii) in subclause (I) of clause (i), by striking “or the average per-pupil expenditure of all the States”; and

(iii) by amending clause (ii) to read as follows:

“(ii) The Secretary shall next multiply the amount determined under clause (i) by the total number of students in average daily attendance at the schools of the local educational agency.”; and

(iv) by amending clause (iii) to read as follows:

“(iii) The Secretary shall next subtract from the amount determined under clause (ii) all funds available to the local educational agency for current expenditures, but shall not so subtract funds provided—

“(I) under this Act; or

“(II) by any department or agency of the Federal Government (other than the Department) that are used for capital expenses.”; and

(B) by amending subparagraph (B) to read as follows:

“(B) SPECIAL RULE.—With respect to payments under this subsection for a fiscal year for a local educational agency described in clause (ii) or (iii) of paragraph (2)(A), the maximum amount of payments under this subsection shall be equal to—

“(i) the product of—

“(I) the average per-pupil expenditure in all States multiplied by 0.7, except that such amount may not exceed 125 percent of the average per-pupil expenditure in all local educational agencies in the State; multiplied by

“(II) the number of students described in subparagraph (A) or (B) of subsection (a)(1) for such agency; minus

“(ii) the amount of payments such agency receives under subsections (b) and (d) for such year.”

(d) CURRENT YEAR DATA.—Paragraph (4) of section 8003(f) of such Act (20 U.S.C. 7703(f)) is amended to read as follows:

“(4) CURRENT YEAR DATA.—For purposes of providing assistance under this subsection the Secretary—

“(A) shall use student and revenue data from the fiscal year for which the local educational agency is applying for assistance under this subsection; and

“(B) shall derive the per-pupil expenditure amount for such year for the local educational agency's comparable school districts by increasing or decreasing the per pupil expenditure data for the second fiscal year preceding the fiscal year for which the determination is made by the same percentage increase or decrease reflected between the per pupil expenditure data for the fourth fiscal year preceding the fiscal year for which the determination is made and the per

pupil expenditure data for such second year."

(e) SPECIAL RULE FOR 1994 PAYMENTS.—The Secretary shall not consider any payment to a local educational agency by the Department of Defense, that is available to such agency for current expenditures and used for capital expenses, as funds available to such agency for purposes of making a determination for fiscal year 1994 under section 3(d)(2)(B)(i) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on September 30, 1994).

(f) APPLICATIONS FOR INCREASED PAYMENTS.—

(1) PAYMENTS.—(A) Notwithstanding any other provision of law—

(A) the Bonesteel-Fairfax School District #26-5, South Dakota, and the Wagner Community School District #11-4, South Dakota, shall be eligible to apply for payment for fiscal year 1994 under section 3(d)(2)(B) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on September 30, 1994); and

(B) the Secretary of Education shall use a subgroup of 10 or more generally comparable local educational agencies for the purpose of calculating a payment described in subparagraph (A), and the local contribution rate applicable to such payment, for a local educational agency described in such subparagraph.

(2) APPLICATION.—In order to be eligible to receive a payment described in subsection (a), a school district described in such subsection shall apply for such payment within 30 days after the date of enactment of this Act.

(3) CONSTRUCTION.—Nothing in this section shall be construed to require a local educational agency that received a payment under section 3(d)(2)(B) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on September 30, 1994) for fiscal year 1994 to return such payment or a portion of such payment to the Federal Government.

Mr. DASCHLE. Mr. President, today, along with Senator PRESSLER and Congressman JOHNSON, I am introducing legislation making technical amendments to the Impact Act law to clarify the eligibility requirements for aid to federally impacted school districts. Federal Impact Aid is essential to the education and development of thousands of children across the United States.

Some of the provisions of Public Law 103-382, last year's reauthorization of the Elementary and Secondary Education Act, were not clearly known or fully understood until the implementation of the law was underway. Now that implementation is underway, one area of the law that demands clarification is that governing payments to section 8002 schools (formerly section 2).

Section 8002 provides a payment in lieu of taxes to those school districts which have lost at least 10 percent of the assessed value of their taxable land due to Federal acquisition. It provides partial compensation for the presence of Federal property within a school district's borders. Prior to Public Law 103-382, Congress included specific statutory protection to school districts that consolidated with districts that included Federal property. However, this provision was not included in Public Law 103-382; therefore, formerly eli-

gible districts are not deemed ineligible.

