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Calendar No. 1015

96th Congress }
2d Session }

SENATE

{ REPORT
No. 96-930

PAPERWORK REDUCTION ACT OF 1980

REPORT

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS

UNITED STATES SENATE

TO ACCOMPANY

S. 1411

TO IMPROVE THE ECONOMY AND EFFICIENCY OF THE
GOVERNMENT AND THE PRIVATE SECTOR BY IMPROVING
FEDERAL INFORMATION POLICYMAKING, AND FOR OTHER
PURPOSES

together with

ADDITIONAL VIEWS



SEPTEMBER 8 (legislative day, JUNE 12), 1980.—Ordered to be printed

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(II)

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96TH CONGRESS }
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PAPERWORK REDUCTION ACT OF 1980

SEPTEMBER 8 (legislative day, JUNE 12), 1980.—Ordered to be printed

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

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 1411]

The Committee on Governmental Affairs, to which was referred the bill (S. 1411) to improve the economy and efficiency of the Government and the private sector by improving Federal information policymaking, and for other purposes, having considered the same, 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

The Paperwork Reduction Act takes statutory steps needed to reduce and minimize the burden Government paperwork imposes on the public. The purposes of the bill are to:

- (1) Minimize the Federal paperwork burden for individuals, businesses—in particular, small businesses—State and local governments, and other persons;
- (2) Minimize the cost to the Federal Government of collecting, maintaining, using, and disseminating information;
- (3) Maximize the usefulness of information collected;
- (4) Coordinate and integrate Federal information policies and practices; and
- (5) Ensure that automatic data processing and telecommunications technologies are acquired and used by the Federal Government to improve service delivery and program management, increase productivity, and reduce the information processing burden for both the Government and the public.

The bill—

Establishes a goal to reduce the 1980 paperwork burden existing today by twenty-five percent in three years.

Creates an institutional framework to carry out recommendations of the Commission on Federal Paperwork.

Consolidates within the Director of OMB and the Office of Information and Regulatory Affairs the following information management policy functions: general information, paperwork clearance, statistical activities, records management, privacy, and automatic data processing and telecommunications.

Ensures that paperwork required from the public is first checked to see whether information requested is:

- (1) Needed;
- (2) Not duplicative; and
- (3) Collected efficiently.

The Director of OMB will be accountable for this checking and will be responsible for preventing duplicative and unnecessary paperwork burdens.

Requires all information requests of the public to display a control number, an expiration date, and indicate why the information is needed, how it will be used, and whether it is a voluntary or mandatory request. Requests which do not reflect a current OMB control number or fail to state why not, are "bootleg" requests and may be ignored by the public.

Establishes a Federal Information Locator System to:

- (1) Identify duplication in agencies' reporting and record-keeping requirements;
- (2) Locate existing information that may meet the needs of Congress, executive agencies, and the public; and
- (3) Assist in deciding which agency requests for information collection should be approved.

Rewrites the original Federal Reports Act of 1942 and eliminates all agency exemptions to the Act except the Federal Election Commission. A disapproval of an information request of the

public which has been made by an independent regulatory agency may be overridden by a majority vote of the members of that agency.

II. NEED FOR LEGISLATION

The Federal Paperwork Commission estimated 3 years ago that the cost of Federal paperwork requirements amounted to \$100 billion a year—some \$500 for every man, woman, and child in this country. Much of that cost does not show up as an expenditure in the Federal budget. Instead, the public spends the time, money, and effort in “hidden taxes” at home, in their businesses, or by way of higher consumer prices.

Federal paperwork requirements, whether they are tax forms, medicare forms, financial loans, job applications, or compliance reports, are something each individual touches, feels, and works on. The cumulative impact is excessive. Too many paperwork requirements are necessary and wasteful. It is important to recognize that every one percent reduction achieved is a billion dollar effort saved.

Today many Federal programs attempt to serve large numbers of people in a variety of ways, such as protecting civil rights, providing decent housing and ensuring safe and healthy working conditions. In those and other areas, Congress has made critically important commitments to the people of this Nation. In order to be effective, many of those programs must collect information from the public in order to make intelligent decisions on standards, benefits and other government actions. In other cases, information must be collected in order to inform the public of various matters of general concern.

In that light, the purpose of the Paperwork Reduction Act obviously cannot be total elimination of Federal paperwork requests on the public. Rather, S. 1411 has a two-fold objective. First, it will insure that agencies make only necessary information requests of the public. And second, that those burdens which are found to be unnecessary and thus wasteful are eliminated.

Certainly, meaningful Congressional action on wasteful Federal paperwork is long overdue.

During field hearings on Federal paperwork problems, the Committee received testimony from people in all walks of life and learned that paperwork costs go beyond financial costs. Several small business counselors testified that many clients refuse to expand their business because of the added paperwork they would face. One counselor taped together the forms any potential small business person must know just to think about getting into business. They stretched across an entire room.

The burden of filling out forms is causing doctors to discourage medicare business. Processing a medicare claim has become a nightmare for many older Americans. Hospitals have witnessed an explosion in paperwork since the advent of medicare. One hospital President in St. Louis testified that his institution's clerical staff increased fifteen percent in the first year of medicare.

One young doctor, just entering practice, estimated that only fifteen percent of the doctors in this area will ever accept medicaid patients

in their office. A pharmacist demonstrated how it takes some seven minutes to fill a prescription and get paid if someone walks off the street, but as a medicaid provider to nursing homes he is lucky to get paid in seven months.

Classroom teachers reported that at a minimum, it takes 26 extra working days a year to fill out their paperwork. That is class time taken away from children or time at home without pay for the teacher.

State and local government officials, university presidents, and community leaders repeatedly estimated that 10 to 30 percent of Federal grant funds are wasted in unnecessary paperwork costs. That is money lost that could be going to needed program services.

Most frightening was the testimony of several witnesses who said they were "afraid of their government." They had been bombarded with Government forms, neglected or wrongly answered some particular form, and were afraid that the "Government" was going to "get" them as a result—a nagging feeling of fear.

The frustration and fear expressed by witnesses revealed the human dimension of unnecessary Federal paperwork requirements. There is a strong feeling among many citizens of this country that Federal paperwork requirements are "out of control".

The Paperwork Reduction Act is a response to the need to eliminate unnecessary Federal paperwork demands. The Committee benefited considerably from its own hearings, and the work and recommendations of the Federal Paperwork Commission, the General Accounting Office, the White House Conference on Small Business, and the President's Federal Data Processing Reorganization Project. The Act establishes a framework of accountability and a reasonable set of controls to make the shower of paperwork requirements that rain upon the public more manageable.

The Government-wide management system created should not only help solve information management problems we have today, but for the future as well. Federal paperwork problems are often a physical manifestation of a Federal role in society. Citizens should feel confident that the Federal role is necessary and managed competently.

III. LEGISLATIVE HISTORY

S. 1411 replaces chapter 35 of title 44, United States Code, which is the codification of the Federal Reports Act of 1942, as amended. For 38 years the Federal Reports Act has been the basic statute controlling paperwork requirements imposed on the public by the Federal Government.

Due to a growing public concern over the increasing burden of the Federal Government's information requests, the Congress established the Commission on Federal Paperwork in late 1974 (P.L. 93-556).

The Commission's purpose was to recommend means to minimize the burden of Federal paperwork requirements. It issued its final report in October of 1977.

The Commission's recommendations complemented ongoing considerations by the Congress to provide new statutory controls for managing the burden of information requests to the public.

In July of 1978 the Senate Subcommittee on Federal Spending practices and Open Government of the Committee on Governmental Affairs,

chaired by Senator Lawton Chiles held an oversight hearing on the Commission's work. On June 26, 1979, Senator Chiles, Senator Bentsen and Senator Danforth introduced S. 1411, the Paperwork and Redtape Reduction Act of 1979. The House companion to S. 1411, H.R. 6410, was introduced April 10, 1979 by Congressmen Horton, Brooks and Preyer. A legislative hearing was held on S. 1411 on November 1, 1979.

On November 30, 1979, President Carter signed Executive Order 12174 on Paperwork. The President cited the Executive Order as one of his regulatory reform initiatives and endorsed the paperwork legislation under consideration by the Senate Governmental Affairs and House Government Operations Committees.

On February 5, 1980, Congressman Brooks, for himself and Congressman Horton, Steed and Preyer, introduced H.R. 6410, the Paperwork Reduction Act of 1980. H.R. 6410 replaced H.R. 3570 as the House companion to S. 1411. On February 7, 21, and 26, hearings were held on the bill by the Legislation and National Security Subcommittee of Government Operations. On March 4, H.R. 6410 was passed and ordered reported by the full Committee. On March 24, 1980, the bill passed the House of Representatives.

H.R. 6410 was referred to the Senate Committee on Governmental Affairs on March 26. By April of 1980 the Subcommittee on Federal Spending Practices and Open Government had completed two days of legislative hearings, 4 days of field hearings in Jacksonville, St. Petersburg, Tallahassee, and Orlando, Fla., and 1 day of field hearings in St. Louis, Mo. On August 1, 1980 the Subcommittee reported favorably a substitute to S. 1411 to the full Committee. (Other bills considered included S. 119, S. 259, S. 2624, S. 2308, and S. 391.)

The full Committee on Governmental Affairs unanimously adopted and ordered reported a substitute to S. 1411 with amendments on August 5, 1980. S. 1411 is now entitled "The Paperwork Reduction Act of 1980," is sponsored by Senator Lawton Chiles, and is cosponsored by Senators Danforth, Ribicoff, Bentsen, Roth, Percy, Levin, Cochran, Huddleston, Garn, Melcher, Dole, Hollings, Lugar, Heinz, Pryor, and Johnston.

IV. GENERAL DISCUSSION OF COMMITTEE VIEWS

A NEW MANAGEMENT AND ACCOUNTABILITY STRUCTURE CREATED

The Paperwork Reduction Act creates a single control point for the management of Federal information resources. It ends the fragmented responsibility for controlling Federal paperwork burdens which exists today and establishes visible and accountable officials for information management within the Office of Management and Budget and each agency.

The new structure consists of two key elements. First, a central office is established within the Office of Management and Budget. The office has broad responsibilities for information management policies and overseeing agency activities relating to the collection, use, and dissemination of information. The head of this "Office of Information and Regulatory Affairs" will be an Associate Director of OMB, appointed by the Director of OMB, and will report directly

to the Director. The Associate Director shall perform a staff function to the Director. It is the Director, not the Associate Director, who is assigned the authorities contained in the bill. The Director may at his discretion delegate to the Associate Director the responsibility for functions, but the Director retains ultimate accountability for any exercise of authority contained in the bill. The Committee intends to make clear it is the Director of OMB who is accountable for the authority and responsibilities contained in the Paperwork Reduction Act.

Second, each agency head is to appoint a high ranking official who is to ensure that the agency carries out effectively its information activities. The Committee's intent is to establish an identifiable line of accountability for information management activities between the Director and individual agencies and within agencies. Not only will this structure enable agencies to better manage their information resources, it enables Congress to pinpoint responsibility for information activities in any legislative oversight activities. For example, senior officials will be responsible for explaining how the related functions of information policy are integrated within an agency to manage information resources more efficiently and to minimize the information burden on the public.

The Committee anticipates each agency may reorganize, to the extent necessary, so that the counterpart activities within the agency to those assigned to the OMB Office of Information and Regulatory Affairs will report to the senior official designated by the agency head. Realignment should provide for greater coordination among the agency's information activities as well as greater visibility within the agency.

A proposed structure for an agency will meet the intent of Section 3506(b) of the bill if (1) the agency's information functions which relate to the OMB Director's functions listed in Section 3504(a) are under the supervision of the designated official; and (2) the designated official has approval authority for the agency's information functions. One structure will not be appropriate for all agencies. The Committee expects the Director of OMB to closely monitor and review agency performance.

The Department of Defense presents a special case. The Committee amended the language of Section 3506(b) to accommodate the Secretary of Defense's recommendation that two designated officials as opposed to only one be permitted for military departments. It is the intent of the Committee that agencies designate one official to carry out their responsibilities under Section 3506 except that those agencies whose primary mission involves discharge of functions relating to national security are not to have any more than two such officials. For the purposes of this bill, the military departments are to be considered agencies. In this particular situation, the designated official may delegate final approval authority under specified terms and conditions.

In deliberations on this legislation, the Committee was concerned that the bill contain measures to ensure not only the development and promulgation of information policies but also effective agency implementation of the policies, principles, standards, or guidelines for the Federal Government's information activities. The management and accountability structure will enable responsibility to be pinpointed. Sections 3513 and 3514 are measures designed to assist implementation.

Section 3513 of the bill requires the Director to review, with the advice and assistance of the Administrator of the General Services Administration, each agency's information management activities at least once every three years. The General Services Administration will provide support to OMB in carrying out this responsibility. The Director is to report on the results of these reviews to the appropriate agency head and to relevant Congressional Committees. In turn, the agencies are to respond to reports by submitting a written statement to the Director and to the Committees receiving the report, describing measures taken to alleviate or remove deficiencies identified. The reporting and required agency response is patterned after the practice of agencies responding to General Accounting Office reports. The intent is to ensure agencies fully consider and respond to recommendations resulting from this oversight mechanism. Section 3514 describes requirements for an annual report to the Congress from the Director and is also intended to provide a basis for continued oversight.

Consistent with the intent to maintain clear lines of accountability, S. 1411 does enable the Director to delegate the responsibility of approving proposed information collection requests to the agencies. If the Director finds that the senior official responsible for an agency's information management has sufficient independence and resources to fairly and effectively evaluate proposed information collection requests, the Director may delegate his authority to approve those requests to the senior official. Notice to the public and the opportunity to comment must be provided. The Committee expects the Director will delegate this important responsibility only after a careful finding that an agency has sufficient capability. The bill does not permit the senior official to redelegate approval authority within his agency.

The Committee notes that under section 111 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 759), the Administrator of the General Services Administration may grant broad discretion to agencies to make procurements of automatic data processing resources with less direct GSA involvement. Any such delegations are to be predicated on demonstrated procurement competence. S. 1411 requires this delegation be made by the agency head to the senior information management official designated under this legislation. The Committee believes these potential delegations will provide strong incentive to the agencies to make substantial improvements in their management of information resources.

ASSIGNMENT OF FUNCTIONS TO OMB OFFICE

Section 3504 of the Paperwork Reduction Act assigns the following information management functions to the Director of OMB and the Office of Information and Regulatory Affairs: general information policy, clearance and paperwork control, statistical activities, records management, privacy, and federal automatic data processing and those telecommunications related to collection of information. The purpose of aggregating these functions within the single office is to establish a government-wide policy framework for "information resources management."

By "information resources management" the Committee means to include the planning, budgeting, organizing, directing, training, promoting, controlling and other managerial activities involved with the creation, collection, use, and dissemination of information by Federal agencies. Information creation may be through reports, questionnaire responses by the public, or other methods. Information use includes analysis, sharing, dissemination, and restriction. Use may also involve information and data processing and transmission. These definitions are sufficiently precise to support the objectives of the bill and flexible enough to allow for future changes in technology and Government activities.

The Committee strongly believes the application of this policy framework for information resources management will result in financial savings to the government for information technology and a substantial reduction in paperwork burden on the public. Improved management of information resources is the means to achieve the basic mission of the Office; to reduce and minimize the public burden involved in providing information to the Federal Government.

Several of the assigned functions are already located in OMB. In anticipation of this legislation, the Director of OMB recently created the Office of Regulatory and Information Policy. That Office now has responsibility for (1) overseeing agency activities under Executive Order 12044 on "Improving Government Regulations," (2) the Federal Reports Act clearance responsibilities currently assigned to OMB, (3) oversight of automatic data processing resources under the Brooks Act (Public Law 89-306), (4) certain telecommunications responsibilities under Executive Order 12046, (5) Privacy Act oversight, and (6) follow-up and reporting on the status of the recommendations of the Commission on Federal Paperwork. The Committee expects these activities to form the core of the new office.

Section 3504(h) of the bill mandates the Director to ensure that in developing rules and regulations agencies take steps to minimize the information burden of regulations. The Committee views this function as similar to the present OMB function to oversee agency activities under Executive Order 12044. The importance of this linkage between OMB's existing responsibility for overseeing the regulatory process with the closely related information management functions assigned by the bill was stressed by the Comptroller General in his comments to the Committee. (See appendix.)

* * * This relationship between the regulatory process and information management is reflected in OMB's existing Office of Regulatory and Information Policy. We believe this combination of functions has worked well. The principal areas of growth in Federal paperwork burdens are associated with new regulations. Therefore, it seems appropriate to retain the existing link between the functions for controlling both regulatory and paperwork burdens.

The Committee intends that the Director of OMB continue efforts to oversee the information management and burden aspects of government regulations. This emphasis has great promise for minimizing the explosion of paperwork demands on the public because new regulations are causing the greatest growth in information requirements. However,

the Committee does not intend that "regulatory reform" issues which go beyond the scope of information management and burden be assigned to the Office by the Director. Recent initiatives such as the trucking and airline deregulations are examples of regulatory reform issues whose assignment to the Office would dilute the information function assigned by this bill.

Section 3504(c) of the bill assigns the Director information clearance and other paperwork control functions. The Director is to review and approve all information collection requests before they go to the public. The authority contained in this subsection builds upon the authority contained in the original Federal Reports Act. All agency exemptions to the Director's clearance authority except the Federal Election Commission have been eliminated. New responsibilities beyond the present core activities will be required of the Office of Information and Regulatory Affairs.

All information requests of the public are to show an OMB control number indicating that the Director of OMB is the accountable individual in Government to be sure that the information is needed, is not duplicative of information already collected, and is collected efficiently. The Director is to ensure that information requests to the public indicate why the information is needed, what it will be used for, and whether the request is voluntary, required to obtain a benefit, or mandatory.

The Brooks Act, (Public Law 89-306) establishes a framework for the central management and procurement of the Government's automatic data processing (ADP) resources. OMB is assigned policy and fiscal authority under that Act. The Administrator of GSA is granted operational responsibilities. Section 3504(g) of S. 1411 integrates the OMB policy responsibility for this information function with the Director's other information management functions. This step was recommended by the Paperwork Commission and strongly endorsed by the Comptroller General. As he commented to the Committee:

The present situation in ADP is characterized by:

The confusion of Policy roles between OMB and GSA.

Overly complex and costly software that too often fails to meet user needs, is inefficient, or simply does not work; and

A costly, prolonged, and ineffective acquisition process which emphasizes hardware characteristics over sound financial investment.

The Comptroller further noted that in 10 of the 57 reports issued by GAO in the last decade on software and system problems, GAO has found waste of some \$300 million and years of delay on individual system. He attributed much of the waste and delay to the lack of OMB guidance for computer system developments.

