Calendar No. 439

107TH CONGRESS *2d Session*	SENATE	REPORT 107–174

E-GOVERNMENT ACT OF 2001

R E P O R T

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

TO ACCOMPANY

S. 803

TO ENHANCE THE MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES AND PROCESSES BY ESTABLISHING A FEDERAL CHIEF INFORMATION OFFICER WITHIN THE OFFICE OF MANAGEMENT AND BUDGET, AND BY ESTABLISHING A BROAD FRAMEWORK OF MEASURES THAT REQUIRE USING INTERNET-BASED INFORMATION TECHNOLOGY TO ENHANCE CITIZEN ACCESS TO GOVERNMENT INFORMATION AND SERVICES, AND FOR OTHER PURPOSES

JUNE 24, 2002.—Ordered to be printed

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JUNE 24, 2002.—Ordered to be printed

Mr. LIEBERMAN, from the Committee on Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 803]

The Committee on Governmental Affairs, to whom was referred the bill (S. 803) to enhance the management and promotion of electronic Government services and processes by establishing a Federal Chief Information Officer within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to Government information and services, and for other purposes, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill as amended do pass.

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I. PURPOSE AND SUMMARY

S. 803 is a bipartisan bill to enhance the management and promotion of electronic government services and processes. The bill establishes an Office of Electronic Government within the Office of Management and Budget (OMB); it also establishes a broad framework of measures that require using Internet applications and other information technologies to enhance access to Government information and services and to boost the effectiveness and efficiency

of government. S. 803 also creates innovative funding mechanisms for interagency programs, and promotes important e-government initiatives.

As stated by Senator Lieberman the day he introduced the bill:

> Our legislation will provide the leadership, coordination, expertise, and resources necessary to utilize the Internet and create a more efficient, citizen-oriented government. Harnessing the Internet and other information technologies to deliver government programs, services, and information more effectively is critical to ensure that the Federal government remains a vital, positive presence in society.[1]

While noting that electronic government initiatives had already made headway in some areas, Senator Lieberman added,

> the reality is that all but a handful of the applications now being put online by Federal agencies are developed in relative isolation. E-Government currently is a loose-knit mix of ideas, projects, and affiliations often not well coordinated, sometimes overlapping in its goals and redundant in its expenditures. Though there are some remarkable innovations championed by visionary government employees, many other efforts are hampered by traditional models of government management, and "stove-pipe" conceptions of agency jurisdiction. We are in essence taking the often confusing, overlapping and inefficient maze of government programs as they now exist and simply transferring them onto the Internet.
>
> This is not the best way forward. We can and must take full advantage of information technologies to overcome the often arbitrary boundaries that exist between agencies, and to provide the public with seamless, secure online services. A functional approach focuses on delivering services to the citizen, organized according to the citizens' needs, and without regard to where the jurisdiction of one agency stops and another begins. The greatest challenge in many cases is realizing how the new technologies have created new opportunities, and reconfiguring government processes accordingly. Seizing these opportunities will require leadership, coordination, and meaningful communication with agency decision-makers.[2]

Senator Conrad Burns, the lead cosponsor, explained at the Committee's hearing considering the bill that he had "long believed in the power of information technology in general and the Internet in particular making government more efficient to open up the public policy process to everyday citizens."[3] He described the bill's guiding philosophy as "a simple and practical one": "the Federal Government should take advantage of the tremendous opportunities offered by information technology to better serve its constituents."[4] And he added, "[a] collaborative approach on information tech-

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[1] Remarks of Sen. Joseph Lieberman of Connecticut, Congressional Record, May 1, 2001, at S. 4102.
[2] Id.
[3] Hearing before the Senate Comm. On Governmental Affairs, July 11, 2001, p. 6.
[4] Id. at p. 7.

nology issues is far more effective than the silo-by-silo way of doing business favored by the traditional budgetary process."[5]

The bill's Office of Electronic Government will be headed by a Senate-confirmed Administrator. The Administrator will direct e-government initiatives and assist agencies as they implement e-government. The Administrator will also oversee an interagency e-government fund that will invest in cross-cutting projects with government-wide application. The bill authorizes $45 million for the Fund in FY 2003, increasing in steps to $150 million in FY 2006. The Administrator will sponsor ongoing dialogue with a range of governmental entities, with representatives from the private and non-profit sectors, and with the public; and will help direct a governmentwide effort to develop proper security and privacy measures, promulgate necessary information technology (IT) standards, and share best practices.

The bill also promotes the use of the Internet and other information technologies to provide more information and better services to Americans. The bill authorizes funding for maintenance of a federal Internet portal, so that on-line government information and services are organized according to citizen needs, not agency jurisdiction. Regulatory agencies will conduct administrative rule-makings on the Internet, and federal courts will post court information and judicial opinions on their websites.

Agencies will be required to develop performance measures that demonstrate how e-government initiatives will enable progress toward agency objectives, and to report on their compliance with the bill's provisions. Agency heads will have to take into consideration the effect of their e-government programs on Americans who lack access to the Internet, and ensure that alternatives are available.

Information is a vital national resource, and new information technologies allow information to be organized and accessed in more productive ways. The bill requires new policies to make government information easier to search electronically, and to improve the retention of electronic records. A directory of government websites, organized by subject matter, will be created and linked to the federal Internet portal. Agencies, scientists, policy makers and the public will have access over the Internet to non-sensitive information about where federal funds for scientific research are spent.

The Office of Personnel Management will be tasked with responding to a severe shortage of skilled IT professionals in the federal workplace. A new IT training center will analyze the IT personnel needs of the federal government, and oversee training and the development of curricula to respond to those needs.

S. 803 authorizes research into the use of information technologies for better crisis management. It mandates efforts to promote more efficient use of community technology centers. And it calls for the development of protocols for geographic information systems (GIS) so that industry and government can develop innovative multi-layered maps and analyses using the government's massive amounts of geographic data.

The bill contains significant new statutory privacy protections for personally identifiable information maintained by the government.

[5] Id. at pp. 7–8.

Agencies will have to complete assessments of privacy considerations when purchasing new information systems. To provide for more secure e-government, the bill promotes initiatives to develop interoperable electronic signatures between agencies.

In addition, S. 803 lifts the sunset on the Government Information Security Reform Act. That legislation provided a management framework for protecting the security of government computers, but is set to expire in November of 2002.

II. Background and Need for the Legislation

The Federal Government is increasingly turning to the Internet to conduct paperless transactions, provide interactive services to the public, and disseminate larger quantities of government information tailored to interested communities. The Internet and other information technologies have also demonstrated the potential to increase the effectiveness and efficiency of government. With improved management and a commitment to change, these technologies can ultimately play an instrumental role in transforming government, breaking down stovepipes and hierarchical relationships. Information and services, organized according to the needs of the public and available from a single point, can be made available twenty-four hours a day over the Internet. Although in some cases increased initial investments may be necessary, potential cost savings over the long-term are enormous. Just as important, over time the relationship between citizens and their government can change, as citizens become more adept at obtaining essential information about their government, and public input from citizens becomes easier for agencies to integrate. This is the essence of electronic government.

In less than a decade the tremendous growth of the Internet has transformed the way industry and the public conduct their business and gain access to needed information. This, in turn, has spawned a growing public expectation that government will make use of new information technologies, and a growing support for electronic government. Several recent polls document that Americans believe e-government will improve government in a variety of ways; this view is held even by those with a low opinion of government. Sizable majorities of Americans polled by Hart-Teeter in 2000 and 2001 for the Council for Excellence in Government responded that e-government would improve people's ability to get information they need from government agencies, and government's ability to provide convenient services, and would make government more accountable. Similarly large numbers supported the government investing tax dollars to achieve these and other goals.[6]

This public support for electronic government only grew after the terrorist attacks of September 11, 2001. The 2001 poll, taken in November, indicated not only that Americans valued the various benefits of e-government more highly than a year earlier, but also that they believed it would help in the war against terrorism:

> a large majority (70%) of the public believes that e-government will improve the ability of agencies such as the FBI,

[6] "E-Government: To Connect, Protect and Serve Us," conducted by Hart-Teeter for the Council for Excellence in Government, February 2002; "e-Government: The Next American Revolution," Council for Excellence in Government, February 2001, pp. 17–29.

> the Centers for Disease Control and Prevention, and local police departments to coordinate a response to a public emergency. Ninety percent say that they feel very or fairly favorable toward e-government systems that would help federal, state, and local law enforcement exchange information to help in apprehending and prosecuting criminals and terrorists. The public also is confident that e-government will greatly improve the government's ability to coordinate a response to a public health threat or bioterrorism attack (77%).[7]

The public's expectations of e-government may stem partly from their positive experiences with government websites, but it may also result from the remarkable speed with which computers and the Internet have improved their lives in the non-governmental sphere. Although the public supports e-government, the danger remains that people will become disenchanted if the government stumbles, or if institutional obstacles unique to government persist in slowing the development of effective e-government. These obstacles and dangers have been cited by many supporters of e-government in recent years, as problems that urgently need to be addressed. They include a lack of effective government-wide leadership, a lack of flexible funding, an agency-centric paradigm that characterizes the federal government generally and threatens to slow the development of effective e-government, a scarcity of appropriately skilled IT professionals in government, and public apprehension with respect to privacy and information security. The Committee intends that the "E-Government Act of 2002" will address those barriers at the same time it speeds the deployment of e-government.

LEADERSHIP

The General Accounting Office (GAO) and others have been arguing for more effective government-wide management of information resources for some time, even predating the concept of e-government; they have recommended that a Federal Chief Information Officer be established.[8] Other groups have recommended that electronic government be advanced through the creation of a statutory office within OMB dedicated to that issue.[9] The two issues are distinct but related. Information resources management incorporates many issues, such as information collection and dissemination; management of information technology; statistics; information security; and privacy. The OMB is responsible for overseeing government-wide implementation of the Paperwork Reduction Act, the Clinger Cohen Act, the Government Paperwork Elimination Act, the Government Information Security Reform Act, and the Privacy Act, all of which are directly related to the government's manage-

[7] "E-Government: To Connect, Protect and Serve Us," p. 3.

[8] See "Government Reform: Legislation would strengthen Federal Management of Information and Technology," GAO/T–AIMD–95–205, July 25, 1995; see also "Federal Chief Information Officer: Leadership needed to Confront Serious Challenges and Emerging Issues," GAO/T–AIMD–00–316, September 12, 2000; "Digital Government: The Next Step to Reengineering the Federal Government," Robert Atkinson and Jacob Ulevich, Progressive Policy Institute, March 2000, p. 11; "Building the Federal E-Government: The Case for Appointing a CIO of the United States," Information Technology Association of America, October 2000.

[9] See "Transforming Access to Government through Information Technology," President's Information Technology Advisory Committee, September 2000, pp. 10–11; "e-Government: The Next American Revolution," p. 8.

ment of its information resources. Congress delegated responsibility for these laws to, variously, the OMB Director, the OMB Deputy Director for Management, and the Administrator of the Office of Information and Regulatory Affairs. Nevertheless, no OMB official established by statute is primarily concerned with either information management or electronic-government; in contrast, most states and large corporations have Chief Information Officers serving such a function.

S. 803 as amended establishes an Administrator of a new Office of Electronic Government within OMB. The Administrator will oversee implementation of this bill and other e-government initiatives. The bill gives the Administrator a number of specific responsibilities, and that official will also perform on the Director's behalf many of the tasks the bill delegates to the Director. Because e-government overlaps with other information statutes, the bill provides that the Administrator will work with other offices within OMB to direct the implementation of e-government pursuant to those statutes.

The Committee intends that the Administrator will become an influential advocate for effective e-government, throughout the federal government and in concert with other governments and with other sectors. The Administrator will wield power, through, among other things, participation in the capital planning and budget process, reviewing agency proposals for E-Government Fund money, and responsibility for carrying out other provisions in this bill. The Administrator can be most effective through engaging the various constituencies necessary for successful e-government, and with the active support of the President and Congress. The Administration provided a partial model for this new position by establishing, on June 14, 2001, the position of Associate Director for Information Technology and E-Government.

AGENCY-CENTRIC PARADIGM

The public, regulated entities, and state and local governments often experience the federal government as a confusing array of agencies, sometimes with overlapping jurisdictions, sometimes offering related services or performing similar functions from different places. Even government information and services offered to the public on the Internet are generally accessible according to the organization of these agency stovepipes. Agencies with related missions have difficulty breaking through their silos to develop effective inter-agency programs.