The new law jeopardizes the eligibility of consolidated school districts that are eligible based on former district status. Previously, section 2 authorized reimbursements to a school district in which the Federal Government had acquired, since 1938, at least 10 percent of the taxable assessed value of the district. In many cases, especially in South Dakota, schools have found it necessary to consolidate, and the old law provided a safeguard for those schools. This safeguard provision in section 2 enabled districts to be eligible for funds if one or more of the consolidating districts was a former district with a 10 percent Federal impact. However, under Public Law 103-382, to be eligible for section 8002 payments, the current district itself must be affected by 10 percent or more, not counting any former school districts.

The elimination of the safeguard language will have a devastating effect on section 8002 schools in South Dakota. Under the new law, 18 of the 21 school districts in South Dakota that currently receive section 2 funds would be ineligible. Although the dollar amounts received may seem small, the funds are critical to enable these districts to provide basic educational needs.

The legislation we are introducing today would reinstate the former safeguard for section 8002 schools. It is important to note that our bill would not allow newly consolidated school districts to claim eligibility.

This bill also brings the hold harmless provisions for section 8002 districts, at 85 percent, in line with those governing other sections of the law; makes a technical correction regarding "civilian b" students; clarifies that supplemental payments from other Federal agencies used for capital outlays should not be counted against the district's overall supplemental payments; authorizes the adjustment of prior year financial data to accommodate current year need; and allows certain districts to apply for section 8003 funds if excess funds are remaining.

I hope these technical amendments can be adopted expeditiously.

By Mr. DORGAN (for himself, Mr. HELMS, Mr. INOUE, Mr. LEAHY, Mr. MURKOWSKI, and Mr. ROBB);

S. 948. A bill to encourage organ donation through the inclusion of an organ donation card with individual income refund payments, and for other purposes; to the Committee on Finance.

#### ORGAN DONATION INSERT CARD ACT

Mr. DORGAN. Mr. President, I rise today to reintroduce legislation that proposes an inexpensive public education campaign to encourage organ donation. Senators INOUE, LEAHY, ROBB, MURKOWSKI, and HELMS join me in this effort. And my good friend in the House of Representatives, DICK DURBIN, is introducing the same bill in that body today.

The Organ Donation Insert Card Act would direct the Treasury Department to enclose organ donation information when it mails next year's Federal Income Tax refunds.

#### THE SHORTAGE OF ORGAN DONORS

The most common tragedy of organ donation is not the patient who receives a transplant and dies, but the patient who has to wait too long and dies before a suitable organ can be found. Three thousand people will die this year because their bodies simply cannot wait any longer for the needed transplant.

In the meantime, the number of people added to the waiting list continues to increase dramatically. More than 40,000 people are currently on the waiting list—double the number on the list 5 years ago. Just in the last year, 9,000 people have been added to the waiting list, and a new name is added every 18 minutes.

Organ transplants can only happen if a grieving family authorizes the donation of their loved one's organs. Even a signed organ donor card does not ensure a donation because the next-of-kin must also agree to the donation.

I certainly understand that it is difficult for families to cope with the unexpected death of a loved one. Often, potentially life-saving transplants never occur because family members hesitate to permit organ donation at this emotionally demanding time. However, if family members can remember that a loved one talked to them about this matter, they are more likely to authorize the donation.

That's why it's so important for willing donors to discuss their wishes with their families before a tragedy can occur. Many family members will never have to act on these wishes. But if this difficult decision does arise, something good can come from this misfortune.

#### THE ORGAN DONATION INSERT CARD PROPOSAL

My legislation provides a simple, inexpensive way for the Federal Government to help educate potential donors and their families about organ donation.

My legislation would direct the Secretary of the Treasury to enclose with each income tax refund mailed next year information that encourages organ donation. The information would include a detachable organ-donor card. It would also include a message urging recipients to sign the card, tell their family they are willing to be an organ donor, and encourage their family to permit organ donation should the decision prove necessary.

The Treasury Department has said that enclosing this information with every tax refund would reach about 70 million households at a cost of only \$210,000. The population that would receive these insert cards is very appropriate for the organ donation appeal.

The medical and transplant recipient communities strongly support this proposal. In fact, last year, more than 20

of these organizations endorsed this legislation.