S. 1411 incorporates the objectives of the Brooks Act to (1) procure ADP resources economically and efficiently as possible and (2) procure only those resources which are needed and can assist the management of Government programs. The consolidation of OMB's Brooks Act policy responsibility with the other information management functions covered by the bill should improve the Federal Government's capability for applying advanced information technology to

the problems of controlling paperwork burdens and improving the quality of data for program management and evaluation.

The Committee wishes to acknowledge oversight work performed by the House Government Operations Committee concerning Public Law 89-306. House Report 94-1746 summarizes that Committee's conclusions on how the law has worked after 10 years. House Report 96-694 concerns a case study of the Air Force Phase IV program and provides recommendations to OMB and GSA concerning their respective roles in managing ADP resources.

Passage of S. 1411 presents an opportunity for the Director of OMB and the Administrator of GSA to rethink and improve the administration of their respective responsibilities in managing ADP resources and related information. They should be mindful of the recommendations and principles presented in the House reports.

Due to concerns raised by the Secretary of Defense, the Secretary of the Air Force, and the Director of the Central Intelligence Agency, the Committee specifically addressed the relationship of automatic data processing and telecommunications provisions of the bill to intelligence and national security missions. The Secretary and CIA Director expressed the view that provisions of the House bill, H.R. 6410, coupled with the House Report (Report No. 96-835), could be construed to inappropriately expand the scope of the Brooks Act to the detriment of certain security missions.

The Committee does not intend that provisions of the Paperwork Reduction Act affect adversely the intelligence and national security missions. Section 3518 was amended in Committee to clarify that the bill neither increases nor decreases the authority of the Director of OMB, Administrator of GSA, or the Secretary of Commerce conferred by Public Law 89-306. The Committee intends that the scope of the Brooks Act not be expanded by the provisions of S. 1411. In addition, the Committee adopted all recommendations to amend the bill by the Secretary of Defense and Director of the CIA. The Committee agrees present OMB policy guidance as issued by the Director of OMB on October 6, 1976 (F.R. Doc. 76-30940 filed 10-20-76; 8:45 a.m.) describes the appropriate role for GSA under the Brooks Act.

Section 3504(g) of the bill also assigns OMB policy responsibility for Federal telecommunications to the Office of Information and Regulatory Affairs. The bill does not change the telecommunications responsibilities of the other agencies as presently assigned by Reorganization Plan No. 1 of 1977 and Executive order. For example, the responsibility of the Secretary of Commerce for private sector telecommunications policy is not changed. Similarly, the Department of State shall continue to exercise primary authority for the conduct of foreign policy with respect to telecommunications in accordance with other agencies as appropriate. The Committee does expect the Director to be the effective focal point for OMB's oversight responsibilities for Federal telecommunications activities.

Section 3518(b) of the bill reflects the Committee's intent on this point. The Secretary of Commerce presently is responsible for private sector telecommunications policy and this arrangement is not changed by the provisions of this bill.

Section 3504(d) of the bill places statistical policy and coordination functions in the OMB Office. This function, which is described

generally in section 103 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 18(b)), is vested in the President but presently assigned to the Department of Commerce by Executive Order 12013. Prior to October of 1977 statistical policy was determined within OMB, at a level above the agencies' statistical operating activities. S. 1411 transfers statistical policy and coordination back to OMB, integrates it with related information functions, and restores its importance.

The Committee acknowledges the President's Reorganization Study on the Federal Statistical System and believes a strong statistical policy unit within the Executive Office of the President is important. Letters and comments by representatives of the statistical community persuaded the Committee this policy function will merit continued oversight. For example, the Committee understands the administration will again submit for consideration next Congress, legislative or reorganization proposals to further strengthen this function.

The records management function assigned to the Director is a new authority for OMB. The Office will oversee the records management activities carried out by the Administrator of General Services; provide advice, assistance, and clout to those activities; and review agency compliance with records management requirements. Records management, which is concerned with information use and disposition, is a vital element of information policy. The Committee believes a focus upon the recordkeeping requirements imposed upon the public, such as those associated with Federal procurement and assistance programs, will also yield reductions in information burden.

S. 1411 does permit the Director of OMB to assign additional functions to the Office of Information and Regulatory Affairs. However, to protect its mission and emphasize the importance Congress attaches to it, the bill's authorization explicitly states that money appropriated shall be used only for the purpose of carrying out the provisions of the bill. The Committee expects that any new function assigned by the Director to the Office will relate directly to information resources management and the essential purpose of the legislation: to reduce the burden on the public in providing information to the Federal Government. If legislation is needed to add any appropriate function, the Director should ensure that the necessary proposals and justification are developed and submitted to the Congress for its consideration. An example of an appropriate assignment would be those responsibilities assigned to the Director by President Carter's Executive Order 12174 on Paperwork.

TASKS AND DEADLINES

Section 3505 of S. 1411 sets out a series of tasks to be performed by the Director of OMB and deadlines by which the tasks are to be completed. The accomplishment of these tasks is instrumental to meeting the objectives of the legislation. They establish performance measures upon which OMB's effectiveness in implementing this legislation will be evaluated by the Congress.

Upon enactment of the Act, the Director is to set a goal to reduce the existing information burden by 15 percent in 2 years. A goal to reduce the burden an additional 10 percent the following year is also required.

The Director is to establish the basis upon which the percentage reductions are to be measured. Passage of the bill will require that the base be announced in October, 1980. The additional 10-percent reduction goal mandated for the third year of the Act's operation should be based on the 1980 base as well. Successful achievement of these goals would amount to the October, 1980, burden being reduced 25 percent within 3 years.

The Committee understands the difficulty in establishing such a base. Due to present exemptions, information collections in violation of the Federal Reports Act, and technical problems, an over-all figure will not be exact. The Director will need flexibility to make appropriate adjustments to this baseline figure. However, the Committee believes, and OMB officials have acknowledged, that the agency estimates of total number of hours required to fulfill requests for information that have been generated to comply with the President's Executive Order 12174 on Paperwork can serve as means to establish a meaningful base.

The burden reduction goal will be a useful way of focusing attention by the public and the Congress on the Office of Information and Regulatory Affairs and the activities mandated by the bill. While the goals are not binding, they are reasonable and obtainable. Continued public support and confidence in this reform effort will depend on progress made toward meeting them.

Other tasks include developing a 5-year plan for meeting the ADP and telecommunications needs of the Federal Government, revitalizing the development of information processing standards, assigning the responsibility of conducting audits of major information systems, and establishing the Federal Information Locator System. These and other similar tasks of making plans for improving information activities and establishing information standards are needed to provide a base for OMB to carry out its responsibilities. These tasks provide the new OMB Office opportunity to achieve some early successes toward improving Federal information activities. Moreover, without establishing this base upon which to build, OMB will not be able to achieve the objectives of S. 1411.

The Committee incorporated a recommendation of the Director of the Central Intelligence Agency in Section 3505(2)(A). In assigning responsibility for agency audit of information systems, the Director shall not assign responsibility for the audit of systems used for the conduct of criminal or intelligence activities.

The task to identify initiatives which may achieve a 10-percent reduction in the burden associated with administration of Federal grant programs is worth special note. Senator Chiles, Chairman of the Committee's Subcommittee on Federal Spending Practices and Open Government, conducted a series of field hearings in the State of Florida on Federal paperwork problems. Repeatedly, the Chairman asked witnesses involved in the administration of grant programs how much of their Federal program money was wasted by unnecessary administrative and paperwork costs. Repeatedly, witnesses responded with estimates of a quarter to a third of program costs were wasted in unnecessary paperwork costs.

Senator Danforth, the ranking minority member of the Subcommittee, found a similar response to these questions in field hearings he chaired in St. Louis, Mo.

The Federal Government spends over \$100 billion a year in grant programs to state and local governments, nonprofit and private organizations, universities, and individuals. A 10-percent reduction in the burden of collections of information associated with these programs would amount to billions of dollars that could go more appropriately to program services. It is a highly visible target of opportunity for Governors, mayors, community leaders, and other recipients of assistance programs that should be seized upon.

THE FEDERAL REPORTS ACT IS STRENGTHENED

The Paperwork Reduction Act is a rewrite of Chapter 35 of Title 44 of the United States Code. The present Chapter 35 is the codification of the Federal Reports Act of 1942, as amended. Since enacted 38 years ago, the Reports Act has been the basic statute providing for the control of paperwork burdens imposed on the public by the Federal Government. The law requires the Director of OMB to review and approve forms and questionnaires used by certain agencies to collect information.

Six features of the Paperwork Reduction Act which strengthen the clearance process are worth noting. First, the bill eliminates all original agency exemptions from the Reports Act and restores the Director of OMB as the single point for clearing information collection requests imposed upon the public. The Internal Revenue Service and certain bank supervisory agencies were exempted from the original Reports Act. In 1973 the clearance responsibility for independent regulatory agencies was transferred to the General Accounting Office. In 1976 data collections on health professions personnel was exempted. In 1978, the Secretary of Health, Education, and Welfare was assigned responsibility for Federal data collections from educational institutions and programs.

The present fragmented responsibility for clearing information requests will be consolidated in the Director of OMB, and no agency exemptions, except the Federal Election Commission, will be allowed. (The Congress itself clears the information requests of the FEC). While the consolidation brings the independent regulatory agencies under the same review process as other agencies, an override authority is provided in Section 3707(c) to protect their independence.

Second, the definition of "collection of information" has been clarified to specifically include recordkeeping requirements in the clearance process.

Third, the term "collection of information" has been clarified to eliminate the possibility that information collections be interpreted to apply only to situations where answers provided by respondents are to be used for statistical compilations of general public interest. This interpretation, which has been employed by the Securities and Exchange Commission, will not have any foundation.

Fourth, agency responsibilities are clarified by requiring agencies to eliminate duplication, minimize burden, and formulate plans for

tabulating data before they request clearance of an information collection request. Agencies are also to prepare a notice of submission to be published by the Director of OMB in the Federal Register in order to provide for meaningful public comment.

Fifth, OMB is required periodically to check and evaluate the agencies' information management controls.

Sixth, Section 3512, the Public Protection Section, provides that no person shall be subject to any penalty for not filling out a Federal form or otherwise responding to an information request if the request does not either display an OMB control number or, if not, state why not. This enables the public to ignore "bootleg" requests that do not conform to this Act's clearance requirements.

RELATIONSHIP OF INDEPENDENT REGULATORY AGENCIES TO CENTRAL MANAGEMENT STRUCTURE

Under S. 1411, the authority to review, approve, or disapprove proposals of information by independent regulatory agencies is transferred back to the Director of OMB from the Comptroller General. The Director is authorized to determine agencies' need for information and thereby reduce the paperwork burden on the public. This step restores the scope of the Director's authority for clearance that existed between 1942 and 1973.

The shift from the Office of Management and Budget to the General Accounting Office resulted from Congressional concern that the clearance authority was jeopardizing the independence of independent regulatory bodies such as the Federal Communications Commission. In both hearings on S. 1411 and letters received by the Committee, representatives of the independent regulatory agencies argued that their agencies autonomy would be adversely affected by a transfer back to OMB due to the difficulties of separating information management from substantive agency policymaking. They argued that information management may require a balancing of competing interests—such as societal needs, the burden on the public, privacy, and budget impact—all of which could touch upon the substance of policy. The witnesses presented the view that to grant ultimate control over agency information policy to the Director of OMB could result in a significant loss of independent agencies' limited autonomy from the Executive Branch.

The question concerning the independent regulatory agencies has been carefully reviewed by our Committee. Well over two years ago, the Committee considered the issue in volume V of our "Study on Federal Regulation." While recognizing the important purpose served by central clearance, we concluded in the 1977 report that no change in GAO's responsibility was warranted:

There is, in our opinion, an overriding objective to insure that the paperwork burden government imposes on the public is neither duplicative nor burdensome. And that requires some measure of central coordination and clearance. * * * Less than 4 years ago, Congress determined that this function was best exercised for these particular agencies by the Comptroller General. * * * Overall the agencies have cooperated with the

General Accounting Office. We believe that, at this time, it would be premature to reconsider the 1974 transfer of this responsibility to GAO.¹

As a general proposition, our Committee supports the independent status of the regulatory agencies. In various instances over the past several years, we have affirmed that support. We have resisted various efforts to dilute the independence of the agencies. Our basic conclusion in that regard was expressed in the "Study on Federal Regulation": "The functional independence of Federal regulatory programs should be fully maintained."²

We do recognize that Executive branch agencies with significant regulatory responsibilities, such as the Environmental Protection Agency, presently operate under the OMB paperwork clearance process. We are not aware of any recent undue interference with EPA programs resulting from Reports Act authority. We also recognize that, since 1942, OMB has developed considerable expertise under that Act in clearing agency information collection requests.

All the same, there would be considerable reluctance in this Committee concerning any transfer of the independent agencies back to OMB without the kinds of proper safeguards which S. 1411, as reported, contains.

Various provisions of S. 1411 are intended to ensure protection for the independent status of the regulatory agencies. Three key provisions are worthy of specific mention.

First, the bill provides an override mechanism in section 3507(c). An independent regulatory agency may be a majority vote of its members override any disapproval of the Director of an information collection request. The override authority also applies to an exercise of the Director's authority under section 3504(h) (concerning rules and regulations) and under section 3509 (designation of a central collection agency).

Second, the authority of the OMB Director under S. 1411 must be exercised consistent with applicable law. This provision, contained in section 3504(a), has applicability to laws other than those concerning independent agencies. But it also provides important protection for the independent commissions. That is so, because the special status of these agencies has been established and continued by Congress in the organic statutes. S. 1411 does not in any way authorize a change in that status, and a major purpose of section 3504(a) is to ensure that does not occur.

Finally, section 3518(e) provides that this bill shall not affect in any way the existing authority of the President or O.M.B. with respect to the substantive policies and programs of departments and agencies. Like section 3504(a), this provision has application to all government programs. But it also serves a special purpose for the independent agencies. It reiterates the Committee's firm belief that, on matters of substance, this legislation in no way affects the relationship between the independent agencies and the Executive Branch.

¹ Committee on Governmental Affairs, U.S. Senate, Study on Federal Regulation, vol. V: Regulatory Organization, 95th Congress, 2d sess., pp. 52-54 (Dec. 1977).

² Ibid., p. xii.

These provisions will hopefully provide adequate protection from potential abuse or political interference. But this situation merits close attention in the future. The bill requires independent agencies to explain the reasons for any override. And that will enable the public and the Congress to monitor these actions to ensure that there is no abuse of the clearance authority.

The Congress itself has the responsibility and must ultimately ensure that the authority granted to the Director of OMB by this Act over both Executive branch and independent regulatory agencies and the override authority is not abused. As the history of the original Federal Reports Act demonstrates, the Congress always has the prerogative and capability to change those authorities.

PUBLIC PARTICIPATION

A key to successful information resources management is public participation and comment on the development and implementation of information policy. Effective public comment at the front end of decision processes is particularly beneficial. Public participation in itself is a resource which should be tapped by agency officials planning and designing collections of information.

The Business Advisory Council on Federal Reports (BACFR) has monitored the operations of the Federal Reports Act throughout the Act's history. The Council stressed to the Committee the value of increased public awareness and participation. As a result of their comments on S. 1411, the Committee has taken additional steps to provide a meaningful opportunity for public involvement.

S. 1411 requires the OMB Director to consult with the public and the agencies affected in developing information policies, rules, regulations and procedures. The agencies are to prepare notices for publication in the Federal Register of their submissions of proposed information collection requests to OMB. The Federal Reports Act does not now require a Federal Register notice. OMB will cause the notices to be published in the Register when the submission is complete. The Committee wishes to emphasize that the purpose of this requirement is to alert the public of the submission and to provide for meaningful public comment on the proposal. Furthermore, the Director has the ability to either obtain written statements or to hold public hearings for additional comments prior to his approval or denial of an agency's proposed information collection request.

In addition to providing public comment opportunities on individual information collection requests, the Committee views the concept of public consultation as a critical element of any OMB proposal to enter into an agreement with an agency on a delegation of clearance authority.

Delegations of the OMB Director's information collection approval authority to the agencies shall be subject to the notice and comment provisions of the Administrative Procedures Act. The Committee also expects that in promulgating information policies, rules, regulations, and procedures, the OMB Director will require agencies to consult with the public on the conduct of their information management activities.

Public participation provisions incorporated in S. 1411 enhance and increase the opportunity for the public to provide suggestions to the Government for improving its information demands and collecting useful information from which to make sound management decisions.

Public participation should also play a policing role in monitoring agency compliance with the legislation. Section 3512, entitled "Public Protection" states that any collection of information which does not display a control number can be ignored by the respondent without penalty for failure to comply. The thrust of this provision is to eliminate "bootleg" forms imposed upon the public.

CONTINUED FOLLOWUP OF COMMISSION ON FEDERAL PAPERWORK
RECOMMENDATIONS

This legislation extends OMB's responsibility to follow up on the recommendations of the Commission on Federal Paperwork. The legislation which created the Commission (Public Law 93-556) specifically mandated that OMB, in conjunction with the Executive agencies to (1) formulate views on the Commission's recommendations, (2) to the extent practicable within the limits of their authority and resources carry out those recommendations in which they concur, and (3) propose legislation needed to provide authority or remove barriers for implementation of accepted recommendations. OMB was to submit to the President and the Congress status reports at least once every six months and a final report within 2 years of the conclusion of the Commission's work.³

While the Paperwork Reduction Act can be viewed as providing the statutory foundation for many of the Commission's government-wide recommendations, the efforts to adequately evaluate, formulate views and resolve a number of the recommendations have been slow. This bill will continue and should strengthen the OMB and agency role in following up on the Commission's recommendations.

The OMB has stated to the Committee that there has been significant progress and the task is by no means finished. However, in a study issued by the General Accounting Office, "The Followup Program for Federal Paperwork Commission Recommendations Is in Trouble," several deficiencies towards resolving the recommendations were reported. Some of these deficiencies cited by GAO were: the need to redesign the followup program, a lack of OMB leadership, a failure to involve agency top management, and insufficient information to assess adequately the status of the recommendations. OMB expressed their continuing commitment to effective followup in their proposed paperwork control regulations, took steps to augment the resources, and increased the level of effort devoted to the Commission recommendations. The Director endorsed provisions of this legislation which extend the responsibility for followup of the Commission's recommendations.

The Committee expects future reports by OMB to reflect careful attention to the ongoing progress of implementing accepted recommendations.

³The Paperwork Commission "sunsetting" in January 1978. The Office of Management and Budget has issued three status reports: June, 1978; October, 1978 and September, 1979.