Information technology, and the Internet in particular, provide a unique opportunity to re-package government information and services, so they are offered to the public according to the needs of individual customers. They can also facilitate interagency cooperation without requiring a major reorganization of government agencies. Ultimately, e-government can transform the way government operates, essentially effecting a "virtual" re-engineering of government. This paradigm shift requires systems based on functionality and the needs of the citizen rather than agency jurisdiction. If the government integrates processes across agency boundaries, the public will experience government as a seamless web of offerings. Federal services and information on the Internet can even be consolidated with those of state and local governments.

The "E-Government Act of 2002" will facilitate this transformation to a government organized more appropriately according to the needs of the public. The bill requires agencies to link their e-government initiatives to key customer segments, and to work collectively in doing so. The E-Government Fund provides necessary funding for inter-agency projects, overcoming the difficulty in securing appropriations for cooperative endeavors. The Federal Internet Portal provides "one-stop shopping" for citizens, businesses, and other governments: information and services will be integrated according to the needs of the users, all of it accessible from a single point on the Internet. The Administrator of the Office of Electronic Government will oversee and promote this vital transformation.

IT WORKFORCE

Electronic government will fail if federal agencies lack sufficient personnel trained in information technology disciplines. The growing scarcity of appropriately skilled IT professionals in the federal government is well documented.[10] This, however, is only one aspect of the problem. Federal managers who oversee IT contractors need to be sufficiently trained in IT disciplines to ensure that the government is paying fair prices for systems the agencies actually need. More generally, a large number of federal workers, presumably an overwhelming majority, use computers and the Internet to perform their job functions. As the government moves towards greater automation, federal workers will need to be trained in new technologies. The legislation tasks the Office of Personnel Management with assessing the IT training needs of federal workers and with overseeing a training regimen that will address those needs on an ongoing basis.

INFORMATION SECURITY

Opinion polls reveal that some public anxiety about e-government stems from fears that information security and privacy protections will be insufficient.[11] The GAO has documented in recent years that federal systems are not adequately protected, placing sensitive information and critical operations at risk.[12] Since the passage of the Government Information and Security Reform Act (GISRA) (subtitle G of title X of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, PL 106–398), in the 106th Congress, OMB has been demanding from agencies better plans for improving computer security; the first annual cycle of evaluation and reporting under the information security legislation has now been successfully completed. GISRA is scheduled to sunset in November 29, 2002, but S. 803 lifts the sunset and makes GISRA permanent.

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[10] See "Federal Employee Retirements: Expected Increase over the Next 5 Years Illustrates Need for Workforce Planning," GAO–01–509, April 27, 2001; "The Transforming Power of Information Technology: Making the Federal Government an Employer of Choice for IT Employees," National Academy of Public Administration, August 2001.

[11] "E-Government: To Connect, Protect and Serve Us," p. 16; "e-Government: The Next American Revolution," pp. 26–27.

[12] See "Computer Security: Weaknesses Continue to Place Critical Federal Operations and Assets at Risk," GAO–01–600T, April 5, 2001; "Information Security: Serious and Widespread Weaknesses Persist at Federal Agencies," GAO/AIMD–00–295, September 6, 2000; Senate Report 106–259, pp. 3–6 (April 10, 2000).

The bill will also improve computer security by mandating the development of a framework to allow efficient interoperability among agencies when using electronic signatures, and the bill authorizes funding for a bridge certification authority for this purpose. Improving the government's use and acceptance of electronic signatures will ensure more secure electronic transactions with and between agencies.

PRIVACY

The Privacy Act, passed in 1974, protects personal information maintained in an agency's system of records. Since 1974, the rapid evolution of information technology has raised questions about whether personal information is adequately protected. Furthermore, public apprehension about privacy of personal information grew substantially after the development of the Internet. The "E-Government Act" addresses privacy concerns in several ways. The bill requires agencies to complete Privacy Impact Assessments (PIA's) before purchasing or creating IT systems that store personally identifiable information and before initiating collections of information that include personally identifiable information. PIAs, which are made public, are meant to explain how agencies have factored in privacy considerations. The bill also requires agencies to post privacy notices on their websites to inform the public about how their personal information is handled when they visit federal websites. Finally, the bill requires that agencies convert their privacy policies into machine-readable formats, to provide the public with a simple, automated way to better control the use of personal information on websites they visit.

GOVERNMENT INFORMATION

Ever since the passage of the first Paperwork Reduction Act (PRA) in 1980, Congress has been refining and expanding federal mandates regarding federal dissemination of government information. The dissemination provisions of the 1995 amendment to the PRA, in particular, established a detailed and important framework to guide dissemination policy. By 1995, new information technologies already offered the promise of systems that could facilitate public and agency access to the vast quantities of poorly organized government information. The Government Information Locator Service (GILS) required by the 1995 PRA amendment (44 USC 3511), however, has never achieved that vision.

The Committee intends that the information provisions in S. 803 will build upon the information dissemination goals of the PRA, in light of the new capabilities offered by the Internet and other information technologies for organizing and disseminating government information efficiently. The promise of these technologies has not yet been applied to the vast amounts of government information, which have been poorly organized by agencies and difficult for the public to access in a meaningful way. Furthermore, agencies lack clear guidelines for deciding what government information to place on the Internet, and how to ensure that this information is appropriately preserved.

The bill establishes an interagency committee to formulate recommendations on how government information can be better organized, preserved, and made available to the public. The OMB Di-

rector is then required to issue policies binding on agencies, based on the recommendations. The bill requires policies on the adoption of standards to enable the organization and categorization of information in a way that is searchable electronically, including through the use of searchable identifiers. Categorizing government information holdings will allow the public to perform field searches for information holdings. The bill also requires policies that will ensure retention of electronic records, including electronic records on the Internet. Agencies, after public consultation, will be required to develop priorities and timetables for making government information available on the Internet. The bill also requires the creation of a directory of government websites, organized according to subject matter, to improve the public's ability to locate the many thousands of useful sites not featured on the government's Internet portal.

These and other information provisions in S. 803 are intended to complement, and not displace, the PRA and the guidance that implements the PRA, OMB Circular A–130. The goals and mandates of the PRA will remain applicable, and the Committee anticipates that the definitions and policies in A–130 will be applied, where relevant, to the "E-Government Act", as they have been to other recently enacted information laws. For example, the Committee intends the standards enabling the categorization of information to build on and advance the purposes of 44 USC 3511, regarding the establishment of the Government Information Locator Service. And the affirmative requirement for a diversity of public and private sources for information based on government public information, established by 44 USC 3506(d), should apply as well to S. 803.

III. Legislative History

S. 803 was introduced on May 1, 2001 by Senator Lieberman, with Senator Burns as chief co-sponsor. Other co-sponsors are Senators Bingaman, Fitzgerald, Daschle, McCain, Carper, Durbin, Johnson, Kerry, Leahy, Levin, Stabenow, Cleland, and Dayton. S. 803 was referred to the Committee on Governmental Affairs, and Senator Lieberman chaired a hearing on the legislation on July 11, 2001. At the hearing, OMB Deputy Director Sean O'Keefe expressed the Administration's support for electronic government but expressed reservations about several aspects of the legislation. Months of negotiations and consultations followed, and on March 21, 2002, the Committee unanimously reported out a revised version of the legislation.

INTERACTIVE E-GOVERNMENT WEBSITE

On May 18, 2000, Senators Lieberman and Thompson launched an on-line "experiment in interactive legislation", a website that sought public comments on 44 topics related to possible measures that Congress could take to advance the cause of e-government. Topics were organized into categories, such as "centralized leadership", "funding innovations", and "digital democracy: citizen access and participation," and ranged from "centralized online portal" to "interoperability standards" to "'G-Bay': enhanced online distribution of federal government surplus property." For each of the topics, a short discussion described the status of current efforts and

the "New Idea", or ideas, being offered for consideration. Visitors to the website could then submit their comments on the subject, and read views that had been submitted by others. Nearly 1,000 comments were submitted, approximately one half of which were posted on the website after being reviewed by Committee staff.[13] Comments were submitted by private citizens, academicians, federal employees, and even federal agencies. OMB also responded to the website by soliciting views from federal agencies; OMB officials then consolidated agencies' responses and presented them to the Committee as a single document. Opinions, additional information, and alternative proposals submitted over the website proved helpful as Senator Lieberman formulated his electronic government legislation.

LEGISLATION INTRODUCED

When Senator Lieberman introduced S. 803 on May 1, 2001, he explained that it was a work in progress, and that he would continue to seek input to improve the bill and to reach a bipartisan consensus on how to move forward. Like the bill that would be reported out of Committee, the introduced version consisted of two titles; title I was principally devoted to the OMB's role in promoting electronic government, and title II dealt more generally with the roles of other agencies, as well as OMB and the Judicial Branch. As introduced, S. 803 also called for the creation of a Federal Chief Information Officer (CIO) within OMB, to oversee both electronic government initiatives and information resources management more generally. The Federal CIO would have presided over a new Office of Information Policy, and would have been responsible for administering relevant provisions of the Paperwork Reduction Act, Government Paperwork Elimination Act, Clinger-Cohen Act, and Privacy Act, in addition to electronic government programs and mandates.

HEARING

On July 11, 2001, the committee held a hearing on S. 803. The committee heard testimony from the following witnesses:

The Honorable Conrad Burns;

The Honorable Sean O'Keefe, Deputy Director, Office of Management & Budget;

Anne K. Altman, Managing Director, U.S. Federal-International Business Machines Corporation;

Dr. Costis Toregas, President, Public Technology, Inc.;

Aldona Valicenti, President, National Association of State Chief Information Officers;

Greg Woods, Chief Operating Officer, Student Financial Assistance Programs, United States Department of Education;

Sharon Hogan, University Librarian, University of Illinois at Chicago on behalf of the American Library Association, the

[13] Comments were reviewed primarily for appropriateness and relevance; Committee staff did not favor any particular viewpoint in deciding which submissions to post. The website was intended to educate the public about the potential of e-government, to solicit input and information on the many topics being considered for possible legislation, and to serve as both an experiment and an example of how the Internet could be used to make government processes more accessible to the public.

American Association of Research Libraries and the American Association of Law Libraries;

Barry Ingram, Vice President & Chief Technology Officer, EDS Government Global Industry Group, on behalf of the Information Technology Association of America;

Patricia Mcginnis, President & Chief Executive Officer, Council for Excellence in Government; and

The Honorable Joseph R. Wright, Jr., former Director and Deputy Director, Office of Management & Budget, Vice Chairman, Terremark Worldwide, Inc.