By increasing public awareness and encouraging family discussion about organ donation, this legislation would increase the number of donors and reduce the number of people who die while waiting for transplants. I urge my colleagues to cosponsor and support this important measure.

Mr. President, I ask unanimous consent that the text of the bill and a summary of its provisions be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 948

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Organ Donation Insert Card Act".

**SEC. 2. ORGAN DONATION INFORMATION INCLUDED WITH INCOME TAX REFUND PAYMENTS.**

(a) IN GENERAL.—The Secretary of the Treasury shall include with any payment of a refund of individual income tax made during the period beginning on February 1, 1996, and ending on June 30, 1996, a copy of the document described in subsection (b).

(b) TEXT OF DOCUMENT.—The Secretary of the Treasury shall, after consultation with the Secretary of Health and Human Services and organizations promoting organ donation, prepare a document suitable for inclusion with individual income tax refund payments which—

- (1) encourages organ donation;
- (2) includes a detachable organ donor card; and
- (3) urges recipients to—
  - (A) sign the organ donor card;
  - (B) discuss organ donation with family members and tell family members about the recipient's desire to be an organ donor if the occasion arises; and
  - (C) encourage family members to request or authorize organ donation if the occasion arises.

THE ORGAN DONATION INSERT CARD ACT  
WHAT THE LEGISLATION DOES

This legislation directs the Secretary of the Treasury to enclose with each income tax refund check mailed between February 1 and June 30 of next year a card that encourages organ donation.

The insert would include a detachable organ-donor card. It also would include a message urging individuals to sign the card, tell their families about their willingness to be an organ donor, and encourage their family members to request or authorize organ donation if the occasion arises.

The text of the card would be developed by the Secretary of the Treasury, in consultation with the Secretary of Health and Human Services and organizations promoting organ donation.

WHY THE LEGISLATION IS NEEDED

The most common tragedy of organ transplantation is not the patient who receives a transplant and dies, but the patient who has to wait too long and dies before a suitable organ can be found. More than 3,000 people on the waiting list will die this year before receiving a transplant.

The demand for organs greatly exceeds the supply. More than 40,000 people now are waiting for an organ transplant, including over 1,400 children and more than 25,000 people

who must have kidney dialysis while they wait for a kidney to become available. Meanwhile, another person is added to the list every 18 minutes.

We lose many opportunities for organ donation because people hesitate to authorize organ donation for themselves or their family members. Even a signed donor card does not ensure a donation because the next-of-kin must authorize the donation.

By encouraging organ donation and disseminating information about the importance of family discussion, this legislation could expand the pool of potential donors, increase the likelihood that families will authorize donation upon the death of a loved one, and reduce the number of people who die while waiting for organ transplants.

IMPLEMENTATION

Every year, the Treasury Department already puts an insert card in refund check mailings. According to the Treasury Department, the cost of the insert cards is \$210,000. In recent years, the insert cards have offered special coins for sale. Switching from an appeal about coins to an appeal about organ donation for one year could save many lives for many years to come.

About 70 million households would receive the organ donor information and card. The population that would receive these cards is very appropriate for the organ donation appeal. For most transplants, the optimum age range for organ donors is 15 to 65. Individuals who receive refunds tend to be adults below retirement age. They tend to be of prime age for organ donation and often are the next-of-kin of others who could be prime candidates for organ donation.

More than 20 organizations in the medical and transplant recipient communities endorsed this proposal last year.

By Mr. GRAHAM (for himself, Mr. ROBB, Mr. WARNER, Mr. HEFLIN, Mrs. KASSEBAUM, Mr. INOUE, and Mr. SHELBY):

S. 949. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the death of George Washington; to the Committee on Banking, Housing, and Urban Affairs.

GEORGE WASHINGTON COMMEMORATIVE COIN ACT

Mr. GRAHAM. Mr. President, It is my distinct honor to introduce, with my colleagues, Senators ROBB, WARNER, KASSEBAUM, HEFLIN, INOUE, and SHELBY, the George Washington Commemorative Coin Act of 1995.

On December 14, 1799, the United States lost its most honored patriot, a living embodiment of the ideals of the American Revolution. Unlike his contemporaries, many Americans today do not understand President Washington's importance, and while his reputation as America's greatest hero has remained for the most part intact, it seems that each generation knows less about George Washington than the previous one.