Several of the Commission's key government-wide recommendations, such as eliminating the fragmentation of the Federal Reports Act, aggregating information management resources, designating accountable senior agency officials, and establishing a Federal Information Locator System, are first-time endeavors and will require OMB leadership. In light of the GAO report and the newly authorized provisions of the bill, the Committee and OMB recognize additional time is necessary to complete action on the Commission's recommendations.

The Committee has extended the OMB followup responsibility for an additional 2 years. The Committee anxiously awaits the results of OMB's renewed efforts on the laudatory work of the Commission on Federal Paperwork. Committee deliberations on this bill benefitted substantially from the Commission's work.

V. DISCUSSION OF SPECIFIC ISSUES

Certain specific issues which arose during hearings and Committee deliberations on this legislation are discussed in this part of the report.

At the time the Committee undertook to propose a substitute bill to S. 1411, introduced June 26 of 1979, the House companion, H.R. 6410, had passed the House and was an integral part of Committee deliberations. Several of the issues discussed relate to language of the House bill which the Committee addressed before marking up the substitute bill for S. 1411.

The specific issues discussed are :

1. Does the Paperwork Reduction Act expand the scope of the Brooks Act and adversely affect national security and intelligence missions?

2. Should biomedical and epidemiological research be exempted from the scope of the clearance process established by the Paperwork Reduction Act?

3. Should the clearance process require a quick decision by the Director of OMB for special situations?

4. Should requests for information from educational institutions be exempt from the Director of OMB's clearance authority?

5. Does the Paperwork Reduction Act expand the scope of the Brooks Act to cover Government-owned, contractor-operated laboratories?

6. Should requests for information by the Federal Election Commission be exempted from the Director of OMB's clearance authority? and

7. What does the Paperwork Reduction Act do to minimize the cost for dissemination and maximize the usefulness of information collected by the Federal Government?

1. Does the Paperwork Reduction Act expand the scope of the Brooks Act and adversely affect national security and intelligence missions?

H.R. 6410, the House companion to S. 1411, and the accompanying committee report (Report No. 96-835) were available to the Committee during its markup of S. 1411.

During the Committee deliberations on S. 1411 the Secretary of Air Force, the Secretary of Defense, and the Director of the Central

Intelligence Agency raised concerns over certain provisions of S. 1411 as they relate to national security and intelligence activities.

The major concern expressed by the Secretary and Director was that language contained in the House bill coupled with the accompanying Committee Report language could be interpreted to expand upon the scope of Public Law 89-306, the Brooks Act. That Act confers certain authority on the Administrator of the General Services Administration to control government purchases of automatic data processing equipment. The Office of Management and Budget is given policy and fiscal responsibility over the function. The Paperwork legislation, S. 1411, integrates OMB's present policy responsibility for automatic data processing and telecommunications into the Director of OMB's other information management functions.

Senator Chiles and Senator Jackson requested the Secretary of Defense and Director of the Central Intelligence Agency to comment on their concerns. The Secretary and CIA Director responded to the requests by letter. (The full contents of both letters may be found at the end of this discussion.)

The Secretary of Defense set forth in detail his concerns, recommended amendments to the bill, and suggested report language to explain the amendments. The Acting Director of the CIA also recommended amendments and report language.

The Committee unanimously adopted every amendment recommended by the Secretary and Director. The recommended report language accurately depicts the Committee's intent behind the amendments.

The Committee wants to make clear it intends that the Paperwork Reduction Act not affect adversely intelligence or national security missions. The recommendations of the Secretary of Defense and Director of the Central Intelligence Agency were incorporated into S. 1411 and its accompanying Committee report to ensure that the scope of the Brooks Act is not expanded and national security and intelligence missions are not adversely affected by provisions of the Paperwork Reduction Act.

THE SECRETARY OF DEFENSE,
Washington, D.C., August 4, 1980.

HON. HENRY M. JACKSON,
U.S. Senate, Washington, D.C.

DEAR SENATOR JACKSON: Thank you very much for your letter of July 29, 1980, requesting the Department's views with respect to H.R. 6410, the Paperwork Reduction Act of 1980.

The Department of Defense testified in support of H.R. 6410 because we agree with the President's emphasis on reducing the paperwork burden on the public. We also agree on the importance of utilizing the resources devoted to automatic data processing in the most effective manner. We remain committed to these goals.

However, subsequent to the Department's testimony, the House issued its report on H.R. 6410. In some areas, the report language was made more extensive than the plain text of the bill. When read together, the bill and the report could be interpreted to expand upon the scope of Public Law 89-306.

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We have expressed our concerns to Senator Chiles and his staff and hope that the Senate bill and report will address those concerns as set forth in detail in the attachment to this letter.

If our recommendations are incorporated in the Senate bill and report and are subsequently adopted by the Congress, there is no need for a hearing. Further negotiations may be in order if the Senate bill and report do not reflect the substance of our recommendations.

We appreciate your interest in this important legislation and look forward to your continued support.

Sincerely,

HAROLD BROWN.

Enclosure.

PROPOSED AMENDMENTS TO S. 1411

PAGE AND LINE REFERENCES ARE TO H.R. 6410, AS ENACTED BY THE HOUSE OF REPRESENTATIVES

1. Section 3505(1)(A) page 13

Add at end of line 14 after semicolon:

“except that the Director shall not assign such responsibility for the audit of major information systems used for the conduct of criminal investigations or intelligence activities as defined in section 4-206 of Executive Order 12036, issued January 24, 1978, or successor orders.”

Add following to report language concerning this section:

“The Committee is concerned that certain interpretations of H.R. 6410 as it passed the House could be construed to adversely affect the conduct of sensitive criminal investigations and intelligence activities. In order to mitigate these concerns, the Committee has added to section 3505(1)(A) language which prohibits the Director from delegating to other agencies the responsibility for auditing major information systems used in the conduct of criminal investigations or intelligence activities as defined in section 4-206 of Executive Order 12036, issued January 24, 1978, or successor orders.”

2. Section 3506(b) page 15

Strike the words “who reports” on line 22 and insert “or officials who report”.

Add following to report language concerning this section:

“It is the intent of the committee that agencies shall designate one official to carry out their responsibilities under section 3506 except that those agencies whose primary mission involves the discharge of functions relating to national security are not to have any more than two such officials. For the purposes of this bill, the military departments are to be considered agencies. The designated official may delegate final approval authority under specified terms and conditions.”

3. Section 3504(g) page 11

On line 21, strike the words “in coordination with the Administrator of General Services”.

Add to report language on this section:

“The committee is recommending deletion of the words “in coordination with the Administrator of General Services” in order to make it clear that agency needs for telecommunications and ADP are established through the budget process and not by GSA. The committee

does recognize the important role GSA plays in this process. The Committee believes GSA's role should continue to be as set forth in the following guidance promulgated by OMB on October 6, 1976:

"Many questions have been raised recently concerning the conditions, under which GSA, pursuant to Public Law 89-306, may: question an agency's expression of its ADP requirements in terms of specific equipment, and insist that agencies consider alternative sources of supply for ADP equipment.

As a consequence, the Office of Management and Budget, in accordance with its authority under Public Law 89-306, is issuing the following ADP policy guidance:

1. Public Law 89-306 grants the Administrator of General Services the discretion to delegate procurement authority whenever the Administrator finds it "necessary for the economy and efficiency of operations or when such action is essential to national defense or national security" or "for the orderly implementation of a program for the utilization of such equipment."¹

2. Public Law 89-306 also provides that the Administrator of General Services shall not "impair or interfere with the determination by agencies of their individual ADP equipment requirements."² GSA cannot, therefore, challenge a determination by an agency of its need for data processing services or its requirements for ADP equipment. However, the specification by an agency of a particular make and model of equipment when other equipment or sources of supply could also satisfy the ADP needs or requirements of the agency could frustrate the purposes of P.L. 89-306 in several ways. Overly restrictive specification could reduce the economic benefits of competition, diminish the opportunity for savings achieved through sharing compatible excess ADP capacity of other agencies, limit the economic advantages of bulk purchases or lead to specifications by an agency of equipment requirements beyond those needed to effectively carry out their missions and programs.

3. To preclude the adverse effects of unduly restrictive specifications, agencies shall to the maximum practical extent, express their ADP requirements in terms of functional performance specifications rather than equipment specifications. There are, of course, instances where only a particular make or model of equipment or its functional equipment can satisfy a unique agency need for requirement for ADP equipment, but the clear direction in ADP procurement under P.L. 89-306 is to maximize the opportunities for cost savings through competition, bulk purchases, consideration of alternative sources of supply, and avoiding the acquisition of capacity beyond that which is needed.

4. GSA, in reviewing agency ADP procurement requests, should ensure that the above mentioned opportunities for cost savings are not lost by unduly restrictive specification of ADP requirements by agencies.

5. GSA should strive for expeditious review of agency submissions to avoid delays in the procurement process. Agencies should cooperate

¹ Section 2(b)(2), Public Law 89-306.

² Section 2(g), Public Law 89-306.

with GSA to expedite these reviews. An undue length of time for the normal ADP procurement process may be considered a disagreement by GSA with the request of the agency and may be appealed to the Director of the Office of Management and Budget. Consistent with the policy expressed herein, any such appeal will be handled expeditiously, but the burden will be upon the agency to demonstrate the need to specify the particular make or model of equipment or its functional equivalent when such specification is at issue.

Within the next 60 days, GSA, consistent with its responsibilities under P.L. 89-306 and Executive Order No. 11717, dated May 9, 1973, should modify its directives and instructions to the agencies (e.g. FPMR's, FPR's and FMC's as appropriate) to accommodate these policies. In addition, the Government's policy of reliance on the private sector stated in OMB Circular No. A-76 would dictate that agencies should obtain their ADP requirements by contracting for services in preference to the acquisition of new equipment except where in-house performance is justified in accordance with that Circular.

A copy of this policy guidance letter will be published in the Federal Register as a statement of general policy of the Office of Management and Budget for the guidance of the public as provided by 5 U.S.C. 552(a) (i) (D).

Sincerely yours,

JAMES T. LYNN, *Director.*

4. *Section 3518*

Add two new subsections at the end thereof as follows:

"(xx) (1) Except as provided in paragraph (2), this Act does not apply to the collection of information—

(A) during the conduct of a criminal investigation or prosecution, or during the disposition of a particular criminal matter;

(B) during the conduct of (i) a civil action to which the United States or any official or agency thereof is a party or (ii) an administrative action involving an agency against specific individuals or entities;

(C) by compulsory process pursuant to the Antitrust Civil Process Act; or

(D) during the conduct of intelligence activities as defined in Section 4.206 of Executive Order 12036, issued January 24, 1978, or successor orders.

(2) This Act applies to the collection of information during the conduct of general investigations (other than information collected in an antitrust investigation to the extent provided in subparagraph (C) of paragraph (1)) undertaken with reference to a category of individuals or entities such as a class of licensees or an entire industry."

"(xx) Nothing herein shall be interpreted as increasing or decreasing the authority conferred by P.L. 89-306 upon the Administrator of the General Services Administration, the Secretary of Commerce, or the Director of the Office of Management and Budget."

5. *Section 3502*

Add the following definitions to section 3502:

"(xx) 'Telecommunications' equipment, technology, functions, activities or needs means the equipment, technology, functions, activities,

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or needs used solely for (a) the 'collection of information' as defined in subsection (2) above, or (b) the processing, storage, and transmission of this collected information.

“(xx) ‘Information systems’ means management information systems.”

THE DIRECTOR OF CENTRAL INTELLIGENCE,
Washington, D.C., August 4, 1980.

HON. LAWTON CHILES,
Chairman, Subcommittee on Federal Spending Practices and Open Government, Committee on Governmental Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Your Subcommittee currently has pending before it H.R. 6410 and S. 1411, the Paperwork Reduction Bills. These Bills seek to reduce the paperwork burden which the government imposes on the public, to maximize the usefulness of government information, and to rationalize government use of computer technology. The Intelligence Community fully supports these legislative objectives. However, the Bills contain several provisions which would impact adversely on the Intelligence Community in the conduct of its foreign intelligence and foreign counterintelligence missions.

To protect sensitive intelligence sources and methods from possible compromise and to assure that the Intelligence Community can continue to function efficiently in carrying out its mission, I recommend that your Subcommittee incorporate the enclosed amendments in the Paperwork Reduction Bill it reports out. These amendments are the result of the Office of Management and Budget's careful consideration of the needs of the Intelligence Community with respect to Paperwork Reduction legislation. These amendments, coupled with those dealing with the Bill's automatic data processing and telecommunication provisions provided to you separately by the Secretary of Defense, would completely resolve the concerns of the Intelligence Community about which Admiral Turner expressed concern in his letter to you of 30 July.

The Office of Management and Budget has advised that there is no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,

FRANK C. CARLUCCI,
Acting Director.

Enclosures.

PROPOSED AMENDMENTS TO PAPERWORK REDUCTION BILLS
(S. 1411/H.R. 6410)

Page and line references are to H.R. 6410 as passed by the House of Representatives.

1. Section 3505 (1) (A), page 13

Add at the end of line 14 after the semi-colon:

“except that the Director shall not assign such responsibility for the audit of major information systems used for the conduct of criminal investigations or intelligence activities as

defined in section 4-206 of Executive Order 12036, issued January 24, 1978, or successor orders."

Add the following to report language concerning this section:

"The Committee is concerned that certain interpretations of H.R. 6410 as it passed the House could be construed to adversely affect the conduct of sensitive criminal investigations and intelligence activities. In order to mitigate those concerns, the Committee has added to section 3505(1)(A) language which prohibits the Director from delegating to other agencies the responsibility for auditing major information systems used in the conduct of criminal investigations or intelligence activities as defined in section 4-206 of Executive Order 12036, issued January 24, 1978, or successor orders."

2. Section 3518, page 27:

Add the following new subsection:

(c)(1) Except as provided in paragraph (2), this Act does not apply to the collection of information:

(A) during the conduct of a criminal investigation or prosecution, or during the disposition of a particular criminal matter;

(B) during the conduct of (i) a civil action to which the United States or any official or agency thereof is a party or (ii) an administrative action involving an agency against specific individuals or entities;

(C) by compulsory process pursuant to the Antitrust Civil Process Act; or

(D) during the conduct of intelligence activities as defined in section 4-206 of Executive Order 12036, issued January 24, 1978, or successor orders.

(2) This Act applies to the collection of information during the conduct of general investigations (other than information collected in an antitrust investigation to the extent provided in subparagraph (C) of paragraph (1) undertaken with reference to a category of individuals or entities such as a class of licensees or an entire industry.

3. Section 3519, page 27:

Add the following at the beginning of the sentence beginning on line 4:

Under the conditions and procedures provided in section 313 of the Budget and Accounting Act of 1921 (31 U.S.C. § 54); [t]he Director . . .

2. Should biomedical and epidemiological research be exempted from the scope of the clearance process established by the Paperwork Reduction Act?

The Committee received considerable comment on the bill from the Association of American Colleges, the Association of Schools of Public Health, and other groups and individuals involved in biomedical, epidemiological and other behavioral research. They expressed concern that the paperwork controls contained in the bill could have the

effect of frustrating, delaying or otherwise impeding research on preventing disease. Therefore, they advocated the exemption of biomedical and epidemiological research from the requirements of this Act.

For several reasons the Committee does not believe such an exemption is necessary.

The Committee notes that most federally funded research in biomedical and epidemiological studies is funded by assistance awards (grants or cooperative agreements) and is therefore not subject to review by the Office of Management and Budget. The authority of the Director to review proposed information collection requests applies only to collections of information conducted or sponsored by a Federal agency. Collections of information are only considered to be conducted or "sponsored" by a Federal agency and subject to the requirements of this Act if:

- (1) the agency itself conducts the collection ;
- (2) the agency uses a procurement contract to obtain information by way of a contractor ; or
- (3) the terms and conditions of a grant or cooperative agreement specifically require that collections of information by a recipient from the public be subject to the clearance requirements of the Act.

Collections of information undertaken at the discretion of recipients of Federal grants are generally not covered, therefore, by the provisions of this Act. (The Committee notes that the use of grants and cooperative agreements to fund such research efforts is consistent with the purposes of Public Law 95-224, the Federal Grant and Cooperative Agreement Act, since agencies are not principally obtaining information for their own use when they use such grants or cooperative agreements but are instead principally supporting or stimulating a public purpose authorized by law).

The Committee is aware of the epidemiological and biomedical research communities concern that Federal agencies might inappropriately shift to greater use of procurement contracts in order to impose unnecessary requirements on basic research and believes agency practice merits continued oversight.

On the other hand, if the collection of information is, in fact, conducted or sponsored by the Federal Government, the mere fact that responses to an information collection request are voluntary does not mean that the collection of information is exempt from review by the Director. The Committee is concerned that all information collection requests conducted or sponsored by the Federal Government minimize the paperwork burden on the public.

However, the Committee notes that it is well within the power of the Director under this Act to make appropriate delegations of clearance authority. The National Institute of Health and the behavioral research community have expressed the view that steps be taken to facilitate the clearance of research which (1) involves human subjects, (2) is subject to regulations for the protection of human subjects, e.g. 45 CFR 46, and (3) is reviewed and approved by an appropriate institutional review board. The Committee expects the Director to evaluate these recommendations carefully.

In short, the Committee believes there are sufficient protections in the bill to guard against the problems envisioned by the research com-

munity. Given these protections, the Committee does not believe it advisable to grant the exemption requested. (In particular, the Committee notes that, with respect to behavioral research, the authority contained in the Paperwork Reduction Act does not differ substantially from the authority contained in the original Federal Reports Act of 1942. Collections of information for behavioral research conducted by Federal agencies have been subject to the Director's authority for 38 years. The Committee sees no reason to abandon this precedent).

The Committee does not believe biomedical and epidemiological research should be exempted from the scope of the Director of OMB's authority to review collections of information. The Director has sufficient flexibility in the administration of this Act to ensure that our nation's health research effort is not impaired.

Finally, the Committee notes that, unlike the original Federal Reports Act of 1942, S. 1411 limits to a maximum of 90 days the time the Director may take to review an information collection request. In addition, the Committee calls attention to the "fast track" authority set out in Section 3507(g), whereby an agency head may petition the Director to clear an information request in one day in emergency situations.

3. Should the clearance process require a quick decision by the Director of OMB for special situations?

During Committee deliberations several agencies raised examples of instances where information was needed quickly, and before elapse of the 60 days allowed the Director of OMB to review requests for information. For example, the Internal Revenue Service cited tax forms which have to be developed and sent out to the public short of 60 days because of legislation enacted by the Congress late in the tax year.