Senator Burns, the chief co-sponsor of S. 803 and the first hearing witness, described the bill's guiding philosophy as "a simple and practical one": "the Federal Government should take advantage of the tremendous opportunities offered by information technology to better serve its constituents." Senator Burns described how some of the bill's main provisions will further that goal.[14]

Deputy Director Sean O'Keefe testified on behalf of the Administration. Mr. O'Keefe explained that e-government was one of five elements of the President's management agenda. In his prepared statement, Mr. O'Keefe identified four key components of a successful electronic government strategy: (1) "citizen centric strategy", with initiatives tailored to meeting the needs of individuals, businesses and other governments, as well as pointed towards improving internal processes; (2) "simplifying processes", with an emphasis on re-engineering rather than simply automating; (3) "bridging islands of automation", to address chronic management problems caused by allowing inter-related functions to develop in isolation; and (4) "information architecture and knowledge management", described as two key interrelated features of proper information management.[15]

In addition to broadly agreeing on the importance of e-government, Mr. O'Keefe also described the Administration's position on particular aspects of S. 803. The Administration favored the proposed creation of an E-Government Fund, to support inter-agency e-government projects. Mr. O'Keefe also conveyed the Administration's support for bill provisions related to the federal Internet portal, interoperability of electronic signatures, standards for geographic information systems, and comparable access to IT for persons with disabilities. The Administration had several concerns about the bill, according to the Deputy Director. First, the bill did not contain performance goals, and Mr. O'Keefe asserted that e-government's value could only be judged by the extent to which it helped agencies achieve their strategic objectives. Second, the Administration opposed the creation of a Federal Chief Information Officer whose duties would relate primarily to information policy. Mr. O'Keefe stated that "[t]he President believes that the OMB Deputy Director for Management should be the governmentwide CIO because all management challenges are intertwined." Finally, the Administration opposed the bill's creation of several distinct forums to facilitate dialogue and make policy recommendations, and

[14] Hearing before the Senate Comm. on Governmental Affairs, July 11, 2001, pp. 6–8.
[15] Id., pp. 66–68.

the establishment of separate reporting requirements on the extent of the government's compliance with the bill's provisions.[16]

During the period for questioning the witness, Senator Lieberman expressed his interest in working with the Administration to develop consensus e-government legislation, and his willingness to address the Administration's concerns. For example, the Senator agreed that the bill could be improved with the addition of performance standards.[17] Mr. O'Keefe and Senator Lieberman both emphasized the importance an E-Government Fund would have in supporting inter-agency projects, and Mr. O'Keefe characterized the differences in proposed authorized expenditures for the Fund as "not a point of great contention," adding that "we will certainly negotiate with [the Appropriations Committee] for the maximum amount we can possibly attain." [18]

Senator Lieberman also questioned whether the OMB Deputy Director for Management (DDM) could adequately perform the tasks of a Federal Chief Information Officer, as proposed by the Administration, given the many other management responsibilities of the DDM. Mr. O'Keefe stated that the Administration agreed with Senator Lieberman's "assessment that the focus on information technology needs to be elevated within the context of the larger management agenda." Mr. O'Keefe asserted that the Administration's recent creation of a new position, Associate Director for Information Technology and E-Government, would help address concerns about government-wide management of information technology. Mr. O'Keefe promised that if the Committee determined after some time had elapsed that there was still a deficiency in the management and administrative functions, the Administration would revisit the question.[19]

At the conclusion of Mr. O'Keefe's testimony, Senator Lieberman repeated his desire to quickly bridge any differences with the Administration on S. 803, and Mr. O'Keefe agreed that he would make this a priority as well.[20]

The next panel consisted of testimony from four witnesses. Anne Altman described the significant savings IBM realized by incorporating Internet technology into its core business. A similar transformation in federal government processes, she argued, would save many billions of dollars, and S. 803 addressed the most important elements necessary for that transformation, including interoperability, funding, and leadership.[21] Dr. Costis Toregas, the President of a non-profit institution focusing on the role of technology in cities and counties, testified to the e-government experiences of local governments, and to the lessons learned from those activities.[22] Next, Aldona Valicenti testified in her capacity as President of the National Association of Chief Information Officers of the States (NASCIO). Ms. Valicenti noted that NASCIO had already come out in support of a dedicated Federal CIO position (the overwhelming majority of states had CIO's), and also emphasized the importance of integrating across agencies and program stovepipes, codifying

[16] Id., pp. 69–71.
[17] Id., p. 11.
[18] Id., pp. 13–14.
[19] Id., pp. 11–13.
[20] Id., p. 30.
[21] Id., pp. 31–33.
[22] Id., pp. 33–35.

the federal CIO Council, and improving coordination with state and local governments.[23] Greg Woods described how the Student Financial Aid Program was rapidly moving to web-based processes: that year, 5 million students would apply for financial aid over the Internet, representing half of all applicants, and the agency's website provided a number of consolidated services for borrowers once loans had been awarded. Mr. Woods also explained that successful e-government requires not just new websites, but re-engineered underlying processes.[24]

The final panel also consisted of four witnesses. Sharon Hogan, testifying on behalf of three library associations that supported S. 803, stressed the importance of centralized coordination to make electronic government information more accessible and usable.[25] Barry Ingram, testifying on behalf of the Information Technology Association of America, applauded the bill's well-funded E-Government Fund and its emphasis on high-level IT leadership within the Federal Government, and also highlighted the importance of good privacy and security protections, of the re-engineering and re-invention of government processes, and of the need for incentives to use new e-government services.[26] Patricia McGinnis cited the results of polls sponsored by the Council for Excellence in Government, which showed that Americans overwhelmingly supported electronic government initiatives. Ms. McGinnis also spoke of the importance of breaking down governmental stovepipes, which the E-Government Fund would facilitate, and called for more public dialogue on e-government.[27] Joseph Wright, while pointing out that e-government was already a national priority, capable of achieving great savings and increasingly demanded by citizens, asserted that federal agencies had not made the same progress as the private sector, state and local governments, and some other countries.[28]

COMMITTEE ACTION

In the months after the hearing, committee staff from the Majority and Minority participated in discussions with staff from OMB, in an effort to arrive at consensus legislation. During this period committee staff continue to seek input from other interested parties and members of the public. By March of 2002, Committee staff had arrived at language that Chairman Lieberman and Ranking Republican Thompson supported. The revised bill contained numerous changes requested by OMB on behalf of the Administration. At the Committee's March 21, 2002, mark-up, Senator Lieberman offered on behalf of himself and Senator Thompson the revised language as an amendment in the nature of a substitute to S. 803.

The changes made to the bill directly addressed the Administration's concerns, as expressed by Mr. O'Keefe at the Committee's hearing and by OMB officials in subsequent discussions. Because of the Administration's opposition, the provisions establishing a

[23] Id., pp. 86–90.
[24] Id., pp. 38–40.
[25] Id., pp. 48–50.
[26] Id., pp. 50–52.
[27] Id., pp. 52–54.
[28] Id., pp. 135–143.

Federal Chief Information Officer were removed.[29] Rather than establish a Federal Chief Information Officer with responsibility for government-wide information policy, the amended bill creates an Office of Electronic Government, headed by a Senate-confirmed Administrator. New language requires agencies to develop performance measures that demonstrate how electronic government enables progress toward agency objectives and strategic goals. Several fora that would have been established to promote dialogue with different entities and groups were removed from the bill; instead, the Administrator is required to sponsor dialogue with these groups. Separate reporting requirements were consolidated into an annual E-Government report.

On the same date, the Committee ordered S. 803 reported, as amended, by voice vote, with no members present dissenting. Senators present were Levin, Akaka, Cleland, Thompson, Stevens, Voinovich, Cochran, Bennett, and Lieberman.

IV. SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section would permit the bill to be cited as the "E-Government Act of 2002."

Section 2. Findings and purposes

This section details the findings and purposes of the bill.

Findings: Congress finds that, although computers and the Internet are rapidly transforming society, the federal government has had uneven success in applying advances in information technology to improve government performance and citizens' access to government services and information. Agencies' jurisdictional boundaries, in particular, present obstacles to the development of Internet-based government services and information integrated according to function and the need of the citizenry. Taking full advantage of the potential benefits of Internet-based technology requires new leadership, better organization, improved interagency collaboration, and more focused oversight.

Purposes: The bill's purposes, as explained in section 2, include providing effective leadership of the federal government's efforts to develop electronic government services and processes by establishing an Administrator of a new Office of Electronic Government within the Office of Management and Budget. More generally, the bill is intended to promote use by the federal government of the Internet and information technologies to increase citizens' access to their government, and to government information and services. The bill is also intended to achieve greater interagency collaboration, to reduce costs and burdens for businesses and other government entities, and to make government more efficient. The Committee intends the bill to promote streamlining of technology requirements in a way that allows the federal government to respond to changes in technology in a timely manner.

[29] OMB officials indicated during negotiations that a more appropriate forum for discussing the Federal CIO issue would be the reauthorization of the Paperwork Reduction Act.

TITLE I: OFFICE OF MANAGEMENT AND BUDGET E-GOVERNMENT SERVICES

Section 101. Management and promotion of electronic government services

Section 101 amends title 44 of the United States Code by creating a new Chapter 36. Chapter 36 primarily concerns the role of the Office of Management and Budget in implementing electronic government.

Section 3601 defines terms for purposes of Chapter 36. The definitions used in title 44, Chapter 35 (the Paperwork Reduction Act) also apply. The definition of "electronic government" demonstrates that electronic government initiatives may have any of several goals, including improved information and services, a more effective and efficient government, and the transformation of government processes. Electronic government is also defined by the technologies and processes it employs. The Committee intends the term "digital technologies" in the definition of "electronic government" to be synonymous with the term "information technologies", as defined under the Paperwork Reduction Act (44 USC 3502).

Section 3601 also defines "enterprise architecture." Successful public and private-sector organizations have used enterprise architectures as a best practice for effective business and technology transformation. In simplest terms, an "enterprise" represents the entire scope of an entity (e.g., an entire agency or set of agencies performing a related function), and an "architecture" is the structural description of the processes that make up the entity; an "enterprise architecture" describes the business, information, technology, and infrastructure of such entities. The architecture describes the current environment, as well as the target environment, and the modernization plan that bridges the two. When well implemented, enterprise architectures bring clarity to the interrelationships among business operations and the underlying IT that support the operations, and can be used to guide IT investments in a way that reduces redundancies in systems and processes, modernizes operations, and improves program performance.

Section 3602 establishes a new Office of Electronic Government within the Office of Management and Budget. The Office of Electronic Government is headed by an Administrator (referred to in the bill as the "Administrator"), who will be appointed by the President and confirmed by the Senate. The Administrator will assist the OMB Director by implementing electronic government initiatives, including new programs and initiatives provided for in the Act. S. 803 delegates implementation of a number of the sections to the OMB Director, especially in title II. The Committee intends that in many of these cases, the Administrator will perform this work on the Director's behalf.

Subsection 3602(d) provides that the Administrator will work with other offices within OMB to set strategic direction for implementing electronic government pursuant to other information statutes. These statutes include the PRA, Division E of the Clinger-Cohen Act of 1996 (also known as the Information Technology Management Reform Act), the Privacy Act, the Government Paperwork Elimination Act, GISRA, and the Computer Security Act of 1987. It is not the Committee's intent to alter ultimate account-

ability for the laws listed in this subsection. Rather, the Committee recognizes that successful implementation of electronic government will require successful implementation of a number of pre-existing information statues.

Subsection 3602(e) provides that the Administrator shall work with other offices within OMB to oversee the implementation of electronic government under this bill and other relevant statutes, relating to capital planning and investment control for information technology, the development of enterprise architectures, information security, privacy, access to, dissemination of, and preservation of government information, and other areas of electronic government.

Subsection 3602(f) provides that the Administrator shall assist the OMB Director by performing a number of specified electronic government functions. The Committee does not intend the functions listed in this subsection to be exclusive.

- (f)(1) Advise the OMB Director on the resources required to develop and effectively operate federal government information systems.
- (f)(2) Recommend to the Director changes in governmentwide strategies and priorities for electronic government.
- (f)(3) Provide overall leadership and direction to the executive branch on electronic government by working with authorized officials to establish information resource management policies in relevant areas, and by reviewing agencies' performance in the acquisition, use, and management of their information resources.
- (f)(4) Promote innovative uses of information technology, especially initiatives involving multi-agency collaboration.
- (f)(5) Oversee the distribution of funds from the "E-Government Fund", established in Section 3604.
- (f)(6) Coordinate with the Administrator of the General Services Administration on GSA programs undertaken to promote electronic government.
- (f)(7) Lead the activities of the Chief Information Officers Council, on behalf of the OMB Deputy Director for Management, who shall chair the council.
- (f)(8) Help to establish policies which set the framework for information technology standards and guidelines for interconnectivity and interoperability, categorizing Federal Government electronic information to enable efficient use of technologies, such as through the use of extensible markup language, and computer system efficiency and security. The standards themselves would be developed by the National Institute of Standards and Technology and promulgated by the Secretary of Commerce. The recommendations of the Chief Information Officers Council, experts, interested parties from the public, and state and local governments would be taken into account to the extent appropriate. The use of commercial standards would be maximized as appropriate. The term "interested parties", which is used in several places where the bill allows for input by non-governmental actors, is not intended to limit input to those with a direct and immediate stake in the outcome. Extensible markup language (XML), referenced in the subsection, is a flexible, nonproprietary set of standards for annotating information so that it can be transmitted over a network such as the Internet and readily interpreted by disparate computer systems. In April of

2002, the General Accounting Office released a report recommending that "the director of OMB, working in concert with the federal CIO Council and NIST, develop a strategy for governmentwide adoption of XML to guide agency implementation efforts and ensure that the technology is addressed in agency enterprise architectures."[30] The GAO had found that such a governmentwide strategy was lacking; officials from OMB largely concurred in the report's findings.[31] Extensible markup language is listed as an example of a technology that can allow for the categorizing of federal government electronic information. The Committee intends that the standards and guidelines to be developed by the National Institute of Standards and Technology for the categorization of federal government electronic information shall be consistent with any similar standards adopted pursuant to Section 207(d) of this Act.