The George Washington Commemorative Coin Act of 1995 will focus public attention on the significance of our first President and the legacy he left behind. This legislation would authorize the Secretary of the Treasury to mint 100,000 gold coins in 1999, commemorating the 200th anniversary of Washington's death. The sale of these

coins will cover costs that the Federal Government will incur in the minting of the coin and will provide a \$35 surcharge which will be transferred to Mount Vernon.

The George Washington Commemorative Coin Act was recommended by the Citizens Commemorative Advisory Committee in its initial report to Congress last November, and was drafted with the assistance of the U.S. Mint.

Mount Vernon has the distinction of being the beloved home of our first President as well as our Nation's oldest and foremost historic preservation project. The proceeds from the sale of the coin will be added to Mount Vernon's endowment for the preservation of George Washington's home and the continuation of Mount Vernon's efforts to educate the American public about his life and accomplishments.

Mr. President, I urge my colleagues to join me in supporting the George Washington Commemorative Coin Act of 1995, thus ensuring that future generations have a full understanding of the importance of our Nation's first President.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 949

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "George Washington Commemorative Coin Act".

**SEC. 2. COIN SPECIFICATIONS.**

(a) FIVE DOLLAR COINS.—The Secretary of the Treasury (in this Act referred to as the "Secretary") shall mint and issue not more than 100,000 \$5 coins, each of which shall—

- (1) weigh 8.359 grams;
- (2) have a diameter of 0.850 inches; and
- (3) contain 90 percent gold and 10 percent alloy.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

**SEC. 3. SOURCES OF BULLION.**

The Secretary shall obtain gold for minting coins under this Act pursuant to the authority of the Secretary under other provisions of law.

**SEC. 4. DESIGN OF COINS.**

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this act shall be emblematic of George Washington, the first President of the United States.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

- (A) a designation of the value of the coin;
- (B) an inscription of the year "1999"; and
- (C) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) SELECTION.—The design for the coins minted under this Act shall be—

- (1) selected by the Secretary after consultation with the Mount Vernon Ladies' Association and the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

#### SEC. 5. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular combination of denomination and quality of the coins minted under this Act.

(c) COMMENCEMENT OF ISSUANCE.—The Secretary may issue coins minted under this Act beginning May 1, 1999.

(d) TERMINATION OF MINTING AUTHORITY.—No coins may be minted under this Act after November 1, 1999.

#### SEC. 6. SALE OF COINS.

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in subsection (d) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

(d) SURCHARGES.—All sales of coins minted under this Act shall include a surcharge of \$35 per coin.

#### SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

#### SEC. 8. DISTRIBUTION OF SURCHARGES.

(a) IN GENERAL.—All surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Mount Vernon Ladies' Association to be used—

(1) to supplement the endowment of the Mount Vernon Ladies' Association, which shall be a permanent source of support for the preservation of George Washington's home; and

(2) for the continuation and expansion of the efforts of the Mount Vernon Ladies' Association to educate the American public about the life of George Washington.

(b) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the Mount Vernon Ladies' Association as may be related to the expenditures of amounts paid under subsection (a).

#### SEC. 9. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

Mr. WARNER. Mr. President, I rise today with my good friend, Senator BOB GRAHAM, to introduce legislation that will be a source of support for Mount Vernon, the home of George Washington, the first President of the United States of America. The land, including Mount Vernon estate, has been in the Washington family since it was first patented in 1674 to John Washington, first of the name in America, and great-grandfather of George Washington. The estate served as home and, ultimately, final resting place for our first President and his wife, the former Martha Dandridge Custis. Indeed, Mount Vernon and the tomb of George Washington are held in such veneration that every ship of the United States Navy, while passing this spot, lowers its flag to half mast, tolls its bell and calls its crew to attention. Mount Vernon was declared as neutral ground by both North and South during the Civil War.

Mount Vernon is maintained by the Mount Vernon Ladies' Association, a nonprofit organization which scrupulously restored the estate following George Washington's own plans of detail and furnishings. Encompassing 487 acres, the grounds are landscaped according to Washington's records and notations to his estate manager. Mount Vernon is visited by more than 500,000 people a year.

The legislation which I am introducing today would authorize the U.S. Mint to produce a commemorative coin to honor the 200th anniversary of the death of George Washington. After recovery of minting and production costs, the proceeds of the George Washington commemorative coin, conservatively estimated at \$5-\$10 million, will be used for the preservation of George Washington's home and the expansion and continuation of Mount Vernon's efforts to educate the American public about our first President's life and accomplishments. This campaign will assure the full preservation and continued operation of the home of the first President of the United States.