The Federal Reserve Board's concern about the absence of a "fast-track" mechanism was illustrated in terms of the adoption of changes in Regulation D—the regulation which deals with reserve requirements. The setting of reserve requirements is a major instrument of monetary policy. For example, on October 6, 1979, the Board, as part of a series of measures designed to combat inflation and restrain credit, announced the imposition of marginal reserve requirements on the managed liabilities of member banks and U.S. branches and agencies of foreign banks. These liabilities had not been previously subject to reserve requirements. Because of financial market sensitivity and the operational needs of monetary policy, it was necessary that the changes be implemented immediately upon announcement. The Board's October 6 action required new report forms and changes in existing forms to monitor and carry out the policy. In absence of a "fast-track" mechanism, the Board could not implement its policy decision effectively.

The General Accounting Office and the Office of Management and Budget commented that such unusual and emergency situations can be accommodated with procedures both agencies now have. The Committee decided, however, to provide explicitly for a fast-track mechanism in section 3507(g). If an agency head determines a collection of information (1) is needed before 60 days, (2) is essential to the agen-

cy's mission, and (3) the agency can not comply with clearance requirements, the agency head may ask the Director of OMB to approve or disapprove within 1 day.

The Committee expects this authority to be employed by agencies only in an unusual and emergency situation where an unforeseen event or public harm is a consideration. The Director of OMB retains the authority to deny information requests that do not warrant immediate approval. The Director is also required to report to Congress annually each instance where an agency has requested a 1 day decision.

The Committee believes the Director of OMB should establish procedures for reviewing certain requests which may require a decision before 60 days but not within 1 day. Agencies will then be guided in their use of the fast-track mechanism not to make such requests unless absolutely necessary. They will know in advance the Director may deny a request requiring a 1-day turnaround if the agency's needs can be met by a longer period which is still short of 60 days.

The fast-track provision recognizes there may be a few instances where expedited action by the Director is essential to the national well-being. The Committee expects, however, that when such requests are made, the sponsoring agency will take all practicable steps to consult with interested agencies and members of the public in order to minimize the burden of the collected information.

4. Should requests for information from educational institutions be exempt from the Director of OMB's clearance authority?

In 1978 the General Education Provisions Act exempted from the Director of OMB's authority information requests which were to respondents who are primarily educational agencies or institutions and for which the purpose of the information was for the formulation or implementation of education programs. Clearance authority for this paperwork was assigned the Secretary of Health, Education, and Welfare. With the creation of the Department of Education, the Secretary of Education became responsible. The 1978 Act also established a Federal Education Data Acquisition Council (FEDAC) to assist the Secretary.

A major objective of the Paperwork bill is to eliminate the fragmentation of clearance authorities for paperwork. The Committee did not agree that the Secretary of Education instead of the Director of OMB should retain ultimate authority for the "educational" part of the paperwork burden.

The House companion to S. 1411 repealed Section 400(A) of the General Education Provisions Act granting the Secretary authority but the repeal was not to be effective until October 1, 1982.

The Committee believes ultimate clearance authority should be consolidated within the Director of OMB by this legislation. S. 1411 will immediately restore the Director's ultimate authority but retains a major role for the Secretary of Education and FEDAC. The criteria for the Secretary and FEDACs' involvement has been expanded to include all information requests where educational institutions are the primary respondents.

The Secretary of Education endorsed the Committee's approach by letter and assured the Department's commitment to devoting the necessary resources to accomplish a reduction in the paperwork burden imposed on educational institutions.

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The Committee anticipates the Secretary's expanded role in reviewing burden will need additional resources to assist the function performed by FEDAC.

The Committee intends that the Director of OMB integrate requests for information generated by other agencies of government with the Secretary of Education's responsibility. Requests for information in which educational institutions are not the primary respondents may not be appropriate for FEDAC review. The Committee also expects that once a request has been submitted to the Secretary by another agency, the Director shall approve or disapprove of the request within a maximum of 90 days. This time limit required by the bill will demand close coordination between the Director and Secretary.

[The letter follows:]

THE SECRETARY OF EDUCATION,
Washington, D.C., June 27, 1980.

HON. LAWTON CHILES,
Chairman, Subcommittee on Federal Spending Practices and Open Government, Committee on Governmental Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter requesting our views on H.R. 6410 and S. 1411 and the role of the Federal Education Data Acquisition Council (FEDAC).

I fully concur with the President's objective expressed in his November 30, 1979 Paperwork Reduction message to the Congress in which he emphasized the importance of providing for "central oversight for all forms." Centralized coordination by the Office of Management and Budget of data collection government-wide, including the education area, is vital to guard against burdensome and duplicative requests.

We believe that the efforts of FEDAC and the Department's forms clearance office have made a strong beginning in reducing the quantity and in improving the quality of data collection on educational institutions. We are committed to devoting to those functions the necessary resources to strengthen the Department's ability to reduce the paperwork burden imposed on our educational institutions. We believe the Department's efforts in this regard will complement those of OMB. We also will work with interested persons in the education community to reduce the data collection burden, as I promised in the February appropriation hearings, and in a manner consistent with the President's objective.

Again, we appreciate your interests in our efforts and views.

Sincerely,

SHIRLEY M. HUFSTEDLER.

5. Does the Paperwork Reduction Act expand the scope of the Brooks Act to cover Government-owned contractor-operated laboratories?

Representatives from Government-owned, contractor-operated laboratories whose automatic data processing equipment (ADPE) purchases are not presently subject to the scope of the Brooks Act (Public Law 89-306) queried whether the affect of the bill would be to subject them to the Brooks Act.

A legal memorandum from the Department of Justice to the General Counsel of the General Services Administration was brought to

the Committee's attention. (See end of discussion.) The memorandum speaks to the extent acquisitions of automatic data processing equipment by government contractors fall within the scope of the Brooks Act. The representatives sought assurance that the bill's provisions did not change the basis for the legal opinion.

The bill does not expand or decrease the scope of the Brooks Act (See section 3518(d)). The Committee believes the memorandum reflects the extent to which the acquisition of automatic data processing equipment by government contractors will be covered by S. 1411's integration of the OMB policy and fiscal responsibility for the Brooks Act into the Director's authority for the management of information resources.

As stated in the opinion, the Brooks Act allows GSA to coordinate and provide for the efficient purchase, lease, and maintenance of automatic data processing equipment by Federal agencies or by contractors who have specifically undertaken to supply ADPE to those agencies. The GSA does not have authority over Government contractors who use ADPE incidental to their supplying other goods and services in their contract performance. These contractors (such as the government-owned, contractor-operated facilities) do not come within the scope of the Brooks Act unless the very subject matter of the contract, or a severable portion of the contract, is the supplying of ADPE services to a Federal agency.

While the Committee intends that the bill not expand the scope of the Brooks Act to cover laboratories not now covered, neither does the Committee intend this interpretation be abused by Federal agencies who seek to avoid coverage by the Brooks Act through contracting for automatic data processing services.

[The letter follows:]

DEPARTMENT OF JUSTICE,
Washington, D.C., July 14, 1978.

MEMORANDUM

To: Allie B. Latimer, General Counsel, General Services Administration.
From: Leon Ulman, Deputy Assistant Attorney General, Office of Legal Counsel.
Subject: Application of Brooks Act to acquisitions of automatic data processing equipment by Government contractors.

This responds to your letter of June 22, 1978, requesting this office to reexamine its earlier opinion of May 6, 1975, and to provide further guidance concerning questions arising in connection with the General Services Administration's (GSA) interpretation of the Brooks Act. Specifically, you have expressed concern that GSA policy objectives would be undermined if the Act were not interpreted to cover automatic data processing equipment (ADPE) purchased or leased by government contractors with the cost in essence paid by the Government. We must reiterate our view that GSA generally does not have authority over contractors who use ADPE in the course of supplying other goods and services to the Government, even though the ADPE is wholly paid for with federal funds.

The Brooks Act, 40 U.S.C. § 769(a), provides that GSA is authorized to coordinate and provide for the efficient purchase, lease, and maintenance of automatic data processing equipment (ADPE) by federal agencies. You believe that in addition, ADPE to be acquired by Government contractors is subject to the Brooks Act when the equipment is (1) leased and full lease-costs are paid by the Government under one or more contracts, or (2) purchased by the contractor for the account of the Government or title will or may pass to the Government. 41 C.F.R. § 101-32.401 (1977); 41 C.F.R. 1-4.1101 (1977). We disagree with your contention that those regulations correctly set forth the coverage of the Brooks Act.

Our earlier opinion took the position that the Brooks Act allows GSA to coordinate and provide for the efficient purchase, lease, and maintenance of ADPE by federal agencies or by contractors who have specifically undertaken to supply ADPE to those agencies. But the opinion further stated that GSA did not have authority over Government contractors who use ADPE in the course of supplying other goods or services in their contract performance; those contractors do not come within GSA authority unless the very subject matter of the contract (or of a severable portion of the contract) is the supplying of ADPE services to a federal agency.

This view is supported by both the language and the legislative history of the Act. We recognize that efforts by GSA to coordinate the purchase and use of ADPE according to the policy of the Brooks Act may be thwarted by this interpretation in certain circumstances, but the intent of Congress seems unequivocal.

The statutory language itself is limited to the "purchase, lease, and maintenance of automatic data processing equipment by Federal agencies." 40 U.S.C. § 759(a) (1970). The phrase "by Federal agencies" is repeated several times with no qualifying clauses. 40 U.S.C. § 759(b) (1), (2) (1970). There is no mention of contractors in any way being subject to GSA authority.

The term "Federal agency" as used in the Brooks Act is defined in the Federal Property Act, 40 U.S.C. § 472(b). It means "any executive agency or any establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol and any activities under his direction." *Id.* It is clear that the definition does not extend to a contractor doing work for a federal agency.

The legislative history of the Brooks Act supports the restricted interpretation above. The original bill authorized GSA "to coordinate and provide for the economic and efficient purchase, lease, and maintenance of automatic data processing equipment by, or at the expense of the Federal agencies." H.R. 4845, 89th Cong., 1st Sess. (1965). The House Committee deleted the phrase "or at the expense of" in order to "exclude ADP equipment needed to meet the requirements of Government contractors and others acquired at the Government's expense." H.R. Rep. No. 802, 89th Cong., 1st Sess., at 36 (1965). That explanation was echoed in the Senate report. S. Rep. No. 938, 89th Cong., 1st Sess., 1965 U.S. Code Cong. & Ad. News 3893. The reason for that exclusion was explained in the House Committee Report as follows:

Aerospace Industries Association of America, representing most Government contractors with ADP equipment that would be affected by this legislation, has expressed concern over the possible impact on their operations of extending this Government-wide inventory and acquisition coordinating system to ADP used in the fulfillment of space and defense contracts. For this reason, it is concluded that a more appropriate course of action at this time would be to provide for this management system limited to in-house Government ADP * * * It is the committee's intention to follow developments closely so that appropriate action can be recommended should developments indicate that inclusion of contractor equipment, acquired at the expense of the Government, under this coordinated Government inventory and acquisition system is needed for the protection of the taxpayers' interest. H.R. Rep. No. 802, 89th Cong., 1st Sess., at 36-37 (1965).

In addition, the Comptroller General, in an agency report, was of the opinion that the phrase "or at the expense of, Federal agencies" was intended to extend authority of the GSA over contractor equipment; by implication the omission of that phrase from the final draft meant that no such extension was intended. Letter from Joseph Campbell, Comptroller General, to William L. Dawson (March 22, 1965), quoted at 1965 U.S. Code Cong. & Ad. News 3900.

Notwithstanding this evidence you have suggested that the objections raised by the Aerospace Industries Association of America, as quoted above, could be based on the misconception of the Brooks Act that it gave the Government authority over the contractor's own ADPE. You state that interference with contractors' management prerogatives is neither the intent nor the letter of the Brooks Act.

In addition, there have been suggestions in the past, as set forth in our 1975 opinion, that a high degree of Government involvement may convert a contract between private parties into a contract with the Government itself. See *Optimum Systems, Inc. v. Weinberger*, Civ. No. 75-0320 (D.D.C. March 27, 1975); *Lombard Corporation v. Resor*, 321 F. Supp. 687 (D.D.C. 1970). Presumably such a situation could exist under GSA's guidelines when ADPE was leased or bought by the contractor with Government funds. The argument then would be that since the contract for acquisition of the ADPE is in reality between the Government and a third party supplier, with the contractor merely a conduit, the requirements of the Brooks Act and GSA would apply.

These contentions, however, contravene the legislative intent of the Brooks Act discussed above, which clearly left contractors' determinations free from the ADPE acquisition system established for Government agencies. Because congressional language and intent seem clear, we do not believe the expansive theories outlined above can be broadly applied. As you have indicated in your cover letter and attachments, there are facts indicating abuse of this position. We agree that the major objectives of the Act would be defeated if federal agencies could simply contract out their ADPE acquisition and use; in that situation, when the contract itself is for the provision of ADPE to the Government, the Act would apply.

But the intent of Congress seems to have been to require more than the mere use of Government funds by a contractor to buy or lease ADPE to have the Brooks Act apply to the contractor. To be subject to GSA procedures the contractor must be supplying ADP services to a federal agency; otherwise the intention to exclude ADPE used by contractors for their own needs as expressed in the House and Senate Reports would be defeated.

It seems to us that perhaps the only solution to the problems which you have raised is to seek appropriate amendatory legislation. If, however, you believe there is some administrative solution other than that outlined in your letter, we shall be happy to consider it.

6. Should requests for information by the Federal Election Commission be exempted from the Director of O.M.B.'s clearance authority?

H.R. 6410, the House companion to S. 1411 did not exempt the Federal Election Commission (FEC) from its coverage. Clearance responsibility for the FEC was shifted from the General Accounting Office to the Director of O.M.B. as was responsibility for all other independent regulatory agencies.

The Chairman of the Senate Rules Committee raised for the Committee's consideration the Federal Election Campaign Act amendments passed in January of 1980 which created a legislative review of regulations and forms promulgated by the FEC.

The FEC plays a unique role in the political process. It is the only agency whose basic mission is to oversee the public disclosure of campaign financing for candidates for the Congress and Presidency. The Congress recently decided to clear the regulations and forms of the FEC itself. This function is handled by the Senate Rules Committee and the House Committee on Administration. If neither House of Congress disapproves forms within 10 legislative days after submission, the FEC may proceed to use the forms for collecting the required information.

Due to its unique role, not its independent status, the Committee believes S. 1411 should exempt the FEC. Since the Congress itself reviews the burden FEC information requests impose, the principle that all requests be subjected to an external review remains intact.

7. What does the Paperwork Reduction Act do to maximize public access to the information it collects and to minimize the costs of dissemination?

The Committee received a number of constructive comments from public and private library and information service groups and individuals. These groups and individuals supported the imposition of limitations on Federal paperwork requirements, but also emphasized the principle of full and free public access to the information which the government does collect. The Committee recognizes that this principle is important and that the full benefit of Federal compilation of information is derived only when the material is made available to the widest possible audience.

The American Library Association suggested that established policies and existing laws governing access to government information be adhered to in developing and implementing the Paperwork Reduction Act policies. The Committee notes that the OMB has recently offered for public comment a proposed comprehensive policy regarding Federal information management and dissemination. The proposed pol-

icy reminds agencies of their responsibilities to adopt policies and procedures consistent with the provisions of Title 44 of the U.S. Code—especially those pertaining to the federal depository library system and the Government Printing Office.

It is the Committee's view that this proposed policy, coupled with this legislation, will ensure balanced decision-making regarding the collection, management, use and dissemination of information. The Director of OMB will also submit annual reports to the Congress concerning OMB's major activities regarding federal information management.

Similarly, the Committee expects that the Director of OMB will consult with other Federal agencies concerned with developing government-wide information policies, such as the Government Printing Office and the Library of Congress, as well as the National Commission of Libraries and Information Science, the Joint Committee on Printing, and the Federal Library Committee. Additionally, consultation with these and other federal entities and with persons outside the Government who are concerned with information management and dissemination is also expected in the development and implementation of policies and practices pertaining to the dissemination of publicly available information.

The importance of using existing data bases and services to save time and money has been stressed both by secondary information providers and the Comptroller General. The Comptroller General emphasized the cost reductions implicit in extracting information from existing sources rather than acquiring new sources. In keeping with this concern, the Committee stresses to designated senior agency officials the value of working closely with their own agency information management personnel who are familiar with abstracting, indexing, and disseminating information. Prior to creating any new data bases, these agency officials should determine if the data base may be available elsewhere, either within or outside the Federal government.

The Committee expects the Director to take appropriate steps to maximize public access to the information the Federal government collects.

The Director's consultation with agency officials who are knowledgeable about agency information holdings, and with parties outside the Government, will ensure that the Federal Information Locator System becomes a valuable resource for agency officials and public citizens. The potential usefulness of the Locator System can be expanded by incorporating profiles of additional agency information holdings not otherwise required by the bill. Section 3505(2)(A) requires the Director to develop a proposal to augment the System in this manner; existing data bases or available abstracted subjects should also be considered by the Director for inclusion in the proposal.

VI. HEARINGS

The Subcommittee on Federal Spending Practices and Open Government held two legislative hearings and five field hearings to support the deliberations on the Paperwork Reduction Act. Witnesses made many useful suggestions that were of great benefit to the Com-

mittee. A list of witnesses who contributed to the Committee's work follows:

WASHINGTON HEARINGS

June 28, 1978

Hon. Frank Horton, a Representative in Congress (N.Y.).

Hon. Thomas J. McIntyre, U.S. Senator (New Hampshire).

James T. McIntyre, Director, Office of Management and Budget accompanied by Wayne Granquist, Associate Director for Management and Regulatory Policy; Roye L. Lowry and Louis Kincannon.

Elmer B. Staats, Comptroller General of the U.S.G.A.O. accompanied by Arnold P. Jones and John M. Lovelady.

Edmund Wellington, President, Citizens Committee on Paperwork Reduction, accompanied by Ms. Linda Bagby.

November 1, 1979

Hon. Henry Bellmon, U.S. Senator (Oklahoma).

Hon. Thomas J. McIntyre, former Senator (New Hampshire) accompanied by John M. Cross, Executive V.P., Citizens Committee on Paperwork Reduction.

Wayne G. Granquist, Associate Director, Management and Regulatory Policy, O.M.B. accompanied by Stanley Morris, Deputy Associate Director for Regulatory Policy.

J. Charles Partee, member, Board of Governors, Federal Reserve System.

John R. Evans, Commissioner, Securities and Exchange Commission.

Tyrone Brown, Commissioner, Federal Communications Commission.

FIELD HEARINGS

April 17, 1979—Jacksonville, Fla.

John Williams, General Business Services, a small business counselor; accompanied by Steve Cox, Arlington Flower Shop, Inc., florist; and Claire Garcia of Max Garcia & Associates, land surveyor.