- (f)(9) Sponsor dialogue among federal, state, local and tribal leaders on electronic government to encourage collaboration and share best practices. A principal goal of the dialogue will be to improve collaboration in the use of information technology. Several possible topics of discussion are listed, including identifying mechanisms for providing incentives to federal government managers and employees to innovate, and identifying opportunities for collaboration in addressing societal disparities in access to the Internet and information technology.
- (f)(10) Oversee the development of an integrated, standardized, Internet-based system (the federal Internet portal) for providing government information and services to the public from a single point, organized by function, as provided for in Section 204 of the bill.
- (f)(11) Coordinate with the Office of Federal Procurement Policy in implementing electronic procurement initiatives.
- (f)(12) Assist federal entities in implementing accessibility standards established pursuant to section 508 of the Rehabilitation Act of 1973 (29 USC 794d), and in ensuring compliance with those standards. Section 508 of the Rehabilitation Act requires Federal agencies to ensure that their procurement of electronic and information technology takes into account the needs of people with disabilities. It requires that all U.S. government agencies "ensure that * * * federal employees with disabilities * * * have access to and use of information and data that is comparable to the access of those without disabilities." It also requires that federal agencies developing Web sites ensure that citizens with disabilities have equal access to the information on those Web sites.
- (f)(13) Oversee the development of enterprise architectures within and across agencies.
- (f)(14) Administer the Office of Electronic Government.
- (f)(15) Assist the Director in preparing the E-Government Report established under Section 3605.

Subsection 3602(g) requires the Director of OMB to ensure that the OMB, including the Office of Electronic Government and other relevant offices, have adequate staff and resources to fulfill all functions under the bill.

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[30] "Electronic Government: Challenges to Effective Adoption of the Extensible Markup Language," GAO–02–327, April 2002, p. 9.
[31] Id., pp. 7–8, 10.

Section 3603 establishes in the Executive Branch a Chief Information Officers' (CIO) Council. The section codifies the Council created by President Clinton's Executive Order 13011 of July 16, 1996, with some changes. The Council has proven to be a worthwhile forum for promoting sound information resources management policies.

Subsection 3603(b) lists the members of the Council. The OMB Deputy Director for Management shall chair the Council, and is authorized to designate any officer or employee of the United States to be a member, in addition to those listed.

Subsection 3603(c) provides that the Administrator of the Office of Electronic Government shall lead the activities of the Council on behalf of the Deputy Director for Management. The Council will also have a Vice Chairman, selected from among the Council's members. The Council will receive administrative and other support from the General Services Administration.

Subsection 3603(d) designates the Council as the principal interagency forum for improving agency practices with respect to Federal Government information resources.

Subsection 3603(e) lists a number of functions that the Council shall perform. This is not intended to be an exclusive list, as the Committee intends to provide the Council with discretion to take up new issues as appropriate. The Committee recognizes that as technology and management priorities change, the agenda of the CIO Council must allow for flexibility. The functions of the Council that this bill describes are intended to be sufficiently broad so as to provide OMB and CIOs with flexibility to address and manage change. Its responsibilities will include:

- (e)(1) developing recommendations on information resources management (IRM) policies and requirements;
- (e)(2) sharing experiences and best practices related to IRM;
- (e)(3) assisting the Administrator in developing multiagency projects to improve Government performance through the use of information technology;
- (e)(4) promoting the development of common performance measures for agency IRM;
- (e)(5) working with the National Institute of Standards and Technology and the Administrator to develop recommendations on information technology standards; and
- (e)(6) working with the Office of Personnel Management to address the hiring, training and professional development needs of the government with respect to IRM.

The Committee intends that others can contribute to the Council's consideration of these and other issues, including non-Executive Branch federal officials and, importantly, representatives of state, local and tribal governments. In the past, the Council has engaged in regular dialogue and consultation with non-federal representatives. The Committee intends that this dialogue continue and, where appropriate, be increased.

Section 3604 establishes an E-Government Fund to fund innovative interagency electronic government projects. One of the most frequently cited impediments to e-government progress is the lack of funding mechanisms for interagency projects in information technology. Electronic government provides an opportunity to define

government interactions less by agency boundaries, and more by topic, or the needs of the citizen. Collaboration on advanced information technology systems can also make complex government operations much more effective, particularly when these activities involve multiple agencies or levels of government. But these collaboratively developed advanced information technology systems also require coordination in how the project is funded, which can be difficult to achieve using traditional budgetary processes. The E-Government Fund will provide a central funding pool to support the development of these collaboratively developed electronic government initiatives.

Subsections 3604(a) and (b) provide that the Fund is administered by the General Services Administration, and funding for projects is approved by the OMB Director. The Administrator of the Office of Electronic Government will assist the Director, partly by establishing procedures for accepting and reviewing proposals for funding, reviewing proposals, managing the Fund, and recommending proposals for funding. Projects receiving funding may include efforts that use the Internet or other electronic methods to make Federal information and services more available to members of the public, make it easier to conduct transactions, or enable Federal agencies to share information and conduct transactions with each other and with State and local governments.

Subsection 3604(b)(2) lists procedures the Administrator must observe when reviewing proposals for funding. A project requiring substantial involvement or funding from an agency must be approved by a senior official with agencywide authority. Projects must adhere to fundamental capital planning and investment control processes. Agencies will be required to identify in their proposals resource commitments from the agencies involved, and include plans for potential continuation of projects after all funds made available from the Fund are expended. Agencies would not be required to include plans for continuation of projects if there were a legitimate reason for the proposed project to be of limited duration. The Director, assisted by the Administrator, will have final authority to determine which proposed projects should be funded. Agencies receiving funds will be required to assess the results of funded projects.

Subsection 3604(c)(1) lists some of the criteria that the Administrator shall consider in deciding which proposals to fund. The Committee intends the term "consider" to mean that the listed criteria need not be determinative; the Administrator must consider the listed criteria, but may decide that some of the criteria are not relevant for a given project. Some of the criteria should be considered fundamental to any proposal, especially 3604(c)(1)(D), which requires that proposals ensure proper security and protect privacy. Subsection 3604(c)(2) lists criteria the Administrator may consider in deciding which proposals to fund.

Subsection 3604(d) provides that funds from the E-Government Fund may be used for the federal Internet portal established in Section 204 of the bill. Any decision to use funds for the portal should be made following the procedures established in Section 3604.

Subsections 3604(e) and (f) provide that no funds may be transferred to any agency until fifteen days after the Administrator of

the General Services Administration has notified the Appropriations Committees, the Senate Committee on Governmental Affairs and House Committee on Government Reform, and the appropriate authorizing committees, and described how the funds will be used. The OMB Director will also report annually to Congress on the operation of the Fund, as part of the E-Government Report required by Section 3605. The Director's annual report will include a description of the results achieved to date.

Subsection 3604(g) authorizes to be appropriated for the Fund $45,000,000 in fiscal year 2003, $50,000,000 in fiscal year 2004, $100,000,000 in fiscal year 2005, and $150,000,000 in fiscal year 2006. The funds will remain available until expended.

Section 3605 requires the OMB Director to submit annually an E-Government Report to the Senate Committee on Governmental Affairs and House Committee on Government Reform. The report will contain a summary of information required to be reported by agencies under subsection 202(f) of the bill, information about the operations of the E-Government Fund, and a description of the federal government's compliance with the bill's other goals and provisions.

Section 102. Conforming amendments

Section 102 makes conforming amendments, modifying the duties of the Administrator of the General Services Administration to require consultation with the Administrator on electronic government programs, and adding to the functions of the OMB Deputy Director for Management the responsibility of chairing the CIO Council.

TITLE II: FEDERAL MANAGEMENT AND PROMOTION OF E-GOVERNMENT SERVICES

Section 201. Definitions

Section 201 provides that definitions used in the Paperwork Reduction Act (at 44 USC 3502), and in title I of the E-Government Act of 2002 (which will be codified at 44 USC 3601) apply to title II, except where otherwise noted.

Section 202. Federal agency responsibilities

Section 202 establishes general requirements with which all agencies must comply in implementing electronic government and the mandates of the E-Government Act. Successful implementation of electronic government will require cooperation between agencies, and a collaborative working relationship between the Office of Management and Budget and agencies. Agency officials will also have to re-engineer their "back-office" IT processes to ensure that IT spending does not simply automate existing stovepipes. Finally, electronic government applications developed by agencies should be designed to further agency objectives and strategic goals.

Subsection 202(a) specifies that the heads of federal agencies will be responsible for complying with the E-Government Act, and related policies, guidance, and standards. They must also ensure that the policies, guidance, and standards developed pursuant to the Act will be communicated promptly to relevant officials, and they will be responsible for supporting the development of the federal Internet portal, provided for in Section 204.

Subsection 202(b) requires agencies to develop performance measures that demonstrate how electronic government enables progress towards agency objectives and strategic goals. Agencies are required to link the performance goals to key customer segments.

Subsection 202(c) requires agency heads, when implementing programs which provide information and services over the Internet, to consider the impact on persons without access to the Internet. To the extent practicable, agency heads must ensure that the availability of Government services and information has not been diminished for individuals who lack access to the Internet, and pursue alternate modes of delivery that would make the information and services more accessible to those who lack access to the Internet.

Subsection 202(d) requires that all actions taken by departments and agencies under this Act be in compliance with section 508 of the Rehabilitation Act of 1973. The law applies to all Federal agencies when they develop, procure, maintain, or use electronic and information technology. The Committee intends that the term "information technology" in this Section be interpreted in the same manner as the term "electronic and information technology" under Section 508 of the Rehabilitation Act.

Subsection 202(e) provides that agency Chief Information Officers will be responsible for participating in the functions of the CIO Council and monitoring within their agencies the implementation of information technology standards promulgated under the E-Government Act.

Subsection 202(f) requires each agency to submit to OMB an annual report on the status of the agency's implementation of electronic government initiatives and its compliance with the provisions of this Act. The Director will determine the time and manner of the submission. The Director is then required to report a summary of the agencies' reports, as part of the E-Government Report referred to in Section 3605. The Committee intends that agencies should report on the sections of this Act that are relevant to agency activities and initiatives, unless noted. The Committee also intends that cross-agency initiatives be included in the report. In cases where agencies are involved in collaborative efforts, one agency may serve as the lead agency in reporting on the status of the initiative on behalf of its partner agencies.

Section 203. Compatibility of methods for use and acceptance of electronic signatures

Section 203 provides for measures to achieve appropriately secure electronic government through the establishment of a framework for interoperable implementation of electronic signatures.

Subsection 203(b) furthers the goals of the Government Paperwork Elimination Act by requiring that agencies' methods for using and accepting electronic signatures are compatible with the policies issued by the OMB Director.

Subsection 203(c) requires the General Services Administration, working with the OMB Director, to establish a framework to allow efficient interoperability among Executive agencies when using electronic signatures. Subsection 203(d) authorizes to the General Services Administration $8,000,000 in fiscal year 2003 to develop and operate a Federal bridge certification authority for digital sig-

nature compatibility, or for other purposes consistent with the section.

The term electronic signatures is defined in the Government Paperwork Elimination Act as "a method of signing a message that—(A) identifies and authenticates a particular person as the source of the electronic message; and (B) indicates such person's approval of the information contained in the electronic message." (Public Law 105–277, Section 1710) A digital signature is one type of electronic signature, often involving the use of trusted third parties. The federal bridge certification authority has recently begun limited operations. The federal bridge certification authority can be a unifying element to link otherwise unconnected agency certification authorities.

Section 204. Federal Internet portal

This section authorizes the development of an integrated Internet-based system, a Federal Internet portal, to provide the public with consolidated access to government information and services from a single point, organized according to function, topic and the needs of the public rather than agency jurisdiction. Increasingly, the Federal portal should be able to include access to information and services provided by state, local and tribal governments. The portal will continue to improve upon FirstGov.gov, which is administered by the General Services Administration. The Administrator of the Office of Electronic Government will assist the Director by overseeing the work of the General Services Administration and other agencies in maintaining, improving, and promoting the portal. The bill authorizes $15,000,000 to be appropriated in fiscal year 2003 for the maintenance, improvement, and promotion of the portal, and such sums as are necessary for the subsequent four years.

The Committee intends that access to information on a portal web site be consistent with existing laws and policies on privacy. Portal web sites maintained by Federal agencies should only allow access to information on individuals if such access fully complies with privacy protections under existing law and policy.