Mr. President, George Washington was the living embodiment of the ideals of the American Revolution. His death in 1799 brought about an outpouring of grief remarkable even by modern standards. Unlike his contemporaries, many Americans today do not understand Washington's importance in creating the beginnings of a Nation that would become the most powerful and free country in the world. This legislation is an important step toward bringing all Americans closer to this great man.

I thank the Chair.

Mr. ROBB. Mr. President, I rise today with my colleagues from Florida

and Virginia, Senators GRAHAM and WARNER, to introduce the George Washington Commemorative Coin Act.

This legislation requires the Secretary of the Treasury to issue a coin in the year 1999 commemorating the 200th anniversary of the death of George Washington. The surcharges raised from the selling of the coins will go to the Mount Vernon Ladies Association for the preservation of Mount Vernon and help the American people about the life and the legacy of our Nation's first President.

This is an important endeavor, Mr. President, because George Washington is one of our Nation's most prominent and beloved founding fathers. Before serving as President of a young Nation during its first 8 difficult years, Washington was a distinguished soldier and statesman. After commanding the Virginia forces during the French and Indian Wars at the age of 23, Washington went on to serve his State and Nation as a member of both the Virginia House of Burgesses and the First Continental Congress. As Commander of the Continental Army during the Revolutionary War, he led the defeat of the most powerful nation on earth, and in doing so, allowed for the establishment of a bold experiment we call America.

As Virginius Dabney once wrote:

George Washington epitomized what subsequent generations have come to recognize as a great, a good, a brave and a patriotic American. Without him there would have been no victory in war, no stability in peace. He came as close as anyone in our history to being the indispensable man.

In approving the George Washington Commemorative Coin Act, Mr. President, this Congress helps preserve the legacy of George Washington for future generations of the great nation he helped create and sustain.

I urge my colleagues to support this important legislation.

By Mrs. BOXER (for herself, Mr. KENNEDY, Mr. KERRY, Mr. SARBANES, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. AKAKA, Mr. INOUE, Mrs. MURRAY, Mrs. FEINSTEIN, Mr. HOLLINGS, Mr. ROBB, Mr. GRAHAM, and Mr. LAUTENBERG):

S. 950. A bill to amend the Outer Continental Shelf Lands Act to direct the Secretary of the Interior to cease mineral leasing activity on submerged land of the Outer Continental Shelf that is adjacent to a coastal State that has declared a moratorium on mineral exploration, development, or production activity in adjacent State waters, and for other purposes; to the Committee on Energy and Natural Resources.

COASTAL STATES PROTECTION ACT OF 1995

Mrs. BOXER. Mr. President, today the Republican Congress took the first step to destroy the California coastline and the coastlines of other States. We Democrats in Congress want to make sure it is their last.

Congressman GEORGE MILLER and I are introducing legislation that will offer Republicans a comfortable path away from coastal destruction.

I say comfortable because this bill is based on States' rights and local control—two concepts embraced by Republicans—at least in theory.

Simply put, the Boxer-Miller bill—the Coastal States Protection Act of 1995—says that when a State establishes a drilling moratorium on part or all of its coastal water, our legislation would extend that protection to Federal workers.

It does a State no good to protect its own waters which extend 3 miles from the coast only to have drilling from 4 miles to 200 miles of Federal waters jeopardizing the entire State's coastline including the State's protected waters.

An oilspill in Federal waters will rapidly foul State beaches, contaminate the nutrient rich ocean floor upon which a local fishery industry depends, and endangers habitat on State tidelands.

Our bill simply directs the Secretary of the Interior to cease leasing activities in Federal waters where the State has declared a moratorium on such activities thus coordinating Federal protection with State protection.

Our bill has a fundamental philosophy—do no harm to the magnificent coastlines of America and respect State and local State laws.

Those groups endorsing our bill include the Center for Marine Conservation, the Natural Resources Defense Council, American Oceans Campaign, and the Safe Oceans Campaign.

Original cosponsors of the Moynihan bill include Senators MURRAY, KENNEDY, KERRY, SARBANES, MIKULSKI, AKAKA, INOUE, BIDEN, FEINSTEIN, HOLLINGS, ROBB, GRAHAM, and LAUTENBERG.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 950

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Coastal States Protection Act".