Jesse Morgan and Maggie White of the Presbyterian Retirement Home.

Ken Kelley, Jacksonville tax aide coordinator, accompanied by Bob Faltings, Bill Ledbetter and Gordon E. Hendricks, tax aide counselors.

Jim Koivisto, accompanied by Joan Koivisto, Halliday's Drugs, pharmacists.

Jim Powers, executive director, Florida Pharmaceutical Association.

Allan Schonberg, M.D., accompanied by Sharon MacLean, office manager.

James E. Deaton, President, Jacksonville AFL-CIO Council.

Ed Holt and Ada Stallings, owners of Royal Oak Grocery Store.

Walter L. Widdowson, D.V.M., and Foster Wright, D.V.M., veterinarians.

Jack Ceccarelli, executive director of the Gasoline Dealers Association, accompanied by David Bethea, Marcoin of Jacksonville, and Art Lairson, Lairson Gulf Service.

Gary Hall, assistant vice president of Famous Amos Restaurants.

W. Taylor Sams, President Southern Electric Co., accompanied by Paul Woodard of the Commercial Electric Co., and Andrew Bernard, manager, National Electrical Contractors Association, North Florida Chapter.

May 31, 1979—St. Louis, Mo.

Kenneth W. Chilton, assistant director, Center for the Study of American Business, Washington University, St. Louis, Mo.

Mrs. Dawn Larmer, small business consultant, General Business Services.

Nylon Wilson, vice president, Gateway National Bank, St. Louis, Mo.

Charles Roland, Service Corps of Retired Executives, delegate, White House Conference on Small Businesses.

David A. Gee, president, the Jewish Hospital, St. Louis, Mo.

Dr. Richard Bradley, private practitioner.

Larry Schreiber, Jr., St. Louis College of Pharmacy.

Margaret A. Stroup, director, Department of Human Resources, St. Louis County, Mo.

Victor Ellman, city manager, University City, Mo.

August 6, 1979—St. Petersburg, Fla.

Harry W. Wright, executive vice president and general manager, Seminole Electric Cooperative, Inc., Tampa, Fla.

Earl Smith, Anna Maria, Fla., volunteer medicare counselor.

Ann Kasper, St. Petersburg, Fla.

Dr. Louise Wensel, St. Petersburg, Fla.

William McMorrani, Washington, D.C., national coordinator, medicare assistance program, National Retired Teachers Association/American Association of Retired Persons.

Majorie J. McEntyre, staff officer, Health Care Financing Administration, Department of H.E.W., Region IV, Atlanta, Ga.

Mrs. Edward Liberty, Clearwater, Fla.

Peter W. Hughes, Washington, D.C., legislative counsel, medicare assistance program, National Retired Teachers/American Association of Retired Persons.

Robert L. Cochran, Sunshine Center, St. Petersburg, Fla.

Weltha W. Buxton, Largo, Fla.

Edward F. McGonigal, Largo, Fla.

Mildred Hanzelon, Largo, Fla.

Fabbian G. Dufoe, Jr., St. Petersburg, Fla.

Lewis J. Dan, Jr., Jacksonville, Fla., senior v.p., benefits administration, Florida Blue Cross/Blue Shield.

Bill Long, Jacksonville, Fla., director, medicare part B communications, Florida Blue Cross/Blue Shield.

Richard C. Dever, M.D., Jacksonville, Fla., v.p. and medical director, Florida Blue Cross/Blue Shield.

Frank W. Arrigo, St. Petersburg, Fla.

Jim Sheeler, Clearwater, Fla., representative, Project Director's Association of Pasco County.

Robert W. Hoaglund, Glenview, Ill., assistant comptroller, Kraft, Inc.

Richard L. Conover, representing the Citizens Committee on Paperwork Reduction, Tampa, Fla.

Raymond Shelton, Tampa, Fla., superintendent, Hillsborough County schools.

Helen A. Carnes, Tampa, Fla., teacher, Van Buren Junior High School, Hillsborough County.

Gail Husbands, Clearwater, Fla., elementary schoolteacher, Pinellas County;

John Luposello, Lakeland, Fla., principal, Jesse Keen Elementary School, Polk County;

Edward Allen, Tallahassee, Fla., administrator, Management Information Services, Division of Public Schools, Florida Department of Education;

John A. Smith, St. Petersburg, Fla.

August 23, 1979—Tallahassee, Fla.

Lt. Governor Mixson;

James Tait, Director of Planning and Budget, Executive Office;

David H. Pingree, Secretary, Department of Health & Rehab. Services;

Mary Clark, General Counsel, Department of Community Affairs;

Howard Rhodes, Deputy Director of Water and Special Programs;

Commissioner Ralph D. Turlington;

Commissioner Zearl Lancaster;

Commissioner Lee Vause;

Representative George Sheldon, Florida State Legislature;

Representative Jon Mills, Florida State Legislature;

Ray Sittig, Executive Director, Florida League of Cities;

Ken Austin, Administrative Asst., City Manager of Tallahassee;

Henry Stout, Office of Mayor, Director of Intergovernment Relations;

Scott Crawford, grant manager for county administrator (Orange Co.).

Wanda Evans, Director, Government Grants Department, Orange Co.

January 16, 1980—Orlando, Fla.

Florida Hospital Association.—Jack F. Monahan, Jr., President, Florida Hospital Association; John McBride, Senior V.P.; Don Bohnannon, Florida Hospital, Patients Accounts Manager; and Herb Johnson, Orlando Regional Medical Center, V.P., Finance.

University of Central Florida.—Dr. Trevor Colbourn, President.

Service Corps of Retired Executives (SCORE).—Jack Scribner, Vice Chairman, Orlando Chapter, Winter Park; John Bostick, District SCORE Representative, Winter Park; and Max Barron, SCORE Volunteer, Longwood.

Daytona Beach Housing Authority.—Reverend Carl Brinkley, Assistant Executive Director.

Associated Industries of Florida.—Bobby F. McKown, Florida Agricultural Research Institute; Frank Johnson, Lykes Pasco Packing Company; and Dud Zeller, Golden Gem Growers, Umatilla.

Florida Fruit and Vegetable Association.—Wayne Crain, Manager, Production Marketing Division; John Evans, Producer, Oviedo Citrus and vegetables; Larry Johnson, Producer, Cabbages and Pickles, Sanford; and Victor Smith, Farmer, Citrus, Cattle and Irrigation Systems, Pasco County.

VII. SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

Section 1 titles the Act the "Paperwork Reduction Act of 1980".

SECTION 2. COORDINATION OF FEDERAL INFORMATION POLICY

Section 2(a) amends Title 44 of the United States Code by striking out chapter 35 and inserting a new chapter in its place. Existing chapter 35 is the Federal Reports Act of 1942 as amended, and establishes the mechanisms for controlling the reporting and recordkeeping burden imposed by Federal agencies on the public. In its place, new chapter 35 creates a management structure for the Federal Government's information related activities. The chapter includes management controls to minimize the burden imposed on the public in maintaining and providing information to the Federal Government.

SECTION 3501. PURPOSE

Section 3501 explains the purpose of the Paperwork Reduction Act of 1980.

SECTION 3502. DEFINITIONS

Section 3502 contains the definitions of sixteen terms used in the chapter. In alphabetical order they are: agency, burden, collection of information, data element, data element dictionary, data profile, Director, directory of information resources, independent regulatory agency, information collection request, information referral service, information systems, person, practical utility, recordkeeping requirement, and telecommunications.

The term "agency" does not include the Federal Election Commission because, by statute, the paperwork requests of that agency are reviewed by the Congress itself. There was no necessity to change this unique arrangement. (See Public Law 96-187, enacted January 8, 1980; 2 U.S.C. Section 438(c), (d) 1980).

Neither does the term "agency" include government-owned, contractor-operated facilities such as laboratories engaged in research and production activities for national defense. The question of this exclusion arose as part of the broader issue of whether S. 1411 represented an expansion of the Brooks Act (Public Law 89-306). The Brooks Act takes its definition of "agency" from the Federal Property and Administrative Services Act. Under the Federal Property and Administrative Services Act "government controlled corporations" are not included in the term agency. The explicit exclusion of government-owned, contractor-operated facilities from the term "agency" was intended to assure that the term "government controlled corporation" will not be incorrectly interpreted to apply to government-owned, contractor-operated facilities. The exclusion of government-owned, contractor-operated facilities from S. 1411 makes it clear that the scope of the President's and OMB's "direction", "fiscal" and "policy" authority for automatic data processing and related systems pursuant to the Brooks Act (40 U.S.C. 759(g)), and integrated with

OMB's functions under section 3504(g) of S. 1411, remains the same and is not expanded, as that authority applies to such facilities. Such facilities are not agencies as the term "agency" applies to the authority contained in the Brooks Act.

In the discussion of specific issues the Committee reaffirms the existing interpretation of the Brooks Act as it applies to government contractors by citing a legal memorandum from the Department of Justice to the General Counsel of the General Services Administration. The explicit exclusion of government-owned, contractor-operated facilities from the term agency is not intended to alter the status of that legal opinion as a correct statement of the law as it applies to "government contractors" in general. The Committee believes that the memorandum accurately describes the law and it intends no change in the law.

"Government controlled corporations" which are not government-owned, contractor-operated facilities are considered agencies for the purposes of S. 1411.

The term "burden" means the time, effort, or financial resources expended by persons to provide information to a Federal agency. The word "or" is employed to indicate that burden, as it is used in this chapter may be measured by any one or a combination of factors relating to either time, effort, or financial resources. For example, this flexible meaning has significance as "burden" is used in section 3505 (1) (A) and (B) which requires the Director to set a goal to reduce the burden of collection of information. The Director has flexibility to use any one or a combination of measures relating to time, effort, or financial resources in order to establish a reasonable measure upon which burden reductions will be evaluated.

The term "collection of information" replaces the term "information" in the original Federal Reports Act, (44 U.S.C. 3502). The substantive meaning of the original definition is retained but two specific clarifications are made. First, recordkeeping requirements, which are also defined in section 3502, are explicitly included as means of soliciting facts or opinions by an agency. Information maintained, as opposed to directly provided by Federal agencies, is therefore subject to the clearance requirements for collections of information set forth in section 3507.

Second, answers to identical questions posed to ten or more persons are clearly distinguished from answers to questions posed for general statistical purposes. Both kinds of answers are included in the definition of "collection of information." An interpretation that collection of information applies only to information collected for statistical compilations of general public interest is foreclosed.

Several statistical series, such as the civilian employment series of the Office of Personnel Management, do depend on information provided by agencies, instrumentalities, or employees of the government as opposed to ten or more persons from the public. Since the original Reports Act, the clearance authority has been used to coordinate the compilation of such agency statistics by the President, Director and Office of Federal Statistical Policy. That authority is retained by section 3502(3) (B).

As used in the definition, "general statistical purposes" is intended to have precisely the same meaning as "statistical compilations of gen-

eral public interest," as the phrase appears in the original Reports Act (44 U.S.C. 3502).

The "collection of information" definition does not change the scope of current authority and practice by the Director of OMB and the Comptroller General to promulgate rules and regulations needed to interpret the relationship of certain kinds of information to the definition of collection of information. This practice is presently evident in OMB Circular A-40 and GAO regulations (4 CFR Part 10). Previous editions of Circular A-40 and GAO regulations demonstrate how this authority has been used during the 37-year history of the original Federal Reports Act.

An example of current practice relates to the words "or other similar methods" which are found in both the original Reports Act and the definition of "collection of information." While neither definition specifically mentions oral methods calling for answers, the Director of O.M.B. has historically included oral techniques as instruments for collecting information. Federal agencies have increasingly been collecting information from the public through the use of telephone surveys and personal interviews. These techniques are used either independently or in conjunction with other information collection techniques such as mail questionnaires. The imposition of a federal paperwork burden does not depend on how the questions are asked of the respondent, but rather on the fact the Federal government has asked or sponsored the asking of questions. In concept, oral data collections are the same as those conducted through written requests for written responses. They should be reviewed under the same standards as written requests.

The term "independent regulatory agency" is defined by listing the agencies which are considered to be independent regulatory agencies. Any agency so designated by future statute would also be considered an independent agency for the purposes of this chapter.

The term "information collection request" refers to the actual instrument used for a collection of information. It is the information collection request which must be submitted to the Director in accordance with the clearance requirements of section 3507.

The term "practical utility" means the ability of an agency to actually use as opposed to potentially use the information it collects. An agency may determine it needs information it does not have the capability to use for the purpose intended. Such information would not have practical utility.

In the case of general purpose statistics, which are those collected chiefly for public and general government uses and without primary reference to policy or program operations of the agency collecting the information, "practical utility" means that actual uses can be demonstrated.

Information is also collected to form the basis for disclosure to the public. For example, documents filed with the Securities and Exchange Commission by issuers of securities and by other persons subject to the Federal securities laws are designed for use by persons making investment and other financial decisions. In this connection, Federally-mandated disclosures to the public by issuers and certain owners of securities are central to carrying out the purposes of the Federal securities laws. Therefore, in considering whether information will have prac-

tical utility, the Director should consider, among other things, whether the agency can use the information either to carry out its regulatory or other functions or to make it available to the public for the use of persons who have an interest in entities or transactions over which the agency has jurisdiction.

The term "recordkeeping requirement" means a requirement imposed by an agency on persons to maintain specified information. The definition includes information maintained by persons which may be but is not necessarily provided to a Federal agency.

The term "telecommunications" equipment, technology, functions, activities, or needs means the use of telecommunications solely for the collection of information as defined or the processing, storage, and transmission of information resulting from collection of information. This definition excludes the term telecommunications as it appears in this chapter from being interpreted to include, for example, telecommunications used for command and control missions explicitly related to national security and missions related to foreign and counterintelligence.

SECTION 3503. OFFICE OF INFORMATION AND REGULATORY AFFAIRS

This section establishes in the Office of Management and Budget an office to be known as the Office of Information and Regulatory Affairs. An Associate Director who shall be appointed by and report directly to the Director, shall head the office and serve as the Director's principal advisor on Federal information policy.

The Director may delegate to the Associate Director the responsibility for functions assigned to the Director under the chapter. However, the ultimate authority for the functions assigned is always retained by the Director, and any such delegation does not relieve the Director of accountability for the administration of the assigned functions. The Director may not delegate any function under this chapter to any other officer or employee of the Office of Management and Budget except the Associate Director.

SECTION 3504. AUTHORITY AND FUNCTIONS OF THE DIRECTOR

This section lists and describes the following policy functions for which the Director shall provide overall direction: general information, information clearance and paperwork control, statistical activities, records management, privacy, and Federal automatic data processing and telecommunications. In addition, the Director is to ensure that rules and regulations are developed by Federal agencies in a manner which will, to the extent practicable and appropriate, minimize information burden. The authority and responsibility contained in these policy functions provide the Director an effective means to integrate and manage the information resources of Federal agencies. Effective government-wide integration and management of information resources will provide for minimal information burden on the public.

Thus subsection (a) restates in summary form all of the authority of the OMB Director under this Act. The purpose of this bill is to improve information management so as to reduce the burden on the

public. With that in mind, this subsection requires that the exercise of that authority must be consistent with applicable law.

Therefore whatever authority herein vested in the Director of OMB must be used in a manner that conforms with existing law. For example, while section 3504(b)(3) mandates the Director to coordinate agency information practices "through the review of budget proposals," a statutory exemption or exception from OMB budget review continues to apply. To cite another example, the provisions of section 3504(h)(2) on public participation in developing means for collection of information are subject to procedures or timetables established in other law. So if a law requires agency action with a specific time period, that action could not be delayed by OMB under section 3504(h)(2).

Section 3504(b) describes the general information policy functions of the Director, which include developing and establishing uniform information management policies; reviewing proposals for changes in legislation, regulations, and agency procedures to cause improvements in agency information practices; coordinating agency information activities through the review of budget proposals; promoting greater agency sharing of information; evaluating agencies' information activities to determine their effectiveness and their compliance with the information policies established by the Director; and overseeing research with respect to information collection, processing, storage, transmission, and use.

The Director's responsibility for initiating and reviewing the paperwork aspects of legislative proposals includes laws in effect, legislation under consideration by the Congress, and proposed legislation under consideration by the executive branch. This responsibility corresponds to the responsibility of each agency to develop procedures for assessing the paperwork and reporting burden of proposed legislation required by section 3506(c)(3). The mandate to coordinate information policy functions through the use of budget proposals encourages the Director to use the budget process and budget process techniques as a means to coordinate agency information practices.

Section 3504(c) describes the paperwork control functions of the Director. These include reviewing and approving information collection requests proposed by Federal agencies, determining whether information is needed by an agency to perform its functions, designating a single collection agency to obtain information for two or more agencies, setting goals for reducing the burden imposed by Federal information collection requests, overseeing action on the recommendations of the Commission on Federal paperwork, and designing and operating the Federal Information Locator System created by section 3511.

In addition, the Director is to ensure that all information collection requests (1) are inventoried, display a control number and, when appropriate, an expiration date; (2) indicate the request has met the clearance requirements of section 3507; and (3) contain a statement which describes why the information is being collected, how it is to be used, and whether responses to the request are voluntary, required to obtain a benefit, or mandatory. Some agencies have disputed whether information required on applications for Federal assistance

awards or benefits are voluntary or mandatory. Such information requests may now be classified as "required to obtain a benefit."

The Director's authority to review information requests is further described in section 3507. His authority to determine an agency's need for information is further described in section 3508.

The requirement that all information collection requests be inventoried includes those which are disapproved by the Director as well as those approved. The Director's responsibility to ensure all collections of information display a control number corresponds to the requirement of section 3507(f) which states an agency shall not engage in a collection of information without obtaining a control number from the Director. The Director is authorized to withhold a control number from an agency's proposed collection of information only if the information collection request has been disapproved and the request is not otherwise valid according to the provisions of sections 3507 (b) and (c).

Section 3504(d) describes the Director's statistical policy functions, which include developing long range plans for improving the performance of Federal statistical activities; coordinating those activities; overseeing the development and implementation of government-wide policies, principles, standards, and guidelines concerning statistical activities; and evaluating the performance of Federal statistical programs. This provision is not intended to authorize uniform rules or methodology for a regulatory analysis or other forms of impact statements.

Section 3504(e) describes the Director's records management function, which includes providing advice and assistance to the Administrator of General Services to help him implement chapters 29, 31, and 33 of Title 44, United States Code. These chapters deal with records management activities; reviewing agencies records management activities to determine their compliance with guidelines and policies, and coordinating records management policies with those of related information programs.