Section 205. Federal courts

Section 205 requires federal courts to provide greater access to judicial information over the Internet. Greater access to judicial information enhances opportunities for the public to become educated about their legal system and to research case-law, and it improves access to the court system. The mandates contained in section 205 are not absolute, however. Any court is authorized to defer compliance with the requirements of this section, and the Judicial Conference of the United States is authorized to promulgate rules to protect privacy and security concerns.

Subsections 205(a) through (c) require the Supreme Court, each circuit court, each district court, and each bankruptcy court of a district to establish a website that would include public information such as location and contact information for courthouses, local rules and standing orders of the court, docket information for each case, and access to written opinions issued by the court, in a text searchable format. Documents filed electronically, and those converted to electronic form, shall also be made available, except that

documents not otherwise available to the public shall not be made available online. Under subsection 205(c)(3), the Judicial Conference of the United States may promulgate rules to protect important privacy and security concerns.

Under subsection 205(f), courts are required to establish websites within two years, and to establish access to electronically filed documents within four years. Subsection 205(g) authorizes any court or district to defer compliance with any requirement of section 205 by submitting a notification to the Administrative Office of the United States Courts stating the reasons for the deferral and the alternative methods the court is using to provide greater public access to court information. Every year, the Administrative Office will submit to Congress a report that summarizes and evaluates all notifications it has received in the previous year. The Committee does not intend that the deferral provision will allow courts to avoid their obligations under this section indefinitely. Rather, the Committee recognizes that some courts may have a difficult time meeting the prescribed deadlines, and intends to provide flexibility for courts with different circumstances.

Subsection 205(d) directs the Judicial Conference of the United States to explore the feasibility of technology to post online dockets with links allowing all filings, decisions, and rulings in a given case to be obtained from the docket sheet of that case.

Subsection 205(e) amends existing law regarding the fees that the Judicial Conference prescribes for access to electronic information. In the Judiciary Appropriations Act of 1992, Congress provided that "[t]he Judicial Conference shall hereafter prescribe reasonable fees * * * for collection by the courts * * * for access to information available through automatic data processing equipment." Subsection 205(e) amends this sentence to read, "[t]he judicial conference may, only to the extent necessary, prescribe reasonable fees * * * for collection by the courts * * * for access to information available through automatic data processing equipment." The Committee intends to encourage the Judicial Conference to move from a fee structure in which electronic docketing systems are supported primarily by user fees to a fee structure in which this information is freely available to the greatest extent possible. For example, the Administrative Office of the United States Courts operates an electronic public access service, known as PACER, that allows users to obtain case and docket information from Federal Appellate, District and Bankruptcy courts, and from the U.S. Party/Case Index. Pursuant to existing law, users of PACER are charged fees that are higher than the marginal cost of disseminating the information.

Section 206. Regulatory agencies

Electronic Government holds particular promise in the area of enhancing public participation in administrative regulatory processes. Regulatory agencies vary widely in the degree to which they use information technology to disseminate information about regulations, inform the public of opportunities to participate, and facilitate the receipt of public comments.[32] Section 206 will improve per-

[32] See "Federal Rulemaking: Agencies' Use of Information Technology to Facilitate Public Participation," General Accounting Office, B–284527, June 30, 2000.

formance in the development of agency regulations by increasing access, accountability, and transparency, and will enhance public participation in the regulatory process.

Subsection 206(b) requires regulatory agencies, to the extent practicable, to make available on an accessible government website information about the agency. The required information, as listed in the Administrative Procedures Act (at 5 USC 552(a)(1)), includes descriptions of the agency's organization; where the public may obtain information or make submissions; rules of procedure, description of available forms, and instructions as to the scope and content of papers, reports, and examinations; and substantive rules of general applicability, statements of general policy or interpretations of general applicability adopted by the agency. This information is currently required to be published in the Federal Register.

Subsection 206(c) requires agencies to accept submissions by electronic means, to the extent practicable. This provision applies to submissions filed by interested persons in an administrative rulemaking.

Subsection 206(d) requires regulatory agencies to establish electronic dockets for online rulemaking, to the extent practicable, on an accessible government website. Electronic dockets allow parties interested in a rulemaking to file comments electronically, and to view the comments of other parties. Agencies will be required, "to the extent practicable," to include all submissions under section 553(c) of title 5, U.S.C., and other materials that agencies include in their dockets (by rule or practice) in their electronic dockets, whether or not they were submitted electronically. The Committee notes that agencies receive many materials in the docket that may be difficult to make accessible through electronic means. There are also copyright issues associated with some materials submitted to agency dockets. To avoid the burden associated with transferring certain items to electronic format, such as books or physical objects, agencies may simply provide notice of the availability of the material, including in the electronic docket a description of the item and instructions for the public on accessing the material through the agency docket. Agencies may also consider using visual means, such as digital photos, to make materials available through the agency's electronic docket.

Subsection 206(e) provides that the OMB Director will determine appropriate deadlines for compliance by all regulatory agencies, and include the deadlines in the first E-Government report submitted to Congress.

Section 207. Accessibility, usability and preservation of government information

Government information is a vital national resource; for decades the federal government has been grappling with the difficulties inherent in organizing, preserving and disseminating government information, with mixed results. Section 207 is intended to ensure that the Internet and other information technologies improve the way government information is organized, preserved, and made available to the public, and to do so in a way that complement existing law, enhances current initiatives, and makes use of existing standards where appropriate. The section establishes an Interagency Committee on Government Information, chaired by the

OMB Director or the Director's designee, to make policy recommendations, after consultation with the public, on (1) categorizing of information, (2) access to and preservation of electronic information, (3) educational resource materials, and (4) dissemination of information about scientific research performed by the federal government. The OMB Director and the Archivist of the United States are required to issue policies based on the recommendations in several of these areas, which would be binding on agencies. Section 207 also authorizes funding for a database and website to provide access to information about federally funded research and development, and requires the development of a directory of federal government websites and the promulgation of standards for agency websites.

Subsection 207(c) establishes the Interagency Committee on Government Information, which will include representatives from the National Archives and Records Administration (NARA) and agencies' Chief Information Officers. The Committee believes that the interagency committee must include individuals with expertise in managing the content of large government databases, as well as those with responsibility for developing the technical infrastructure for electronic government. Therefore, the Committee suggests that representatives of agencies whose primary responsibility is the organization and dissemination of information, such as the National Library of Medicine and the National Agriculture Library, as well the Government Printing Office and the Library of Congress, participate in the work of the interagency committee.

The OMB Director has the discretion to include on the interagency committee representatives from the other branches of the federal government, and the Committee suggests that the interagency committee work with the Government Printing Office, the Library of Congress, and other appropriate non-Executive Branch entities, whether or not they are formal members of the committee. The Director has the discretion to terminate the interagency committee after it has submitted recommendations specified in the bill, but the Director also has the discretion to maintain the committee indefinitely to update its recommendations as warranted. The Committee intends that the interagency committee consult with interested groups in such a way as to seek views and not to warrant the invocation of the Federal Advisory Committee Act (FACA).

Existing technologies and cataloging methods could allow agencies to keep better track of their own information holdings, and to provide public access to information about those holdings, in a way that is searchable electronically. Under subsection 207(d), the interagency committee will recommend the adoption of standards to accomplish this goal, and recommend which categories of information should be classified according to the standards. The OMB Director will issue policies based on the recommendations, requiring agency use of the standards, and will set deadlines for implementing the standards with respect to defined categories of information. Agencies are required to report to the OMB Director on their compliance with policies developed under subsection 207(d), and the OMB Director will report annually to Congress. Any further modification of the policies calls for consultation with Congress and the public.

The standards required by subsection 207(d) must enable government information to be organized and categorized in a way that is searchable electronically, including by searchable identifiers, and interoperable across agencies; the standards must be open to the maximum extent feasible. Searchable identifiers, or "keys" as they are referred to in the technical community, are data elements created or provided at the time of origination of a record, information collection, or other information product; the identifier links the item to other common subjects which share that identifier. These identifiers are essential for helping to link or integrate information from different agencies or departments, and are an important building block to sustaining meaningful public access. The use of the term "organization and categorization" in subsection 207(d) also can refer to the structuring and cataloging of information resources to make them easily retrievable, such as with "metadata". "Metadata" can refer either to the indexing of information or to the description of data that is being provided.

The Committee intends that the searchable identifiers developed under this section will build on and advance the purposes of section 3511 of title 44 of the United States Code. Section 3511 requires the development of a Government Information Locator Service (GILS), and was intended to lead ultimately to a system by which agencies and the public could locate and obtain government information holdings. The standards also are intended to apply more broadly than just GILS and are related to other portions of S. 803. For example, section 204 requires the maintenance of a web portal, which will help provide meaningful public access to government information. The standards in subsection 207(d) will strengthen the ability to search and quickly find information that is available through agency web sites. Similarly, section 212, regarding integrated reporting, is expected to improve access to information held in government databases; the standards derived from subsection 207(d) could expedite that goal. The Committee also intends that the standards for the categorization of information to be adopted pursuant to this section will be consistent with the standards developed by the National Institute of Standards and Technology in subsection 3602(f)(8)(B) in Section 101 of this Act.

Subsection 207(e) will improve preservation of, and public access to, electronic information by achieving greater compliance with the Federal Records Act with respect to those records. The Federal Records Act requires NARA to work with agencies to preserve federal records, either temporarily or permanently. The public has access to many of those preserved records pursuant to other laws. Agencies have had particular difficulty complying with the Federal Records Act with respect to electronic records, including records posted on the Internet. The interagency committee will recommend the adoption of standards to achieve greater compliance with the Federal Records Act in this area. The subsection requires that the Archivist of the United States issue policies based on the recommendations, and that the OMB Director report to Congress on agencies' compliance.

Subsection 207(f) requires that the interagency committee make recommendations, and that the OMB Director issue policies, promoting coordinated access to educational resource materials on the Internet. The term "educational resource materials" is not defined

in the bill, and the Committee intends an extended process of consultation with interested parties to determine how government agencies might promote access to materials of special interest to educators, as well as materials of general interest to the public. The Committee intends that the initiative focus primarily on government information.

Subsection 207(g) requires that agencies determine what types of government information they intend to make available on the Internet and by other means, and develop timetables for doing so. The subsection provides for public comment throughout the process, and requires that agencies update their determinations as appropriate. The public comment process will be more meaningful if agencies inform the public of what government information will not be made available. The Committee intends this subsection to establish a more deliberative process for agencies as they make decisions about what information should be made publicly available over the Internet.

Subsection 207(h) authorizes funds for a database and website that will contain information about research and development funded by the federal government. The database and website will be developed and maintained by the National Science Foundation, and will provide agencies, scientists, policy makers and the public with varying levels of access over the Internet to information about how federal funds for research and development are spent. Integrating information about research and development across agencies, and making that information electronically accessible and searchable, will enhance scientific coordination and collaboration and the transfer of technology, improve oversight by policymakers, and provide the public with access to meaningful information about research funded by the government. The subsection also requires the interagency committee to recommend policies to improve dissemination of the results of research performed by federal agencies. The bill authorizes appropriations to the National Science Foundation of $2,000,000 in each of the fiscal years 2003 through 2005 to develop and operate the database and website.

The National Science Foundation currently operates a similar database and website, known as Radius, although Radius is not currently available to the public. The Committee intends that the database and website required by subsection 207(h) may be a continuation and improvement of the Radius program. The committee does not intend the public to have access to proprietary and other restricted information. Although the website will provide access to details on the research and development work funded by the federal government, the Committee does not intend that the website will provide links to results published in scientific journals.

Subsection 207(i) requires the Director, working with agencies, to establish a public domain directory of federal government websites. The directory will be based on a taxonomy of subjects in which government information on the Internet is organized according to subject matter; the subject headings listed in the taxonomy will be linked directly to the corresponding websites. Agencies and the Director will develop the directory through a collaborative process involving government officials listed in subsection (i)(2)(A) and other interested parties inside and outside the federal government. The

directory will be updated as necessary, but at least every six months.