#### SEC. 2. STATE MORATORIA ON OFFSHORE MINERAL LEASING.

Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by adding at the end the following:

"(p) STATE MORATORIA.—When there is in effect with respect to lands beneath navigable waters of a coastal State a moratorium on oil, gas, or other mineral exploration, development, or production activities established by statute or by order of the Governor, the Secretary shall not issue a lease for the exploration, development, or production of minerals on submerged lands of the outer Continental Shelf that are seaward of or adjacent to those lands."

#### ADDITIONAL COSPONSORS

S. 12

At the request of Mr. ROTH, the name of the Senator from North Carolina

[Mr. HELMS] was added as a cosponsor of S. 12, a bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes.

S. 254

At the request of Mr. LOTT, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 254, a bill to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II.

S. 304

At the request of Mr. SANTORUM, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 304, a bill to amend the Internal Revenue Code of 1986 to repeal the transportation fuels tax applicable to commercial aviation.

S. 401

At the request of Mr. LEAHY, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 401, a bill to amend the Internal Revenue Code of 1986 to clarify the excise tax treatment of hard apple cider.

S. 581

At the request of Mr. FAIRCLOTH, the names of the Senator from Indiana [Mr. COATS] and the Senator from New Hampshire [Mr. SMITH] were added as cosponsors of S. 581, a bill to amend the National Labor Relations Act and the Railway Labor Act to repeal those provisions of Federal law that require employees to pay union dues or fees as a condition of employment, and for other purposes.

S. 628

At the request of Mr. KYL, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 628, a bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 641

At the request of Mrs. KASSEBAUM, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 641, a bill to reauthorize the Ryan White CARE Act of 1990, and for other purposes.

S. 650

At the request of Mr. SHELBY, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 650, a bill to increase the amount of credit available to fuel local, regional, and national economic growth by reducing the regulatory burden imposed upon financial institutions, and for other purposes.

S. 815

At the request of Mr. HATCH, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 815, a bill to amend the Internal Revenue Code of 1986 to simplify the assessment and collection of the excise tax on arrows.

S. 847

At the request of Mr. GREGG, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 847, a bill to terminate the agricultural price support and production adjustment programs for sugar, and for other purposes.

#### SENATE JOINT RESOLUTION 34

At the request of Mr. SMITH, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Joint Resolution 34, a joint resolution prohibiting funds for diplomatic relations and most favored nation trading status with the Socialist Republic of Vietnam unless the President certifies to Congress that Vietnamese officials are being fully cooperative and forthcoming with efforts to account for the 2,205 Americans still missing and otherwise unaccounted for from the Vietnam War, as determined on the basis of all information available to the United States Government, and for other purposes.

#### SENATE RESOLUTION 97

At the request of Mr. HELMS, his name was added as a cosponsor of Senate Resolution 97, a resolution expressing the sense of the Senate with respect to peace and stability in the South China Sea.

#### SENATE RESOLUTION 103

At the request of Mr. DOMENICI, the names of the Senator from Vermont [Mr. JEFFORDS], the Senator from Idaho [Mr. CRAIG], the Senator from Wyoming [Mr. SIMPSON], and the Senator from California [Mrs. FEINSTEIN] were added as cosponsors of Senate Resolution 103, a resolution to proclaim the week of October 15 through October 21, 1995, as National Character Counts Week, and for other purposes.

#### SENATE RESOLUTION 117

At the request of Mr. ROTH, the names of the Senator from California [Mrs. FEINSTEIN] and the Senator from Illinois [Ms. MOSELEY-BRAUN] were added as cosponsors of Senate Resolution 117, a resolution expressing the sense of the Senate that the current Federal income tax deduction for interest paid on debt secured by a first or second home located in the United States should not be further restricted.

#### SENATE RESOLUTION 137—RELATING TO FUNDS FOR THE SENATE PAGE RESIDENCE

Mr. DOLE (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 137

*Resolved*, That effective on and after June 18, 1995, amounts withheld by the Secretary of the Senate under section 902 of the Supplemental Appropriations Act, 1983 (2 U.S.C. 88b-6) shall be deposited in the revolving fund, within the contingent fund of the Senate, for the Daniel Webster Senate Page Residence, as established by section 4 of the Legislative Branch Appropriations Act, 1995 (2 U.S.C. 88b-7).