Section 3504(f) describes the functions related to records privacy. They include overseeing the development of policies, principles, standards, and guidelines both on information disclosure and confidentiality, and on safeguarding the security of information collected or maintained by Federal agencies. The Director is to provide advice and guidance to the agencies concerning information security, restriction, exchange, and disclosure, and monitor compliance with the Privacy Act of 1974 and other related information management laws. The Director's privacy functions do not affect the responsibility of the Department of Justice to encourage agency compliance with the Freedom of Information Act as set forth in 5 U.S.C. 552(d).

Section 3504(g) describes the Director's Federal automatic data processing and telecommunications functions. The word "Federal" distinguishes these functions from the private sector telecommunications policy responsibilities presently assigned to the Secretary of Commerce. The functions in this section include establishing policies, principles, standards, and guidelines for automatic data processing and telecommunications functions and activities and overseeing the establishment of automatic processing standards by the National Bureau of Standards under section 111(f) of the Federal Property and Administrative Services Act of 1949. They also include monitoring the

effectiveness of, and compliance with, directives issued pursuant to sections 110 and 111 of the Federal Property and Services Act, (the Brooks Act); reviewing determinations under section 111(g) of the Act; providing advice and guidance on the acquisition and use of information technology (including but not limited to, computer technology, communications technology, and related information handling storage and retrieval technology) to improve the effectiveness of the use and dissemination of Federal data; and reviewing proposals for changes in legislation, regulations, and agency procedures to improve automatic data processing and telecommunication practices. Advice and guidance provided by the Director shall be to agencies of the Federal Government and shall include guidance on full and open competition as a means to achieve the Federal Government's acquisition objectives.

The purpose of Section 3504(h) is to require the Director to take steps to ensure that Federal agencies, to the extent practicable and appropriate, minimize the information burden associated with the promulgation of rules and regulations. Early agency attention during the development stages of rules and regulations to the burden of collection of information that accompany them, is most apt to result in a minimization of the information burden resulting from their enforcement. The Director is to ensure that agencies utilize efficient means in the collection, use, and dissemination of information; provide an early and meaningful opportunity for the public to comment on proposed means for collection of information; and to assess the consequences of alternative means of collection, use, and dissemination of information. The Director's exercise of authority under section 3504(h) is subject to section 3507(c). It also merits emphasis that the Director of OMB's authority hereunder must conform with the provisions of sections 3504(a) and 3518(e).

SECTION 3505. ASSIGNMENT OF TASKS AND DEADLINES

This section assigns certain specific tasks to the Director and sets deadlines for their accomplishment. The purpose of this section is to provide certain performance measures upon which the activities of the Office of Information and Regulatory Affairs may be evaluated.

On October 1, 1980, when the Act takes effect, the Director shall set a goal to reduce the then existing information burden by 15 percent by October 1982. The Director shall set a goal to reduce the October 1, 1980 burden an additional 10 percent for the year following 1982. A 25 percent reduction is contemplated over a 3-year period. At the end of the 3-year period the Act's authorization for appropriations contained in section 3520 will expire. This sunset requirement will force Congress to evaluate the activities authorized.

The reduction goals are not binding but are intended to focus public attention on efforts to reduce the federal paperwork burden. The Director has flexibility to establish the overall measure of federal burden resulting from collections of information.

Within one year after enactment of the Act the Director is to: (1) establish standards and requirements for agency audit of all major information systems and assign responsibility for conducting government-wide or multiagency audits;

- (2) establish the Federal Information Locator System;
- (3) identify areas of duplication in information collection requests and develop a schedule and methods for eliminating duplication;
- (4) develop a proposal to augment the Locator system with agency information holdings which may not be a part of federal collections of information from the public; and
- (5) identify initiatives which may achieve a 10 percent reduction in the burden of Federal collections of information associated with the Administration of Federal grant programs.

The Director shall not assign responsibility for agency audits of major information systems used for the conduct of criminal investigations or intelligence activities. The requirement that the Director "assign" responsibility for other information systems is intended to enable Congress or other oversight bodies to identify the government official accountable for the conduct of a government-wide or multi-agency audits.

The requirement to identify initiatives which may reduce by ten percent the burden of collections of information that are a part of the preaward, conduct, and audit of federal assistance programs is intended to highlight the opportunity presented by this subject area to reduce burden.

Within two years after the enactment date, the Director is to:

- (1) establish a schedule and a management control system to ensure that the practices and programs of the various policy areas related to information management are appropriately integrated with each other and with the information management policies established by chapter 35;
- (2) identify initiatives to improve productivity in Federal operations using information processing technology;
- (3) develop a program to enforce Federal information processing standards at all Federal installations and revitalize the standards development program established pursuant to section 759(f)(2) of Title 40, United States Code, and separate the program from technological advisory services;
- (4) complete action on the recommendations of the Commission of Federal Paperwork including the development of legislation necessary to implement them;
- (5) develop, in consultation with the Administrator of the General Services Administration a five-year plan for meeting the automatic data processing and telecommunications needs of the Federal Government in accordance with the requirements of section 111 of the Federal Property and Administrative Services Act and the purposes of this Act; and
- (6) submit to the President and the Congress legislative proposals to remove inconsistencies in laws and practices involving privacy, confidentiality, and disclosure of information.

The program to enforce Federal information processing standards at all Federal installations refers to "administrative standardization" of information processing standards as well as data processing standardization. Examples of administrative standardization would be OMB Circulars which standardize the manner in which the information contained in intergovernmental audits or in financial reports to

Federal agencies is collected, obtained and used. The direction to OMB to complete action on the recommendation of the Paperwork Commission provides the Director with a range of options. The Director may implement, implement with modification or reject any or all of the recommendations.

SECTION 3506. FEDERAL AGENCY RESPONSIBILITIES

This section describes responsibilities of Federal agencies under chapter 35. The purpose of this section is to ensure the active participation of Federal agencies to meet the objectives of the Paperwork Reduction Act.

Each agency is to carry out its information activities in an efficient, effective, and economical manner. They are to comply with the policies, principles, standards, and guidelines prescribed by the Director.

Each agency head is to designate within three months after the Act goes into effect a senior official or officials (in the case of the Department of Defense) who report directly to the agency head and who will carry out the agency's responsibilities under this chapter. The designated official is to have the responsibility for the conduct of and accountability for acquisitions made pursuant to a delegation of authority under section 111 of the Federal Property and Administrative Services Act. The senior official designation establishes an identifiable line of accountability for agency information management activities.

Each agency is to inventory its major information systems and review its information management activities involving the collection, use, and dissemination of information; take steps to ensure that its information systems do not overlap or duplicate those of other agencies; develop procedures for assessing the paperwork and reporting burden of proposed legislation relating to the agency; and establish necessary procedures to ensure compliance with the requirements of the Federal Information Locator System.

Agencies are also to ensure that information collection requests to nine or fewer persons, as opposed to ten or more as the term collection of information is applied elsewhere in the chapter, display a statement to inform the person receiving the request that the request is not subject to the clearance requirements of section 3507 of the chapter. This requirement applies only to collections of information required by law or to obtain a benefit as opposed to voluntary requests. The purpose of this requirement to inform persons is to complement the purpose of section 3512, the public protection section.

The words "or officials" are intended to accommodate only the potential need of the Department of Defense and its military departments whose primary mission involves the discharge of functions relating to national security. Other establishments in the executive branch of the Government which constitute an agency for the purposes of the senior official designation are subject to the Director's authority under section 3516 to promulgate rules and regulations.

The intent of the requirement for each agency to develop procedures to assess the information burden of proposed legislation affecting the agency's scope of activities is to provide a basis for more effective agency and executive branch comment on the potential burden of pro-

posed legislation. For example, the Senate rules of procedure require committee reports accompanying public bills to the floor of the Senate contain a regulatory and paperwork impact statement. Better executive branch comment in the early stages of legislative deliberations will enable Senate committees to reflect more substantive consideration of the burden of new legislation. It is not the Committee's intention that agencies be obligated to prepare assessments for every bill introduced or considered. This provision only requires that procedures for making such assessment be put into place.

SECTION 3507. PUBLIC INFORMATION COLLECTION ACTIVITIES—SUBMISSION TO DIRECTOR; APPROVAL AND DELEGATION

This section establishes the conditions for the clearance of information collection requests. Before agencies may conduct or sponsor an actual collection of information they are required to submit their proposed information collection requests to the Director of OMB. Before an agency makes this submission it is to eliminate any information collections which seek to obtain information available from other sources within the Federal Government; to minimize, to the extent practicable and appropriate, the compliance burden on respondents; and to formulate plans for tabulating the information in a manner such that the information will be useful not only to that agency, but also to other agencies and the public.

Agencies are required to submit to the Director with their proposed information collection requests, copies of pertinent regulations and other related materials specified by the Director and an explanation of measures they have taken to eliminate duplication, minimize burden, and tabulate data. They are also to prepare a notice which the Director will cause to be published in the Federal Register for the purpose of obtaining comment from the public.

A Federal agency is considered to "sponsor" the collection of information if the agency itself collects information or if it uses a procurement contract and the contractor collects information for the agency. A Federal agency is not considered to "sponsor" the collection of information if a recipient of a grant or cooperative agreement undertakes a collection of information unless the terms and conditions of the grant or agreement provide for approval by the Federal agency of such collections.

Grants and cooperative agreements are not to be used by Federal agencies for the principal purpose of obtaining information for the Federal Government. Procurement contracts, grants agreements, and cooperative agreements are to be used by agencies consistent with the requirements and purpose of the Federal Grants and Cooperative Agreement Act of 1977 (Public Law 95-224).

The Director shall review, and thereafter, modify, approve, or deny the information collection requests submitted. He is to notify an agency of his decision to approve or disapprove a proposed information collection request within 60 days of receipt. If circumstances warrant, the Director may extend the review period for an additional 30 days. If the Director does not notify the agency of his decision within 60 days or within the time extension, his approval may be inferred, he shall immediately assign a control number to the information collec-

tion request, and the agency may collect the information for a period of up to one year. The Director's approval of information collection requests are to be valid for a period of no more than three years.

Section 3507(c) provides that an independent regulatory agency as defined in this Act may override any disapproval, in whole or in part, of an information collection request by the Director. The Committee considers the override an important protection for the independent status of the regulatory agencies. The override, in effect, provides an opportunity for those agencies to take a second close look at any information collection request disapproved by the Director. This provision strikes a necessary and appropriate balance between the goals of centralized control of Federal collection of information and the legitimate information needs of the various independent agencies.

The authority contained in Section 3507 may be triggered by an action, including any modification, of an information collection request by the Director. Whenever such disapproval occurs—and to the extent that it occurs—then the override is available. Thus any such specific action by the Director under sections 3507 or 3508 or any other relevant provision of this bill would be subject to the override. That of course involves the Director's determination on whether the information is necessary, including whether the information will have practical utility, and any other permitted reason upon which the disapproval is based. To cite two further examples, an inferred approval under section 3507(b) may be made express, and a rejection of an emergency request under section 3507(g) may be nullified. In those cases, the independent agency may determine to proceed, and once that determination is made the request shall be valid, at the discretion of the agency, for a period of up to three years.

Once the override occurs, the Director must immediately assign a control number. It is the Committee's intention that the ministerial function of assigning a control number shall not in any way result in any further delay.

In addition, any specific exercise of authority by the Director under section 3504(h) or 3509 is also subject to override. Any action by the Director under those provisions is subject to this subsection. As such, the final decision on whether information will be efficiently and effectively collected pursuant to a regulation rests squarely with an independent regulatory agency. So too, the Director's designation of a central collection agency is subject to possible override.

However, the Committee was convinced of the importance of establishing certain safeguards for the proper exercise of this authority. Therefore, an override may occur only if a majority of the members of an independent commission decide to take that action. That has the effect of having the decision made at the highest levels of the agency. The Director must be informed of the decision, and the agency must explain the reasons for exercising the override. That will assist the public and the Congress in understanding why the override was used. Finally, once overridden, the information collection request is not permanent. Instead it is subject to the same time limitations—namely, three years—which apply under section 3507(d) in other circumstances. Of course the agency could decide on an earlier termination date. If the information request is withdrawn, discontinued, or modi-

fied, successor information requests must be submitted for review by the Director in the same manner as any new request.

The effort to reduce the Federal paperwork burden, of necessity, involves certain limitations on the ability of Federal agencies, including those that are independent, to collect information. Although the Committee believes that the override authority is important to protect the independent status of these regulatory agencies, it expects that all agencies will cooperate to the fullest extent possible in the effort to reduce paperwork.

The Director may delegate his information collection approval authority to an agency if he determines that the senior official within that agency designated pursuant to section 3506(c) is sufficiently independent from any program responsibility and has sufficient resources to evaluate whether proposed information collection requests should be approved. This delegation is subject to the notice and comment provisions of the Administrative Procedures Act.

The determination of "independence" will have to be made by the Director on a case-by-case basis. However, it should be clear that no person who is responsible for, or otherwise directly involved in, the administration of any program for which information is sought could possess the requisite independence to evaluate information collection requests of that program.

The scope of delegation is to be determined by the Director. It could encompass, for example, information requirements which impose a small burden on the public, but not those which demand more than an hour of each respondent's time. Delegation does not preclude the Director, on his own initiative or on request of interested persons, from reviewing individual information collection requests if he determines that circumstances warrant such review. The Director retains the authority to revoke delegations to the agencies both in general and with regard to any specific matter. He may approve, modify, or disapprove any requests on which a delegee has already ruled. Any official to whom the approval powers have been delegated is to comply fully with rules, regulations, or procedures established by the Director.

Section 3507(f) declares no agency shall engage in a collection of information without obtaining from the Director a control number to be displayed upon the information collection request. This requirement complements the provisions of section 3512 on public protection. The Director shall ensure that control numbers are assigned promptly so that this ministerial function does not contribute in any way to delays in obtaining information.

Section 3507(g) establishes a "fast track" procedure whereby an agency head may seek clearance of an information collection request in one working day if the agency head determines a collection of information is (1) needed prior to the expiration of the sixty day period authorized for the Director's review of information collection requests, (2) is essential to the agency's mission, and (3) that the agency cannot reasonably comply with the provisions of this chapter.

A request to authorize a collection of information under the fast track procedures of section 3507(g) may be made by an agency head at the time a request for clearance is originally made or at any time prior to a decision by the Director on a request for clearance, and shall

be acted on by the Director within one working day of its receipt. If the Director approves the authorization request, a control number shall be assigned to the information collection request immediately. Any collection of information conducted pursuant to section 3507 (g) may be conducted without compliance with the provisions of this chapter for a maximum of 90 days from the time the Director received the request for authorization.

If the Director denies a request for "fast track" clearance, review of the information collection request shall proceed as generally provided in this chapter. Of course, the Director, notwithstanding the refusal to provide "fast track" clearance, may agree to act on the request on an expedited schedule, as appropriate.

It is intended that agency heads employ this discretionary authority only for emergencies, or where an unforeseen event or public harm is a consideration. The use of this authority by agencies will be listed and described in the Director's annual report to the Congress required by section 3514.

SECTION 3508. DETERMINATION OF NECESSITY FOR INFORMATION

The provisions of this section replace the language of Section 3 (d) of the original Federal Reports Act of 1942 (44 U.S.C. 3506). The Director is required, before approving, modifying, or denying a proposed information collection request, to determine whether the collection is needed for the performance of agency functions. Necessity is thus the test under this section. This determination is to include whether the collection of information: (1) has practical utility for the agency, (2) is not more than the minimum needed to meet the agency's objective, or (3) is not duplicative of similar information otherwise accessible. If the Director determines that a collection is not necessary, he should not approve it. The Director is authorized to give the agency and other interested persons an opportunity to be heard or to submit statements in writing before making a determination.

Unless the collection of information is specifically required by statutory law the Director's determination is final for agencies which are not independent regulatory agencies. The fact the collection of information is specifically required by statute does not, however, relieve an agency of the obligation to submit the proposed collection for the Director's review. Independent regulatory agencies may override a Director's determination pursuant to the provisions of section 3507 (c) of this chapter.

SECTION 3509. DESIGNATION OF CENTRAL COLLECTION AGENCY

This section allows the Director to designate a collection agency to obtain information for two or more agencies if the Director decides that the needs of such agencies for information would be adequately served by a single collection body. The purpose of the authority is to promote the sharing of information so that the burden on the public may be reduced.

Designation of a collection agency under this section is not authorized if the sharing of data between agencies is inconsistent with any applicable law. To be inconsistent, the applicable law must prohibit

the sharing of data between agencies or must totally prohibit the disclosure to anyone outside the agency. A mere prohibition on disclosure to the public would not be inconsistent with sharing the data with another agency unless the sharing would inexorably lead to a violation of that prohibition. Section 3510(b) of this chapter provides for penalties relating to the unlawful disclosure of data and is sufficient to protect against unauthorized disclosure of data by a receiving agency.

The Director's designation is to prescribe the duties and functions of the collection agency and the agencies for which information is to be collected. While the designation is in effect, an agency covered by the designation is not to obtain for itself the information which it is the duty of the collection agency to obtain. The Director may modify any designations under this section as circumstances require.

An independent regulatory agency may override a specific exercise of the Director's authority under this section in accord with provisions of section 3507(c).

SECTION 3510. COOPERATION OF AGENCIES IN MAKING INFORMATION AVAILABLE

This section specifically provides discretionary authority to the Director of OMB to direct the sharing of information among agencies to the extent such sharing is not precluded by statutory law or by a policy specifically authorized by law. Agencies are also authorized to share information with other agencies on their own volition and under the same conditions.

As with section 3509, for the sharing of data to be inconsistent with applicable law, the applicable law must prohibit the sharing of data between agencies or must totally prohibit the disclosure to any one outside the agency. A mere prohibition on disclosure to the public would not be inconsistent with sharing the data with another agency unless the sharing would inexorably lead to a violation of that prohibition.

The Director also may not direct sharing of information if the disclosure would be inconsistent with applicable agency policy. Thus the Director is not authorized to contravene an established agency policy which would limit disclosure of information obtained pursuant to an information collection request. For example, the Federal Communications Commission has expressed concern that the privacy rights of licensees and other regulatees would be significantly reduced if the Director could require divulgence to other agencies of sensitive economic information collected by the FCC. Under existing FCC policy, a regulated entity which had submitted information to the agency in confidence generally would be notified when another agency sought that information and would be given an opportunity to contest disclosure of the information. Another example of information for which such sharing could not be required under this section is the case of certain data collected by Federal agencies that regulate federally insured depository institutions. In the course of their supervisory activities, such agencies, by necessity, must obtain access to confidential information relating to insured depository institutions and cus-

tomers, which cannot be made available to other without destroying the very basis of the present structure of supervision of such financial institutions. Congress has repeatedly recognized this fact in various situations covered under the Freedom of Information Act, the Government in the Sunshine Act, and the Right to Financial Privacy Act, to mention only a few. Moreover, Congress also specifically recognized this need for confidentiality in the Federal Bank Agency Audit Act. Accordingly, this principle of confidentiality inherent in the Federal supervision of depository institutions has again been fully recognized in formulating the requirements of this section. Policies such as this both protect the privacy of persons whose economic affairs are subject to regulation and enhance a Federal agency's ability to obtain information by allowing the agency to provide a meaningful assurance of confidentiality.