The creation of a directory of government websites will, in many cases, allow the Internet user to find the desired information more easily than by using a search engine. A taxonomy is a structure that provides a method of classifying things into a series of hierarchical groups, in a way that makes them easier to identify and locate. The Committee does not intend the taxonomy referred to in this subsection to include cross-references to related information and other detailed information that might be included in a library catalog system. Rather, the taxonomy need only identify a list of standard terms, ordered by their hierarchical relationship to each other. Although most taxonomies are created by human editors, it is possible to create taxonomies automatically using content categorization or taxonomy software. Even when computer programs are used, they often need editing to reflect actual content. This may be especially true in the federal government context, where the challenge will be categorizing a wide variety of government programs and vast amounts of information. This job can be made easier by referring to relevant existing taxonomies. The Committee recognizes the nature of the challenge, and the taxonomy that has been developed after two years should not be considered a finished product; rather it should be continually updated and improved.

Subsection 207(j) requires the OMB Director to issue guidance for agency websites. The guidance will include requirements that websites have links to (1) descriptions of an agency's mission and statutory authority, (2) an agency's electronic reading room, (3) information about the organizational structure of the agency, and (4) an agency's strategic plan. The guidance will also include minimum agency goals to aid in navigating websites, including speed of retrieval of search results, the relevance of the results, and tools to aggregate and disaggregate data.

Section 208. Privacy provisions

Individuals will not, and should not, be expected to use services that they do not trust, and privacy and security are essential to provide greater trust in e-government services. The Committee recognizes that providing citizen-centered electronic government will require greater vigilance on the part of agencies to ensure that individual privacy is being protected. The Section 208 privacy protections address two major concerns: (1) the greater personalization of government services need not impinge on personal privacy, if the federal government takes steps to address privacy concerns when first designing systems; and (2) privacy notices, which are one of the fundamental elements of privacy protection, need to be clear, concise, intelligible and accurate. Further, agencies should take advantage of technological developments that allow such notices to be rendered in a standardized and transparent form that will allow a citizen to better control their information through the use of a Web browser.

Subsection 208(b) requires federal government agencies to develop Privacy Impact Statements (PIAs). PIAs are increasingly being recognized as an important means of ensuring that privacy protection is being taken into account in the design of new systems. PIAs are public documents that explain how an agency takes into

account privacy considerations when purchasing and creating new information systems, and when initiating collections of information. PIAs are intended more elicit more detailed information than what is required by the Privacy Act of 1974, and the PIA requirement is applied to a greater number of information systems than is the Privacy Act. The CIO Council adopted PIAs as a "Best Practice" on February 25, 2000, citing the IRS's PIA as a model.

Subsection 208(b) specifies that an agency will conduct a PIA before developing or procuring information technology, or initiating a new collection of information, in which personally identifiable information will be processed electronically. The Committee intends the phrase "any identifier permitting the physical or online contacting of a specific individual" to include: a first and last name; a home or other physical address; an e-mail address; a telephone number; a social security number; a credit card number; a birth date, birth certificate number, or a place of birth. The OMB Director will issue guidance to agencies specifying the required contents of a PIA; the PIA will have to include a description of: the information to be collected; the purpose for the collection; any notice that will be provided regarding what information will be collected and how it will be shared; the intended uses of the information; and security measures to protect the information. All completed PIAs will be reviewed by the agency's Chief Information Officer, or equivalent official, before being made public.

The Committee intends that the OMB guidance on conducting PIAs under subsection 208(b) should allow for consistency with post-procurement PIAs done by some agencies. In addition, the Committee intends that the OMB guidance on the process for developing a PIA allow for consistency with work done by agencies to assess privacy requirements under the PRA and the Privacy Act of 1974, with regard to new collections of information that include personally identifiable information. On occasions where a Privacy Act systems of record notice is required, agencies can satisfy the publication requirement for PIAs by attaching the PIA to a Privacy Act systems of record notice published in the Federal Register.

Subsection 208(c) requires that agencies post privacy notices on all federal government websites and details the kind of information that should be included in guidance to create such notices. Website privacy policies have become a standard and important means of examining the practices of a website and ensuring the trust of website visitors, and it is essential that federal government websites provide clear, concise and accurate notices to all visitors. OMB has previously recognized the importance of website privacy policies and has given basic guidance to agencies.[33] Guidance on this subject should be continually updated to reflect the changes in technology and fair information practices. The Committee does not intend section 208 to require a modification of OMB policy restricting the tracking of individuals through agency websites, through the use of such devices as "persistent cookies."

Subsection 208(c)(2) requires that these notices also be posted in a machine-readable format. Privacy policies in machine-readable formats are designed to be a simple, automated way for users to

[33] See OMB Memorandum m–99–18, June 2, 1999; OMB Memorandum m–00–13, June 22, 2000.

gain more control over the use of personal information on websites they visit. In creating guidance for putting privacy policies into such formats, the Director should seek to ensure that federal government agencies are using an interoperable standard that can adequately relate the agencies' privacy practices.

Currently, the leading standard for privacy policies in machine-readable formats is the Platform for Privacy Preferences Project (P3P). P3P has been developed by the World Wide Web Consortium. At its most basic level, P3P is a standardized set of multiple-choice questions, covering all the major aspects of a website's privacy policies. Taken together, they present a clear snapshot of how a site handles personal information about its users. P3P-enabled websites make this information available in a standard, machine-readable format. P3P-enabled browsers can "read" this snapshot automatically and compare it to the consumer's own set of privacy preferences using XML. P3P enhances user control by putting privacy policies where users can find them, in a form users can understand, and it enables users to act on what they see. As of the writing of this report, several government agencies have already implemented P3P on their Web site, including the Federal Trade Commission, Department of Commerce and US Postal Service.

Section 209. Federal information technology workforce development

Section 209 reflects the fact that attracting and retaining a high quality information technology workforce is essential to successful implementation of electronic government. Training in IT disciplines is important not just with respect to professionals who develop and maintain IT systems. As more of the federal government's work becomes automated, the government will need managers who understand how to administer their programs using new technologies to maximum advantage, and how to oversee contractors who perform IT work on behalf of the government. Similarly, the federal workforce generally increasingly will need to be well trained in the use of information technologies to perform their jobs.

Section 209 will improve the IT skills of the federal workforce, by establishing a Federal Information Technology Training Center to comprehensively address the government's IT workforce needs. The section requires the Office of Personnel Management to analyze the personnel needs of the government related to IT on an ongoing basis; oversee the development of curricula, training methods and training schedules that correspond to those needs; and oversee the training of federal employees in IT disciplines at a rate that ensures that the government's needs are met. The bill authorizes for the Office of Personnel Management $7,000,000 for FY 2003 to carry out the provisions in this section.

Section 210. Common protocols for geographic information systems

Geographic information systems (GIS) allow government and the private sector to develop innovative multi-layered maps and analyses using the government's massive amounts of geographic data, and it can be a vital tool in disaster planning, crime mapping, land use planning, sustainable development, and a broad range of private sector applications. Section 210 will promote the development of interoperable GIS technologies, leading to widespread sharing of

geographic information; and geographic information will be electronically accessible to a much greater degree.

Subsection 210(c) requires the Department of the Interior to develop common GIS protocols. The Department will work through an interagency group, and will work with private sector experts and standards groups, state, local and tribal governments, and other interested parties. The interagency group is intended as a reference to the Federal Geographic Data Committee, which was organized in 1990 pursuant to OMB Circular A–16 and which promotes the coordinated use, sharing, and dissemination of geospatial data on a national basis. As described in subsection 210(e), the common protocols will maximize the electronic compatibility of geographic information from various sources and promote the development of interoperable GIS technologies for low-cost use and sharing of geographic data by government entities and the public. The OMB Director will oversee the initiative and the adoption of common standards related to the protocols.

Section 211. Share-in-savings program improvements

Section 211 is intended to study the effectiveness of share-in-savings contracting approaches for information technology projects, and it authorizes pilot projects in which agencies may retain a portion of the savings realized from the contract. The section amends section 5311 of the Clinger-Cohen Act of 1996, which established limited pilot project authority for share-in-savings IT contracts. Share-in-savings contracts are contracts in which the private contractor is paid out of a portion of the savings realized from implementation of the project. Agencies have been slow to use the authority provided in section 5311; the Committee believes that allowing the agency to retain a portion of the savings could provide additional incentives. The agency would be permitted to retain up to half of the excess of the total savings over the amount of the savings paid to the contractors, and to use the retained amount to acquire additional information technology. The OMB Director will be required to submit a report to Congress on the effectiveness of the pilots.

Section 212. Integrated reporting feasibility study and pilot projects

Section 212 has three main purposes. First, it is intended to enhance the interoperability of information systems maintained by the federal government. Second, it is intended to help reduce burdens imposed on the public, including the regulated community, when submitting information electronically to the federal government, and simultaneously improve the accuracy of the information that is submitted. Finally, it is intended to help the public obtain information from multiple agencies, collected under multiple programs, in an integrated fashion without violating personal privacy rights.

Section 212 has two main requirements: the development of a report on progress made by the executive branch in improving public access to government information by integrating access to information within and across agencies; and the completion of pilot projects to achieve such outcomes.

Subsection 212(c) requires the OMB Director to conduct a study and submit a report to the Senate Committee on Governmental Af-

fairs and the House Committee on Government Reform within three years after the date the bill is enacted that addresses:

- The integration of data elements electronically collected by agencies under federal statutes without reducing the quality, accessibility, scope, or utility of the information in each database;
- The feasibility of developing—or enabling the development of—and using software or Internet tools to help persons required to submit information to agencies improve the accuracy of information electronically submitted;
- The feasibility of developing a distributed information system that provides integrated public access to information held by one or more agencies, including the underlying raw data, in such a manner that public users need not know which agency holds the information. A distributed information system means an open, transparent architecture that allows integrated data access by the public to information that may be housed in different agencies or different locations within an agency;
- The feasibility of including other elements identified by the OMB Director; and
- Recommendations that Congress or the executive branch can implement to reduce the burden on submitting information to agencies and strengthen public access to government databases.

Subsection 212(d) requires the OMB Director to consult with agencies, the regulated community, public interest organizations, and others on designating a series of up to five pilot projects to help in preparation of the report described above. The pilots are to address the following with at least one pilot addressing each:

- Reduce information collection burdens by eliminating duplicative reporting requirements. This could be done by having a uniform registry system so that common data elements, such as organization name and address, do not need to be reported multiple times;
- Create interoperability between public databases of two or more agencies in order to improve public access. This could be done by integrating data elements, developing key identifiers that help make such linkages, or other approaches; and
- Develop software, or enable the development of software, to reduce errors in electronically submitted information.

As agencies proceed to implement the pilot projects, they must seek input from users regarding the utility of the pilot as well as ways to improve it. The OMB Director, to the extent practicable, should consult with relevant agencies, State, local and tribal governments.

Subsection 212(e) affirms that personal privacy as well as confidential business information are protected.

Section 213. Community technology centers

Section 213 provides for a study by the Department of Education to evaluate the best practices being used by community technology centers that receive federal funds. The study and other provisions in the section are intended to improve the effectiveness of the nation's networks of community technology centers and other facilities that provide Internet access to the public. Many of the individ-

uals who use community technology centers would benefit from knowing more about how to access the government services and information they need over the Internet. Section 213 directs the Department of Education to develop an online tutorial to government offerings, and to promote its use at community technology centers and other institutions that provide Internet access to the public.

Community technology centers are a diverse collection of organizations and local government entities that provide technology access to lower-income and under-served communities. Access to computers and the Internet are not seen as an end in themselves, but rather the means to educational and economic opportunity. Users of community technology centers vary widely in age and background; they use the centers to participate in General Educational Development or other adult education programs, improve English language skills, receive tutoring or homework help, improve job skills and look for jobs on the Internet, use e-mail, and use the Internet to look up other types of information.[34] Among federal agencies, the Department of Education has provided the most funding to community technology centers in recent years. Other agencies that have funded the centers include the Department of Housing and Urban Development and the National Science Foundation.

The study to be prepared by the Department of Education and submitted to Congress will include an evaluation of best practices used by successful community technology centers; a strategy for establishing a network to share information and resources as the centers evolve; an analysis of whether the centers have been deployed effectively throughout the country; a database of all community technology centers receiving federal funds, and recommendations for enhancing the development of the centers. Section 213 also directs the OMB Director to work with the Department of Education and other relevant agencies and the private and non-profit sectors to provide assistance to community technology centers, public libraries, and other institutions that provide computer and Internet access to the public. The Department of Education will develop an online tutorial that explains how to access government information and services on the Internet. The bill authorizes appropriations of $2,000,000 for fiscal year 2003 and $2,000,000 for fiscal year 2004 to complete the study and tutorial and to promote the availability of community technology centers.

Section 214. Enhancing crisis management through advanced information technology

Section 214 requires the Federal Emergency Management Agency to oversee a two-year study to develop a research and implementation strategy for effective use of information technology in preparing for and responding to natural and manmade disasters. The study will also examine opportunities for research and development on enhanced technologies. Among these, the study should examine technologies for (i) improving communications with citizens at risk before and during a crisis; (ii) enhancing the use of remote sensor data and other information sources for planning, mitigation, response, and advance warning; (iii) building more robust and trust-

[34] Impact of CTCNet Affiliates: Findings from a National Survey of Users of Community Technology Centers," Community Technology Centers' Network, July 1998.

worthy systems for communications in crises; and (iv) facilitating coordinated actions among responders through more interoperable communications and information systems.

Section 215. Disparities in access to the internet

Section 215 directs the National Science Foundation to enter into a contract with the National Academy of Sciences to conduct a study of how disparities in Internet access influence the effectiveness of online government services. There have been numerous studies into the digital divide in recent years, and it is not the Committee's intent to replicate that work. Rather, the study should focus on the increase in online government services, and on whether that raises particular questions or concerns with respect to citizens who rely on government programs but lack Internet access. The commissioned study should also review alternative sources of internet access, such as access through public libraries. Finally, the study will include recommendations on how to ensure that online government initiatives will not have the unintended result of increasing any deficiency in public access to government services. The bill authorizes an appropriation of $950,000 in fiscal year 2003 for the study.

Section 216. Notification of obsolete or counterproductive provisions

Section 216 specifies that if the OMB Director determines that any provision of the bill becomes obsolete or counterproductive, as a result of changes in technology or any other reason, the Director will notify the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

TITLE III: GOVERNMENT INFORMATION SECURITY REFORM

Section 301. Information security

On October 30, 2000, Congress enacted a comprehensive framework for the management of government information security, based on legislation developed by the Committee; the provisions were included in the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001. Section 301 of S. 803, provides that these provisions are named the "Government Information Security Reform Act" (GISRA) and removes a sunset provision from that Act.

The Committee has spent considerable time over many years examining the security of the government's information technology systems. Responding to testimony and reports showing that weak security was a widespread problem with potentially devastating consequences, Senators Thompson and Lieberman in the 106th Congress introduced S. 1993, the Government Information Security Act of 1999. This bill was reported favorably by the Committee on March 23, 2001; the legislation, with amendment, was subsequently incorporated into the FY 2001 Defense Authorization bill and was enacted as subtitle G of title X, sections 1061–1064, of Public Law 106–398.

The first section of GISRA added a new subchapter on Information Security (subchapter II of chapter 35) to title 44 of the United States Code (44 U.S.C. §§3531–3536). This new subchapter

strengthened the responsibilities of OMB, agency heads and CIOs, and Inspectors General for developing and implementing security policies, and provided for an annual cycle of evaluation and reporting. Under the subchapter—

• OMB is responsible for establishing governmentwide policies, standards, and guidelines for information security. The law delegates OMB's responsibilities with regard to national security systems to national security agencies.

• Each agency is responsible for establishing an agency-wide security program overseen by the agency CIO, to address how the agency will upgrade its practices and procedures to ensure protection of computer information. Each program must include periodic risk assessments and provide for the development and implementation of risk-based, cost-effective policies and procedures for security.

• Each agency is also required to have an annual independent evaluation of its information security program and practices. Evaluations of non-national-security systems are to be performed by the agency IGs or independent evaluators, and the results of the evaluations are to be reported to OMB. For national-security systems, the evaluators are designated by the national-security agencies, audits of the evaluations are performed by the IGs or outside evaluators, and the results of the audits are reported to OMB. OMB, in turn, is required to submit an annual report to Congress summarizing results of agencies' evaluations of their information security programs.

Other sections of GISRA also assign specific new responsibilities to particular agencies. The Department of Commerce, through NIST, was made responsible for issuing standards and guidance for federal information systems. The Defense Department and intelligence agencies were made responsible for issuing standards and guidelines for certain security-related systems. The statute also assigns specific responsibilities to the Justice Department, the General Services Administration, and the Office of Personnel Management.

The information security legislation was reported by this Committee with no sunset provision, and it passed the Senate that way, but a two-year sunset was added in conference. The sunset provision is set forth in the last section of the new Information Security subchapter (44 U.S.C. §§3531–3536, at §3536); it states that the subchapter will not remain in effect after November 29, 2002. The information security provisions codified in title 44, which are subject to the sunset, assign responsibilities to OMB and the agencies and establish an annual cycle of evaluation and reporting; the sunset does not apply to other provisions of GISRA, which establish specific responsibilities for NIST, the national security agencies, and certain other specific agencies. The first annual cycle of evaluation and reporting has now been successfully completed, and section 301 of S. 803 will strike the sunset provision.

TITLE IV: AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATE

Section 401. Authorization of appropriations

Section 401 authorizes appropriations necessary to carry out the provisions in title I and title II of the bill, for fiscal years 2003

through 2007. The exceptions are those sections in which appropriations are specifically provided.

Section 402. Effective date

Section 402 specifies that the provisions in title I and II will become effective within 120 days of the bill's enactment. The exceptions are sections 207, 214, 215, and 216, which take effect immediately, as do titles III and IV.

V. Regulatory Impact

Paragraph 11(b)(1) of the Standing Rules of the Senate requires that each report accompanying a bill evaluate the regulatory impact of the legislation. The Committee believes that the bill strengthens government management practices and privacy protections, and will result in reduced costs for regulated entities. The legislation will not result in additional regulation, increased economic impact, adverse impact on personal privacy, or additional paperwork on any individuals or businesses.

VI. CBO Cost Estimate

U.S. Congress,
Congressional Budget Office,
Washington, DC, June 7, 2002.

Hon. Joseph I. Lieberman,
Chairman, Committee on Governmental Affairs,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for S. 803, the E-Government Act of 2002.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

Barry B. Anderson
(For Dan L. Crippen, Director).

Enclosure.

S. 803—E-Government Act of 2002

Summary: S. 803 would authorize appropriations for programs to improve electronic access to government information and services. The bill also would specifically authorize and centralize many Internet-related activities currently underway throughout the government. For example, S. 803 would establish an Office of Electronic Government within the Office of Management and Budget (OMB) and a Chief Information Officers Council. Assuming appropriation of the necessary amounts, we estimate that implementing S. 803 would cost about $50 million on 2003 and about $500 million over the 2003–2007 period.

The bill would not affect direct spending or receipts, so pay-as-you-go procedures would not apply. S. 803 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: As shown in the following table, CBO estimates that implementing S. 803 would cost

about $500 million over the 2003–2007 period, subject to appropriation of the necessary amounts. The costs of this legislation fall within budget functions 250 (general science, space, and technology), 500 (education, training, employment, and social services), and 800 (general government).

	By fiscal year, in millions of dollars—				
	2003	2004	2005	2006	2007
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Specified Authorization Level	80	54	102	150	0
Estimated Outlays	44	37	56	92	0
Estimated Authorization Level	10	33	36	38	192
Estimated Outlays	9	33	36	38	166
Total Estimated Authorization Level	90	87	138	188	192
Total Estimated Outlays	53	70	92	130	166

Basis of estimate: For this estimate, we assume that the necessary amounts will be provided each year and that spending will follow historical patterns for similar activities. CBO estimates that S. 803 would authorize the appropriation of approximately $700 million over the 2003–2007 period for the management and promotion of electronic government services and processes. This estimate assumes that funding would be adjusted for anticipated inflation.

Specific authorizations

The bill would authorize the appropriation of about $385 million over the 2003–2006 period for the following activities:

- $368 million for the General Services Administration (GSA) to fund the E-Government Fund for the interagency projects, develop electronic signatures for executive agencies, and maintain and promote the federal Internet portal. For 2002, $5 million was appropriated for this program that supports interagency electronic government initiatives to provide individuals, businesses, and other governmental agencies more timely access to federal information, benefits, services, and business opportunities;
- $6.9 million for the National Science Foundation to develop and maintain a database and website devoted to research and development conducted by federal agencies and to study disparities in access to the Internet;
- $7 million for the Office of Personnel Management to oversee the development and operation of a Federal Information Technology Center; and
- $4 million for the Department of Education to study, develop, and maintain community development centers.

In addition, S. 803 would authorize the appropriation of approximately $41 million for other ongoing efforts, including developing electronic signatures, maintaining and promoting the federal Internet protal, and developing and maintaining databases and websites for federally funded research, information technology training, and education.

Estimated authorizations

S. 803 also would authorize such sums as necessary during the next five years for those ongoing electronic government programs.

CBO estimates that to continue the activities that would be authorized by the bill over the next five years would require the appropriation of an additional $309 million over the 2003–2007 period for the management and promotion of electronic government services and processes.

Savings

The use of electronic information systems to collect information from the public and to provide government services could reduce administrative costs at federal agencies. Implementing S. 803 could help the government achieve such savings; however, CBO has no basis for estimating any such potential savings over the next few years.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: S. 803 contains no intergovernemntal or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal Costs: Matthew Pickford; Impact on State, Local, and Tribal Governments: Susan Sieg Tompkins; and Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

VII. CHANGES TO EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 803 as reported are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed in shown in roman):

UNITED STATES CODE

TITLE 28—JUDICIARY AND JUDICIAL PROCEDURE

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PART V—PROCEDURE

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CHAPTER 123—FEES AND COSTS

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§ 1913. Courts of appeals

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HISTORICAL AND REVISION NOTES

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COURT FEES FOR ELECTRONIC ACCESS TO INFORMATION

Pub. L. 102–140, title III, Sec. 303, Oct. 28, 1991, 105 Stat. 810, as amended by Pub. L. 104–317, title IV, Sec. 403(b), Oct. 19, 1996, 110 Stat. 3854, provided that:

"(a) The Judicial Conference [shall hereafter] *may, only to the extent necessary,* prescribe reasonable fees, pursuant to sections 1913, 1914, 1926, 1930, and 1932 of title 28, United States Code, for collection by the courts under those sections for access to information available through automatic data processing equipment. These fees may distinguish between classes of persons, and shall provide for exempting persons or classes of persons from the fees, in order to avoid unreasonable burdens and to promote public access to such information. The Director of the Administrative Office of the United States Courts, under the direction of the Judicial Conference of the United States, shall prescribe a schedule of reasonable fees for electronic access to information which the Director is required to maintain and make available to the public."

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TITLE 31—MONEY AND FINANCE

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CHAPTER 5—OFFICE OF MANAGEMENT AND BUDGET

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Subchapter I—Organization

Sec.
501. Office of Management and Budget.
502. Officers.
* * * * * * *
507. Office of Electronic Government.
* * * * * * *

§ 503(b)

(b) Subject to the direction and approval of the Director, the Deputy Director for Management shall establish general management policies for executive agencies and perform the following general management functions:

(1) * * *
(2) * * *
(A) * * *
(B) * * *
(C) * * *
(D) * * *
(E) * * *
(F) * * *
(G) * * *
(H) * * *
(3) * * *
(4) * * *
(5) Chair the Chief Information Officers Council established under section 3603 of title 44.

[(5)] *(6)* Provide leadership in management innovation, through—

(A) experimentation, testing, and demonstration programs; and

(B) the adoption of modern management concepts and technologies.

[(6)] *(7)* Work with State and local governments to improve and strengthen intergovernmental relations, and provide assistance to such governments with respect to intergovernmental programs and cooperative arrangements.

[(7)] *(8)* Review and, where appropriate, recommend to the Director changes to the budget and legislative proposals of agencies to ensure that they respond to program evaluations by, and are in accordance with general management plans of, the Office of Management and Budget.

[(8)] (*9*) Provide advice to agencies on the qualification, recruitment, performance, and retention of managerial personnel.

[(9)] (*10*) Perform any other functions prescribed by the Director.

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"§ 507. Office of Electronic Government

"The Office of Electronic Government, established under section 3602 of title 44, is an office in the Office of Management and Budget.".