This section provides for penalties relating to the unlawful disclosure of data and is sufficient to protect against unauthorized disclosure of data by a receiving agency. If information obtained by an agency is released to another agency, all provisions of law, including penalties which relate to the unlawful disclosure of the information, apply to the officers and employees of the receiving agency to the same extent and in the same manner as the provisions apply to the officers and employees of the agency which originally obtained the information.

The provisions of this section are not intended to detract from the authority the Director has exercised under the original Federal Reports Act (44 U.S.C. 3507) to direct agencies to share information.

SECTION 3511. ESTABLISHMENT AND OPERATION OF FEDERAL INFORMATION LOCATOR SYSTEM

Section 3511 requires the establishment and operation of a Federal Information Locator System. This System shall be comprised of a directory of information resources, a data element dictionary and an information referral service. Both the directory and dictionary components shall provide a common base or standards from which to select definitions and terms and to cross-check current information bases when planning a new information collection. The information referral service should serve as a communication link for intra-government functions (i.e. Federal information centers and clearing-houses, Federal libraries, archives, records centers and repositories) as well as a communication link for the public to locate and use information which has been collected by the Government. Together, the System's components are to serve as the register of information collection requests by Federal agencies.

The Director is to design and operate an indexing system to facilitate the System's use; require agencies to submit a data profile, (a synopsis of the data to be requested as well as other identifying characteristics such as the requesting agency, where the information collected will be maintained, and authorizing statutes and regulations for the collection), for each information collection request; and compare data profiles of proposed information collection requests against existing profiles in the System. The results of these comparisons

should be available, upon payment of a reasonable fee, to state and local governments, and members of the general public. The Director is to ensure that no actual data collected by Federal agencies are contained within the System.

SECTION 3512. PUBLIC PROTECTION

The purpose of this section is to protect the public from the burden of collections of information which have not been subjected to the clearance process described by section 3507. Information collection requests which do not display a current control number or, if not, indicate why not are to be considered "bootleg" requests and may be ignored by the public.

Section 3504(c)(3)(A) requires the Director to ensure that all information collection requests display a control number. Section 3507(f) declares that an agency shall not engage in a collection of information without obtaining from the Director a control number to be displayed. Section 3506(c)(5) requires each agency to ensure that information collection requests specifically required by law or to obtain a benefit and submitted to nine or fewer persons contain a statement to inform the person receiving the request that the request is not subject to the clearance requirements of section 3507.

Section 3512 states, notwithstanding any other provision of law, no person shall be subject to any penalty for failing to maintain information for or provide information to any agency if the information collection request involved was made after December 31, 1981, and does not display a current control number assigned by the Director, or fails to state that such request is not subject to this Act. These are the only circumstances under which a person may justify the failure to maintain information for or provide information to any agency otherwise required, by reliance on this Act.

If an information collection request displays a current control number or states that the request is not subject to this Act, it is valid for the purposes of this Act.

The protection provided by this section does not go into effect until December 31, 1981 in order to provide agencies adequate time to comply with the provisions of this Act.

The term "current control number" is used to ensure that the public is also protected from information collection requests which may display a control number that is expired. Section 3504(c)(3)(A) mandates that the Director ensure information collection requests display an expiration date when appropriate. Consistent with the provisions of section 3507(b), (c), (d), and (g), all control numbers are to be assigned by the Director and are valid for a period not to exceed three years.

The only collections of information by a Federal agency which are exempted, and for which a person or persons could not claim protection under section 3512, are those collections of information which this chapter does not apply to and are exempted by section 3518. They are collections of information:

- (1) during the conduct of a Federal criminal investigation or prosecution, or during the disposition of a particular criminal matter;

(2) during the conduct of a civil action to which the United States or any official or agency thereof is a party, or an administrative action or investigation involving an agency against specific individuals or entities;

(3) by compulsory process pursuant to the Antitrust Civil Process Act; and

(4) during the conduct of intelligence activities as defined by executive order.

SECTION 3513. DIRECTOR REVIEW OF AGENCY ACTIVITIES; REPORTING;
AGENCY RESPONSE

This section requires the Director, with the advice and assistance of the Administrator of General Services, to review, at least once every three years, the information management activities of each agency, as defined by the bill. These reviews are to determine the adequacy and efficiency of the agencies' information activities, including the acquisition and use of information technology, as well as compliance with the information policies, principles, standards, and guidelines prescribed by the Director.

The Director shall also determine whether an agency has complied with the responsibilities imposed on it by Section 3506. The results of these reviews are to be reported by the Director to the appropriate agency head, the House Committee on Government Operations, the Senate Committee on Governmental Affairs, the House and Senate Committees on Appropriations, and the committees having jurisdiction over legislation relating to the operations of the agency involved. Each agency receiving a report, in turn, is to submit its response within 60 days to the Director and the Congressional Committees identified above. This response is to be a written statement describing measures taken by the agency to alleviate or remove any problems or deficiencies identified in the Directors' report.

SECTION 3514. RESPONSIVENESS TO CONGRESS

Section 3514 requires the Director to keep the Congress and its committees fully and currently informed of the major activities carried out under this chapter by submitting a report on such activities to the President of the Senate and the Speaker of the House of Representatives annually and at other times as may be necessary. Topics to be included by the Director in such reports are:

(1) proposals for legislative changes needed to improve Federal information management activities including recommendations to ease the paperwork burden imposed by the Government on individuals and small business, State and local government, and other persons;

(2) a compilation of legislative impediments to the collection of information in cases where the Director concludes that an agency needs the information but does not have the authority to collect it;

(3) an analysis by agency, and by categories the Director finds useful and practicable, describing the estimated reporting hours required of persons by information collection requests including

when practicable, identification of statutes and regulations which impose the greatest number of hours;

(4) a summary of accomplishments and planned initiatives to reduce the information burdens of compliance with Federal information collection requests;

(5) a tabulation of areas of duplication in agency information requests and efforts made to preclude the collection of duplicative information including the central collection agency designations;

(6) a list of each instance in which an agency engaged in the collection of information under the authority of section 3507(g) and an identification of each agency involved;

(7) a list of all violations of the provisions of this chapter or of the rules, regulations, guidelines, policies, and procedures issued pursuant to the chapter;

(8) information with respect to the recommendations of the Commission on Federal Paperwork including the specific actions taken on, or planned for each recommendation accepted but not yet implemented and an assessment and explanation of the reasons for any delays in action to implement accepted recommendations.

In preparing any reports required by section 3514, the paperwork burden shall not be increased on persons outside the Federal Government. The information needed should be available from agencies or within the Office of Information and Regulatory Affairs.

The requirement of section 3514(a)(3), concerning information on estimated reporting hours, is intended to be similar to data which has previously been provided by OMB in its paperwork reports to the President and Congress. In those reports, the estimated reporting hours are given on an agency by agency basis. This provision is intended to continue that practice.

SECTION 3515. ADMINISTRATIVE POWERS

This section provides that at the request of the Director, each agency shall make its services, personnel and facilities available for assisting the Director in performing the assigned functions under this chapter. While independent regulatory agencies are excluded, such agencies may voluntarily decide to provide assistance.

It should be noted that this section does not require agencies to provide access to agency information determined by the Director as necessary for the execution of the assigned functions. That authority exists under the Budget and Accounting Act of 1921, 31 U.S.C. 21.

SECTION 3516. RULES AND REGULATIONS

This section provides that the Director may promulgate rules, regulations and procedures to exercise the authority provided by this chapter. The word "may" instead of shall is used to clarify that the Director may exercise the authority contained in this chapter without necessarily resorting to rules and regulations.

SECTION 3517. CONSULTATION WITH OTHER AGENCIES AND THE PUBLIC

This section provides that, in developing information policies, plans, rules, regulations, procedures and in reviewing information collection

requests, the Director is mandated to consult with persons inside and outside the Federal Government. Consultation with these persons and affected agencies shall include an early and meaningful opportunity to comment. Persons consulted shall include not only those directly affected by a particular policy or information request, but any interested person. The policies developed pursuant to this section should include the requirement that in implementing them, agencies also consult with the affected public and thereby benefit from its advice.

SECTION 3518. EFFECTS ON EXISTING LAWS AND REGULATIONS

Section 3518 concerns the effect of this chapter on existing laws and regulations. Section 3518(a) states that, except as otherwise provided in this chapter, the authority of an agency under any other law to prescribe policies, rules, regulations, and procedures for Federal information activities is subject to the authority conferred on the Director by this chapter. An example of such an agency prescription would be the actual means, instruments, or forms used for the collection of information.

Section 3518(b) states that nothing in this chapter shall be deemed to affect or reduce the authority of the Secretary of Commerce pursuant to Reorganization Plan No. 1 of 1977, as amended and executive order, which relate to telecommunication and information policy, procurement and management of telecommunications and information systems, spectrum use, and related matters.

The purpose of this section is to make clear that the Secretary of Commerce's authority for telecommunications policy for the private sector as opposed to the acquisition and use of telecommunications by Federal agencies is not diminished. The present arrangement reflecting this purpose was expressed in Reorganization Plan No. 1 and Executive Order 12046 and is not changed by the provisions of this chapter.

The term "information policy" and "information systems" as they appear in this section are not intended to refer to the statistical policy function assigned to the Director by section 3504. They refer only to the Director's "telecommunications" policy function assigned by section 3504(g).

Section 3518(c) makes clear that a collection of information during the conduct of general investigations with reference to a category of individuals or entities such as a class of licensees or an entire industry is covered by the requirements of this Act. Section 3518(c) does however, exempt specific kinds of collections of information from the provisions of this Act. Collections of information are excluded from the requirements of this Act: (1) during the conduct of a Federal criminal investigation or prosecution, or during the disposition of a particular criminal manner; (2) during the conduct of a civil action to which the United States or any official or agency is a party, or an administrative action or investigation involving an agency against specific individuals or entities.

Thus section 3518(c)(1) creates certain exemptions for civil and criminal law enforcement that apply to collection of evidence pursuant to investigations, whether before or after initiation of formal charges. These exemptions are not limited to formal discovery or

analogous stages in administrative processing and include interrogatories, depositions and subpoenas. Section 3518(c)(1)(B) covers all law enforcement investigations, as distinguished from "general investigations," provided for in section 3518(c)(2). The language in this subsection regarding "an administrative action or investigation involving an agency against specific individuals or entities" is intended to preserve a well-settled exception for subpoenas and similar forms of compulsory process used for the collection of evidence or other information in an adjudication or investigation for law enforcement purposes. See 4 C.F.R. section 10.6 (c)(5), (c)(8). Section 3518(c)(1)(B) is not limited to agency proceedings of a prosecutorial nature but also include any agency proceeding involving specific adversary parties. Similar to the collection of information in litigation, an agency's intended use of investigatory and adjudicative process is sufficiently safeguarded through judicial superintendence to render unnecessary the administrative clearance process of this Act.

Collections of information as a result of compulsory process pursuant to the Antitrust Civil Process Act and information gathering activities for the purposes of foreign and counterintelligence as defined in Executive Order 12036 or successor orders are also exempt.

The collections of information covered by the exemption for the conduct of criminal investigation, prosecution or deposition of a particular matter include direct actions by attorneys, courts, investigators, or probation, pardon, parole, or correctional authorities to collect information.

Section 3518(d) states that nothing in the Act shall be interpreted as increasing or decreasing the authority conferred by Public Law 89-306 on the Administrator of the General Services Administration, the Secretary of Commerce, or the Director of the Office of Management and Budget. The language of section 3518(d) was adopted by the Committee as a result of a recommendation of the Secretary of Defense to clarify that the provisions of the bill did not expand or decrease the authority conferred by Public Law 89-306, the Brooks Act, which relates to the purchase of automatic data processing equipment.

Section 3518(e) provides that nothing in this Act affects in any way the authority of the President, the Office of Management and Budget or the Director thereof, under the laws of the United States, with respect to the substantive policies and programs of departments, agencies and offices. This provision results from concern that the authority of this Act might be used to increase the power of OMB over substantive policy.

The Committee notes that there have been problems along that line in the past. It has been argued that the Federal Reports Act—which S. 1411 amends—was used to interfere with regulatory policy under the guise of clearing information requests. Those arguments prompted Congress to remove the independent agencies from OMB supervision back in 1973—and place those agencies under GAO.

The bill has provisions to guard against that. Section 3518(e) provides that the bill does not affect in any way the powers of the President or OMB respecting the substance of agency policies. Thus S. 1411 draws an important distinction between paperwork management and substantive decisions.

SECTION 3519. ACCESS TO INFORMATION

This section provides that under the conditions and procedures prescribed in section 313 of the Budget and Accounting Act of 1921, as amended (31 U.S.C. 54), the Comptroller General of the United States, or his designated representatives shall have access to all books, documents, papers, and records of the Office of Information and Regulatory Affairs within OMB.

The conditions under 31 U.S.C. 54 limit access to such materials only when court procedures are sought by the Comptroller or a representative to enforce the comptroller's general access authority. Those conditions do not limit the Comptroller's initial access right under 31 U.S.C. 54(a).

SECTION 3520. APPROPRIATIONS

Section 3520 authorizes appropriations to carry out provisions of Chapter 35, and for no other purpose, the following amounts for the fiscal years indicated:

	<i>Millions</i>
1981 -----	\$8.0
1982 -----	8.5
1983 -----	9.0

Section 2(b) amends the table of contents for the chapters contained in Title 44, United States Code, by striking out the present title and inserting the new title, "Coordination of Federal Information Policy."

Section 2(c) (1) amends sections 2904 of Title 44, United States Code, by striking out the paragraph (10) and inserting a new paragraph requiring the Administrator of General Services to report to the appropriate oversight and appropriations committees of the Congress and to the OMB Director annually and at such other times as he deems desirable on the results of his records management activities, on evaluations of responses by Federal agencies to any recommendations resulting from his records management inspections or studies, and on estimates of costs to the Federal Government resulting from the failure of agencies to implement such recommendations.

Section 2(c) (2) amends section 2905 of Title 44, United States Code, by redesignating the present text as subsection (a) and adding a new subsection requiring the Administrator of General Services to assist the Associate Director of the Office of Federal Information and Regulatory Affairs in conducting studies and developing standards related to record retention requirements imposed on the public and on State and local government agencies by Federal agencies.

SECTION 3. DELEGATION OF RELATED FUNCTIONS

Section 3(a) provides for the President and the Director of OMB to delegate to the Associate Director of the Office of Federal Information and Regulatory Affairs all their functions, authority, and responsibility for statistical policy and coordination under section 103 of the Budget and Accounting Procedures Act of 1950.

Section 3(b) provides the Director of OMB may delegate to the Associate Director of the Office of Information and Regulatory Affairs all functions, authority, and responsibility of the Director under sec-

tion 552a of Title 5, United States Code (the Privacy Act of 1974), and under section 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757, 759), pertaining to automatic data processing and telecommunications. In both Sections 3(a) and 3(b), the Director may not delegate such functions, authority, and responsibility to any other officer or employee of the Federal Government.

SECTION 4. CONFORMING AMENDMENTS

Section 4(a) amends Section 400A of the General Education Provisions Act (GEPA) to require the Secretary to coordinate the collection of information and data acquisition activities of all Federal agencies, (1) whenever the respondents are primarily educational agencies or institutions, or (2) whenever the purpose of such activities is to request information needed for the management of, or the formulation of, policy related to Federal education programs or research or evaluation studies related to the implementation of Federal education programs.

Prior to this amendment, agencies' information collections and data acquisition activities would be submitted to the Secretary for review only when the two conditions above existed. Changing the word "and" to "or" expands the scope of the Secretary's review to bring all primarily educational information collection requests through the Federal Data Educational Acquisition Council (FEDAC) and the Secretary's review process.

Subsection (a) (3) (B) is amended so that, "No collection of information or data acquisition activity subject to such procedures shall be subject to any other review, coordination, or approval procedure outside of the relevant Federal agency except as required by this subsection and by the Director of the Office of Management and Budget under the rules and regulations established pursuant to Chapter 35 of Title 44, United States Code. If a requirement for information is submitted pursuant to this Act for review, the timetable for the Director's approval established in section 3507 of the Paperwork Reduction Act of 1980 shall begin to run on the date the request is submitted and no independent submission to the Director shall be required.

This change to the General Education Provision Act restores to the Director of OMB ultimate clearance authority for educational information collection activities. This amendment does not delay the clearance process and require two independent submissions and reviews. Once the information collection request has been submitted to the Secretary of Education the 60 days (30 day extension option) approval time established in Section 3507 of the Paperwork Reduction Act shall apply. Within a maximum period of 90 days the requesting agency should know of the Director's approval or disapproval decision.

Section 4(b) repeals the provision in the Surface Mining Control and Reclamation Act of 1977 which states that for the purposes of Chapter 35 of Title 44 the Office of Surface Mining, Reclamation and Enforcement of the Department of Interior is to be considered an independent regulatory agency.

Section 4(c) repeals the provision of section 708(f) of the Public Health Service Act which excludes the collection of information of the health professions from clearance by the Director of OMB.

Section 4(d) establishes the salary level for the Associate Director of the Office of Federal Information and Regulatory Affairs at Executive Level IV.

SECTION 5. EFFECTIVE DATE

Section 5 establishes October 1, 1980, as the effective date of this Act.

VIII. REGULATORY AND PAPERWORK IMPACT STATEMENT

In compliance with 11(b) of rule XXVI of the Standing Rules of the Senate, the following is an evaluation of the anticipated regulatory and paperwork impacts of the Paperwork Reduction Act of 1980.

Estimates of the numbers of individuals and businesses who would be regulated and a determination of the groups and classes of such individuals and businesses

It is the intent of this legislation to reduce and minimize the government paperwork and reporting requirements imposed on all sectors of the public. OMB estimates that of current reporting requirements, businesses receive 39 percent; individuals and households, 29 percent; State and local governments, 15 percent; and farmers and others, 17 percent of the reports generated by the Federal Government. As a result of law and regulations, the hourly burden to comply with these requests falls heaviest on individuals and households since they contribute 44 percent of the total reporting hours required to comply with government's requests for information. Businesses bear 21 percent of the hourly burden, State and local governments, 12 percent and farmers and others absorb 23 percent of the currently estimated 783 million burden hours.