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TITLE 40—PUBLIC BUILDINGS, PROPERTY, AND WORKS

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CHAPTER 25—INFORMATION TECHNOLOGY MANAGEMENT

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Subchapter III—Information Technology Acquisition Pilot Programs

PART B—SPECIFIC PILOT PROGRAMS

§ 1491. Share-in-savings pilot program

(a) REQUIREMENT.—The Administrator may authorize [the heads of two executive agencies to carry out] *heads of executive agencies to carry out a total of 5 projects under* 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[.] *; and*

(3) encouraging the use of the contracting and sharing approach described in paragraphs (1) and (2) by allowing the head of the executive agency conducting a project under the pilot program—

(A) to retain, out of the appropriation accounts of the executive agency in which savings computed under paragraph (2) are realized as a result of the project, up to the amount equal to half of the excess of—

(i) the total amount of the savings; over

(ii) the total amount of the portion of the savings paid to the private sector source for such project under paragraph (2); and

(B) to use the retained amount to acquire additional information technology.";

(b) LIMITATIONS.—The head of an executive agency authorized to carry out a *project under* the pilot program may, under the pilot program, [carry out one project and] enter into not more than five contracts for the project.

(c) SELECTION OF PROJECTS.—The projects shall be selected by the Administrator, in consultation with the Administrator for the Office of Information and Regulatory Affairs *and the Administrator for the Office of Electronic Government.*

(d) REPORT.—

(1) IN GENERAL.—After 5 pilot projects have been completed, but no later than 3 years after the effective date of this subsection, the Director shall submit a report on the results of the projects to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

(2) CONTENTS.—The report shall include—

(A) a description of the reduced costs and other measurable benefits of the pilot projects;

(B) a description of the ability of agencies to determine the baseline costs of a project against which savings would be measured; and

(C) recommendations of the Director relating to whether Congress should provide general authority to the heads of executive agencies to use a share-in-savings contracting approach to the acquisition of information technology solutions for improving mission-related or administrative processes of the Federal Government.

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TITLE 44—PUBLIC PRINTING AND DOCUMENTS

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Subtitle G—Government Information Security Reform

[“Sec. 3536. Expiration “This subchapter shall not be in effect after the date that is two years after the date on which this subchapter takes effect.”.]

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CHAPTER 36—MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

§ 3601. Definitions

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

(1) “Administrator” means the Administrator of the Office of Electronic Government established under section 3602;

(2) “Council” means the Chief Information Officers Council established under section 3603;

(3) “electronic Government” means the use by the Government of web-based Internet applications and other digital technologies, combined with processes that implement these technologies, to—

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

(B) bring about improvements in Government operations that may include effectiveness, efficiency, service quality, or transformation;

(4) “enterprise architecture” means a framework for incorporating business processes, information flows, applications, and infrastructure to support agency and interagency goals;

(5) “Fund” means the E-Government Fund established under section 3604;

(6) "interoperability" means the ability of different software systems, applications, and services to communicate and exchange data in an accurate, effective, and consistent manner; and

(7) "integrated service delivery" means the provision of Internet-based Federal Government information or services integrated according to function rather than separated according to the boundaries of agency jurisdiction.

§ 3602. Office of Electronic Government

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

(b) There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

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

(1) all functions under this chapter;

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

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

(d) The Administrator shall assist the Director and the Deputy Director for Management and work with the Administrator of the Office of Information and Regulatory Affairs in setting strategic direction for implementing electronic Government, under relevant statutes, including—

(1) chapter 35;

(2) division E of the Clinger-Cohen Act of 1996 (division E of Public Law 104–106; 40 U.S.C. 1401 et seq.);

(3) section 552a of title 5 (commonly referred to as the Privacy Act);

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

(5) the Government Information Security Reform Act; and

(6) the Computer Security Act of 1987 (40 U.S.C. 759 note).

(e) The Administrator shall work with the Administrator of the Office of Information and Regulatory Affairs and with other offices within the Office of Management and Budget to oversee implementation of electronic Government under this chapter, chapter 35, the E-Government Act of 2002, and other relevant statutes relating to—

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

(2) the development of enterprise architectures;

(3) information security;

(4) privacy;

(5) access to, dissemination of, and preservation of Government information; and

(6) other areas of electronic Government.

(f) Subject to requirements of this chapter, the Administrator shall assist the Director by performing electronic Government functions as follows:

(1) Advise the Director on the resources required to develop and effectively operate and maintain Federal Government information systems.

(2) Recommend to the Director changes relating to Governmentwide strategies and priorities for electronic Government.

(3) Provide overall leadership and direction to the executive branch on electronic Government by working with authorized officials to establish information resources management policies and requirements, and by reviewing performance of each agency in acquiring, using, and managing information resources.

(4) Promote innovative uses of information technology by agencies, particularly initiatives involving multiagency collaboration, through support of pilot projects, research, experimentation, and the use of innovative technologies.

(5) Oversee the distribution of funds from, and ensure appropriate administration of, the E-Government Fund established under section 3604.

(6) Coordinate with the Administrator of General Services regarding programs undertaken by the General Services Administration to promote electronic government and the efficient use of information technologies by agencies.

(7) Lead the activities of the Chief Information Officers Council established under section 3603 on behalf of the Deputy Director for Management, who shall chair the council.

(8) Assist the Director in establishing policies which shall set the framework for information technology standards for the Federal Government under section 5131 of the Clinger-Cohen Act of 1996 (40 21 U.S.C. 1441), to be developed by the National Institute of Standards and Technology and promulgated by the Secretary of Commerce, taking into account, if appropriate, recommendations of the Chief Information Officers Council, experts, and interested parties from the private and nonprofit sectors and State, local, and tribal governments, and maximizing the use of commercial standards as appropriate, as follows:

(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

(B) Standards and guidelines for categorizing Federal Government electronic information to enable efficient use of technologies, such as through the use of extensible markup language.

(C) Standards and guidelines for Federal Government computer system efficiency and security.

(9) Sponsor ongoing dialogue that—

(A) shall be conducted among Federal, State, local, and tribal government leaders on electronic Government in the executive, legislative, and judicial branches to encourage collaboration and enhance understanding of best practices and innovative approaches in acquiring, using, and managing information resources;

(B) is intended to improve the performance of governments in collaborating on the use of information technology to improve the delivery of information and services; and

(C) may include—

(i) development of innovative models—

(I) for electronic Government management and Government information technology contracts; and

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

(ii) identification of opportunities for public-private collaboration in using Internet-based technology to increase the efficiency of Government-to-business transactions;

(iii) identification of mechanisms for providing incentives to program managers and other Government employees to develop and implement innovative uses of information technologies; and

(iv) identification of opportunities for public, private, and intergovernmental collaboration in addressing the disparities in access to the Internet and information technology.

(10) Oversee the work of the General Services Administration and other agencies in developing the integrated Internet-based system under section 204 of the E-Government Act of 2002.

(11) Coordinate with the Administrator of the Office of Federal Procurement Policy to ensure effective implementation of electronic procurement initiatives.

(12) Assist Federal agencies, including the General Services Administration and the Department of Justice, and the Unites States Access Board in—

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

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

(13) Oversee the development of enterprise architectures within and across agencies.

(14) Administer the Office of Electronic Government established under section 3602.

(15) Assist the Director in preparing the E-Government report established under section 3605.

(g) The Director shall ensure that the Office of Management and Budget, including the Office of Electronic Government, the Office of Information and Regulatory Affairs, and other relevant offices, have adequate staff and resources to properly fulfill all functions under the E-Government Act of 2002.

§ 3603. Chief Information Officers Council

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

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

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

(2) The Administrator of the Office of Electronic Government.

(3) The Administrator of the Office of Information and Regulatory Affairs.

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

(5) The chief information officer of the Central Intelligence Agency.

(6) The chief information officer of the Department of the Army, the Department of the Navy, and the Department of the Air Force, if chief information officers have been designated for such departments under section 3506(a)(2)(B).

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

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

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

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

(3) The Administrator of General Services shall provide administrative and other support for the Council.

(d) The Council is designated the principal interagency forum for improving agency practices related to the design, acquisition, development, modernization, use, operation, sharing, and performance of Federal Government information resources.

(e) The Council shall perform the following functions:

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

(2) Share experiences, ideas, best practices, and innovative approaches related to information resources management.

(3) Assist the Administrator in the identification, development, and coordination of multiagency projects and other innovative initiatives to improve Government performance through the use of information technology.

(4) Promote the development and use of common performance measures for agency information resources management under this chapter and title II of the E-Government Act of 2002.

(5) Work as appropriate with the National Institute of Standards and Technology and the Administrator to develop recommendations on information technology standards developed under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3) and promulgated under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441), as follows:

(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

(B) Standards and guidelines for categorizing Federal Government electronic information to enable efficient use of technologies, such as through the use of extensible markup language.

(C) Standards and guidelines for Federal Government computer system efficiency and security.

(6) Work with the Office of Personnel Management to assess and address the hiring, training, classification, and professional development needs of the Government related to information resources management.

§ 3604. E-Government Fund

(a)(1) There is established in the General Services Administration the E-Government Fund.

(2) The Fund shall be administered by the Administrator of the General Services Administration to support projects approved by the Director, assisted by the Administrator of the Office of Electronic Government, that enable the Federal Government to expand its ability, through the development and implementation of innovative uses of the Internet or other electronic methods, to conduct activities electronically.

(3) Projects under this subsection may include efforts to—

(A) make Federal information and services more readily— available to members of the public (including individuals, businesses, grantees, and State and local governments);

(B) make it easier for the public to apply for benefits, receive services, pursue business opportunities, submit information, and otherwise conduct transactions with the Federal Government; and

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

(b)(1) The Administrator shall—

(A) establish procedures for accepting and reviewing proposals for funding; and

(B) consult with interagency councils, including the Chief Information Officers Council, the Chief Financial Officers Council, and other interagency management councils, in establishing procedures and reviewing proposals.

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

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

(B) Projects shall adhere to fundamental capital planning and investment control processes.

(C) Agencies shall assess the results of funded projects.

(D) Agencies shall identify in their proposals resource commitments from the agencies involved, and include plans for potential continuation of projects after all funds made available from the Fund are expended.

(E) After considering the recommendations of the interagency councils, the Director, assisted by the Administrator, shall have final authority to determine which of the candidate projects shall be funded from the Fund.

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

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

(A) identifies the customer group to be served, including citizens, businesses, the Federal Government, or other governments;

(B) indicates what service or information the project will provide that meets needs of customers;

(C) directly delivers services to the public or provides the infrastructure for delivery;

(D) ensures proper security and protects privacy;

(E) is interagency in scope, including projects implemented by a primary or single agency that—

(i) could confer benefits on multiple agencies; and

(ii) have the support of other agencies;

(F) supports integrated service delivery;

(G) describes how business processes across agencies will reflect appropriate transformation simultaneous to technology implementation;

(H) has performance objectives that tie to agency missions and strategic goals, and interim results that relate to the objectives; and

(I) is new or innovative and does not supplant existing funding streams within agencies; and

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

(A) has Governmentwide application or implications;

(B) has demonstrated support by the customers to be served;

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

(D) identifies resource commitments from nongovernmental sectors;

(E) identifies resource commitments from the agencies involved; and

(F) uses web-based technologies to achieve objectives.

(d) The Fund may be used to fund the integrated Internet-based system under section 204 of the E-Government Act of 2002.

(e) None of the funds provided from the Fund may be transferred to any agency until 15 days after the Administrator of the General Services Administration has submitted to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the appropriate authorizing committees of the Senate and the House of Representatives, a notification and description of how the funds are to be allocated and how the expenditure will further the purposes of this chapter.

(f)(1) The Director shall report annually to Congress on the operation of the Fund, through the report established under section 3605.

(2) The report shall describe—

(A) all projects which the Director has approved for funding from the Fund; and

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

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

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

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

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

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

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

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

§ 3605. E-Government report

(a) Not later than March 1 of each year, the Director shall submit an E-Government status report to the Committee on Governmental

Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

(b) The report shall contain—

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

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

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

UNITED STATES PUBLIC LAW

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FLOYD D. SPENCE NATIONAL DEFENSE AUTHORIZATION ACT (PUBLIC LAW 106–398)

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TITLE X

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Subtitle G

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SEC. 1060. Short Title.

This subtitle may be cited as the "Government Information Security Reform Act".

UNITED STATES PUBLIC LAW

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FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949 (40 U.S.C.471)

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SEC. 113. ELECTRONIC GOVERNMENT AND INFORMATION TECHNOLOGIES.

The Administrator of General Services shall consult with the Administrator of the Office of Electronic Government on programs undertaken by the General Services Administration to promote electronic Government and the efficient use of information technologies by Federal agencies.

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