It is not anticipated that the public will be directly regulated by this legislation. Rather, the Office of Management and Budget will be responsible for developing government-wide rules and regulations to reduce the public's paperwork and reporting requirements.

Determination of the economic impact of such regulations on individuals, consumers and businesses affected

The public should experience a beneficial economic impact from the management controls established by this legislation. Benefits should be realized in the areas of improved collection methods, reduced duplication and the elimination of unnecessary reporting costs. Agency regulations shall be reviewed by the OMB Director to ensure that undue burdens have been eliminated, the public has an opportunity to comment on the proposed methods of collection, and alternative means for the collection, use and dissemination of the information have been considered.

Any regulation generated by this legislation would only result in a voluntary cost to the public. As S. 1411 encourages the opportunity for public participation in the decision process, a voluntary cost could be incurred by public participation in commenting on proposed regulations.

The bill specifically mandates a goal of 25 percent reduction of paperwork burden over the next three years. Using a conservative

figure of \$10 per hour as the time value of public use reporting times an estimated 800 million hours imposed by the Government, almost \$8 billion can be attributed to the cost of public reporting requirements alone. The effort to meet this goal should be a significant factor for reducing the economic impact of all Government collections of information felt by the public.

Regulatory and paperwork controls provided by this legislation will be directed and placed upon the Federal departments and agencies. The responsibility and accountability to bring about paperwork improvements and a reduction in public burden is firmly assigned to the OMB Director. Further, the bill provides that any report prepared by the Director for purposes of this legislation shall not increase burdens on persons outside the Federal Government.

Determination of the impact on the personal privacy of the individuals affected

This legislation reflects the careful consideration by the Committee for the protection of individual's privacy and confidentiality. Safeguards have been incorporated in the legislation to ensure that individual's personal information is not jeopardized. The collection, maintenance, use and dissemination of information by the Federal Government shall be consistent with applicable laws of confidentiality and the Privacy Act of 1974. The legislation stipulates that any sharing or release of information shall also be consistent with laws which protect the individual.

Determination of the amount of additional paperwork that will result from regulations to be promulgated under this bill

S. 1411 was specifically drafted not to add, but rather to reduce, paperwork requirements on the public. However, the anticipated planning and management system for control of paperwork may initially increase Federal agencies' internal paperwork.

Each department and agency subject to this bill has a responsibility to improve their information management practices and minimize the public burden. Regulatory and paperwork requirements associated with the provisions of this bill are primarily directed to the Government itself.

Agencies which are currently subject to, and in compliance with, the Federal Reports Act of 1942 and the OMB clearance procedures should not experience significant regulatory or paperwork impact as a result of this legislation. Agencies now subject to the review procedures of the General Accounting Office are familiar with the clearance process and would only experience minor reorientation to OMB procedures as a result of the shift. (Prior to 1973, independent regulatory agencies were subject to OMB clearance procedures.)

First time regulatory and paperwork impacts will be heavily concentrated on those agencies which have never been subject to an information clearance process (i.e. Internal Revenue Service) and for those agencies which have elected to circumvent the requirements of the OMB/GAO clearance procedures in the past.

S. 1411 also puts in place a public protection provision. After December 31, 1981, no person will be subject to penalties or need to com-

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ply with any Federal information collection request which has not gone through the OMB clearance and approval process. Any agency information request to the public which does not display a current OMB control number, or if not, states why not can be ignored.

In summary, this legislation will result in reducing the regulatory and paperwork impact on the public. The public should not experience any new regulatory or paperwork impacts as a result of this legislation.

IX. ROLLCALL VOTE AND COMMITTEE ACTION

On August 5, 1980 the Committee voted to report favorably S. 1411, the Paperwork Reduction Act to the floor of the Senate. All Senators present voted to report the bill. Senators Eagleton, Chiles, Nunn, Sasser, Pryor, Levin, Stevens, Mathias, Danforth, Durenberger and Ribicoff were present and voted.

X. COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., August 26, 1980.

HON. ABRAHAM RIBICOFF,
*Chairman, Committee on Governmental Affairs, U.S. Senate, 3308
Dirksen Senate Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 1411, the Paperwork Reduction Act of 1980.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

JAMES BLUM
(For Alice M. Rivlin, Director).

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

AUGUST 26, 1980.

1. Bill number: S. 1411.
2. Bill title: Paperwork Reduction Act of 1980.
3. Bill status: As ordered reported by the Senate Committee on Governmental Affairs, August 5, 1980.
4. Bill purpose: The Paperwork Reduction Act of 1980 would seek to reduce the burden of federal paperwork on the public by 25 percent over 3 years. The bill, which would take effect on October 1, 1980, would establish an Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB). Government-wide information policies and procedures would be consolidated and coordinated by this office, and a Federal Information Locator Service would serve as a register for information collected. The bill authorizes the appropriation of \$8 million in fiscal year 1981, \$8.5 million in fiscal year 1982, and \$9.0 million in 1983.

5. Cost estimate: Assuming appropriation of the full amounts authorized by this bill, the estimated budget impact would be as follows:

		[In millions of dollars]
Authorization level:		
Fiscal year:		
1981	-----	8.0
1982	-----	8.5
1983	-----	9.0
1984	-----	---
1985	-----	---
Estimated outlays:		
Fiscal year:		
1981	-----	4.5
1982	-----	8.3
1983	-----	8.7
1984	-----	4.0
1985	-----	---

Some of the OMB activities for which funding is authorized in this bill are currently performed by OMB, the Department of Commerce, or the General Accounting Office. It is estimated that the President has requested approximately \$3.5 million in budget authority for these activities for fiscal year 1981.

The costs of this bill fall within budget function 800.

6. Basis of estimate: For purposes of this cost estimate, it has been assumed that the full amounts authorized in each fiscal year will be appropriated. Estimated outlays in each year are based on historical spendout rates for the Office of Management and Budget, which have been adjusted to account for the time it will take to fill newly added positions.

S. 1411 would involve a consolidation within OMB of functions currently performed by several agencies. The Comptroller General has estimated that 120 positions would be required to carry out the provisions of the bill. An estimated \$3.5 million, covering 75 of these positions, is included in the President's budget request for fiscal year 1981 for OMB, the Department of Commerce, and the General Accounting Office. If Congress takes the appropriate steps to reduce funding to agencies currently performing activities covered by this bill to reflect the shift of positions to the new Office of Information and Regulatory Affairs, the net effect in 1981 would be an increase of approximately \$4.5 million in budget authority and \$1.9 million in outlays.

7. Estimate comparison: The Comptroller General provided the Subcommittee on Legislation and National Security of the House Committee on Government Operations with an estimate of the costs and budget impacts expected to result from enactment of H.R. 6410. According to the Comptroller General, the net increase in budget authority in fiscal year 1981 would be \$3.7 million. The difference between the Comptroller's estimate of net additional budget authority and that of CBO is due to slight differences in the methodology used for estimating the budget authority requested for already existing positions.

8. Previous CBO estimate: On March 13, 1980, the Congressional Budget Office prepared a cost estimate for H.R. 6410, a similar bill

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ordered reported by the House Committee on Government Operations on March 4, 1980. The current estimate shows lower estimates of outlays for fiscal years 1981, 1982, and 1983 due to adjustments in the spendout rate applied.

9. Estimate prepared by: Judith Walker.

10. Estimate approved by:

C. G. NUCKOLS
(For James L. Blum,
Assistant Director for Budget Analysis).

XI. ADDITIONAL VIEWS

INTRODUCTION

This bill is the first comprehensive revision of the Federal Reports Act of 1942, since that law was enacted. S. 1411 will contribute to better management of Government information programs and reduced paperwork burdens on our citizens. We strongly support the objective of paperwork reduction and expect to work for passage of this legislation on the Senate floor.

We are, however, alarmed by Committee approved amendments to S. 1411 that would effectively revise and expand upon the Brooks Act of 1965, which governs acquisition of automatic data processing (ADP) equipment by Federal agencies. These amendments were adopted primarily to conform the Senate bill to the previously passed House bill. They were not part of S. 1411 or H.R. 3570 as introduced and are largely unrelated to paperwork reduction. The amendments were not considered in Senate hearings on S. 1411 because they surfaced in a revised House bill, H.R. 6410, long after the Senate hearings had been completed.

We believe that the ADP related amendments approved by the Committee will have a significant adverse impact on the ability of defense and intelligence agencies to acquire and use ADP equipment in a timely and efficient manner. They will further disrupt an already unreasonably complex and mismanaged ADP acquisition system, and it would be a serious mistake if they were approved. We intend to propose an amendment on the Senate floor to correct these deficiencies.

BROOKS ACT—NONINTERFERENCE BY GSA IN AGENCY DETERMINATIONS OF NEED FOR ADP

Under the Brooks Act GSA is vested with authority to act as a government-wide agent for the purchase, lease, and maintenance of ADP equipment by Federal agencies. The Brooks Act was intended to foster competition in the computer industry and to promote cost reduction for the Federal Government. These objectives were to be achieved by encouraging greater competition in the industry through Federal procurement policies and by providing for the efficient acquisition and use of ADP equipment by and among Federal agencies through a central management system.

The Administrator of GSA was given a central management and procurement role, but he was specifically denied authority to interfere with the judgments and decisions of mission agencies related to their need for or use of ADP to accomplish mission needs. The law restricts the Administrator as follows:

Authority so conferred upon the Administrator shall not be so construed as to impair or interfere with the determi-

nation by agencies of their individual automatic data processing requirements, including the development of specifications for and the selection of types and configurations of equipment needed. The Administrator shall not interfere with, or attempt to control in any way, the use made of automatic data processing equipment thereof by any agency.

This limitation was included to make it clear that GSA was barred from interference in agency prerogatives. The particular, the limitation reflected the concern of defense and intelligence agencies that GSA involvement in the procurement process should not disrupt timely procurement of needed ADP, and it should not allow GSA—which has no expertise or responsibility for meeting national security needs—to substitute its judgment for the professional opinions of military and intelligence authorities.

Defense and intelligence systems are uniquely dependent upon ADP technology. Needed ADP must be acquired quickly and without disruption to related military and intelligence procurement and planning programs. National security missions frequently involve highly complex and sensitive ADP requirements calling for state-of-the-art technology. It would have been totally unrealistic to expect that GSA's overworked ADP procurement staff could keep up with the rapidly changing technology, let alone the specific requirements of each user agency. Accordingly, the Congress sought to avoid a complex and inefficient acquisition process in which GSA might second guess agency decisions.

OMB/GSA MISMANAGEMENT OF ADP ACQUISITIONS

Unfortunately, implementation of the Brooks Act by GSA and OMB has resulted in unforeseen adverse impacts on timely and efficient procurement of needed ADP equipment by U.S. Government agencies. In 1979, an analysis by the President's Reorganization Project on Federal agencies' utilization of ADP made the following findings, among others:

The Federal Government is, in general, mismanaging its information technology resources * * * This condition is manifested by such major symptoms as: * * * a military enterprise which is operationally vulnerable as a consequence of obsolescent equipment and systems * * *.

The average age of computing equipment in DoD is about six years greater than that of comparable equipment used in the private sector. This is nearly a full generation of computer technology behind the private sector.

Implementation of the Brooks bill has led to an excessively long procurement cycle of some three to five years—instant obsolescence.

The Central Agencies Team Study of the President's Reorganization Project indicated that GSA and OMB have seriously mismanaged their responsibilities under the Brooks Act and that this is a primary cause of a wide variety of ills in Federal ADP utilization. The deficiencies of the existing system include an unreasonably complex and time consuming acquisition process that frequently results in acqui-

tion of obsolete or inappropriate systems and even serves to undermine the competitive process by imposing unreasonable barriers to vendor responsiveness to Government proposals. OMB and GSA have been narrowly focused on budgetary and procurement control. In the words of the President's Reorganization Project (PRP), they have engaged in "punitive oversight" rather than providing leadership and service to executive branch agencies. This has resulted in many lost opportunities for improved productivity through ADP utilization and in the unnecessary waste of the taxpayers' money.

NATIONAL SECURITY IMPACTS OF ADP ACQUISITION PROCESS—NORAD EARLY WARNING SYSTEM FAILURES

The deficiencies of the present ADP acquisition system have a government-wide impact; however, agencies involved in national defense and intelligence programs have been particularly hard hit under the Brooks Act. Within the past year there has been a series of computer failures at the North American Air Defense Command's strategic warning facility at Cheyenne Mountain, Colorado. The computer failures caused a false warning of Soviet missile attack against the United States and U.S. strategic forces were unnecessarily placed on nuclear alert. The Senate Armed Services Committee appointed Senators Hart and Goldwater to study these computer failures and report back to the Committee on the causes of this disturbing incident.

Senator Hart has determined that procurement of new state-of-the-art computer hardware is a major problem for NORAD because timely updating of early warning hardware is being hindered by present Government purchasing policies. Senator Hart's preliminary recommendation was that NORAD's strategic warning ADP equipment be excluded from Brooks Act procurement procedures to assure that this important element of our defense posture is provided with the most up-to-date equipment at all times.

OTHER DEFENSE-INTELLIGENCE IMPACTS

Unfortunately, NORAD is not alone among defense and intelligence agencies in experiencing considerable delays in procuring new ADP equipment. From start to finish the average acquisition period for complex ADP systems by DOD is 37 months as opposed to 12 to 15 months for private industry. A significant portion of the difference can be attributed to the delays imposed by the procedures mandated in Public Law 89-306. Consider the following cases:

A. *The Navy Ocean Surveillance and Intelligence System.*—The Navy requested approval from GSA to procure two PDP 11/70 computers with peripheral equipment in order to upgrade two OSIS sites which had become saturated. No procurement of additional software was required.

As the system had been in place for some time and functioned satisfactorily, permission to proceed with expansion of the system to meet expanded requirements should have been obtained expeditiously. Instead, eight months were required to obtain a Delegation of Procurement Authority (DPA)

from GSA. Most of this time involved justifying a sole source procurement of the needed computers. Furthermore, after a DPA was finally received, a further two months was required to compete the ADP Equipment to a third-party vendor.

B. *Air Force Global Weather Central System*.—Procurement authority was requested by the Air Force to initiate acquisitions of this system in August, 1978. In June, 1979, GSA delegated authority but required that revalidation of the system architecture take place. Two independent contractors revalidated the proposed architecture in December, 1979. Procurement authority was subsequently sought once again in January, 1980. Purchase authority was finally granted by GSA in July, 1980.

C. *Air Force Intelligence Data Handling System*.—In this case, the Air Force needed to upgrade its data processing capabilities for handling information generated by the SLBM strategic warning system as new radars began to come on line in the late 1970's. A request for delegation of procurement authority was submitted in October, 1976, in order to allow acquisition of additional hardware to take place in time to meet an October, 1977, operational need date.

GSA granted an interim DPA in August, 1977, which allowed the equipment to be procured sole-source and to be installed in June, 1978. However, at the time the DPA was granted, the Air Force was given four years to replace the system completely by competitive bid.

No operational requirement has been established for the directed competitive replacement of the present IDHS. The current ADPE in use satisfy present and projected growth needs of the SLBM-warning mission. Simply for the purpose of satisfying a GSA-mandated competition to replace the sole-source improved system upwards of \$30 million will be unnecessarily spent—a figure which does not include the cost of actually replacing the IDHS system, estimated at an additional \$18 million.

As these examples suggest, the faults of the ADP procurement process that impaired the effectiveness of NORAD are not unique. The Brooks Act as administered by GSA and OMB has seriously constrained the ability of our armed forces and the intelligence community to perform efficiently their various missions. GSA has repeatedly interfered with defense and intelligence agency determinations of need for ADP equipment contrary to the intent of the Brooks Act.

S. 1411 WOULD AMPLIFY FAILURES OF EXISTING ADP ACQUISITION SYSTEM

The Committee bill and report recognize that the present law is not working well. The purpose of the ADP provisions in S. 1411 is to correct the deficiencies of the existing system. Unfortunately, the Committee bill would merely amplify the defects of the present system by further complicating the ADP acquisition process and expanding the roles of the very agencies, OMB and GSA, that are most responsible for the system's present failures.

EXPANSION OF BROOKS ACT

The Senate bill would expand the scope of the Brooks Act and the roles of GSA and OMB in the following ways, among others:

1. *Telecommunications Equipment.*—S. 1411 effectively amends the Brooks Act to bring telecommunications equipment acquisition under the existing ADP acquisition process administered by GSA and OMB. Such equipment is not currently within the scope of the Brooks Act. An amendment proposed by the Department of Defense and approved by the Committee seeks to limit this extension of the Brooks Act to exclude certain defense and intelligence applications of telecommunications equipment. No such exclusion is included in the House bill; and if the House provision were to prevail in Conference, Brooks Act controls would be extended to the following types of critical defense and intelligence telecommunications functions, among others:

Joint Tactical Communications Program.—Interoperable tactical communications to equip tactical forces such as the Rapid Deployment Joint Task Force.

National Emergency Airborne Command Post.—Survivable communications connectivity between national command authority and military forces.

Air Force Satellite Communications System.—Satellite communications connectivity to the nuclear capable forces.

Navy TACAMO.—Airborne communications relay platform to nuclear submarines.

Airborne Warning and Control System.—Airborne command and control system which uses telecommunications to control air battle and provides sensor information to ground command centers.

Joint Crisis Management Capability.—Joint Air Transportable Command and Control System to link national command authorities to “on scene” commander in remote areas of the world.

PAVE PAWS.—Telecommunications links to Sea Launched Ballistic Missile early warning radars.

To subject such acquisitions to the present GSA ADP acquisition system is not only without justification, it would constitute a dangerous impairment of our defense and intelligence capabilities. While we support the DOD amendment to the Senate bill, we object to inclusion of any telecommunications equipment in this bill without justification having been provided in the Committee record. Based on past performance under the Brooks Act, we are concerned that GSA will attempt to broadly define such equipment to include systems which were intended to be excluded. Finally, we are alarmed at the mere possibility that the House position might eventually prevail in whole or in part.

2. *Open Ended Meaning of ADP.*—The term “automatic data processing equipment” is not defined in the Senate bill or the House bill; however, it is used in contexts that give extremely broad meaning to the term. Given GSA’s history of overreaching interpretations of the term ADP, we are deeply concerned that this legislation will be

interpreted as an affirmation of existing overbroad agency interpretations and as a mandate for further broadening of its application.

Embedded Computers—Overbroad Interpretations of ADP.—An example of what we are concerned about occurred last December when GSA served notice on DOD that certain “embedded computers” (i.e. computers embedded in weapons systems) would be reclassified as ADP equipment subject to the Brooks Act’s procurement procedures. Draft regulations were circulated by GSA making such items as guided missiles, weapons fire control equipment, space vehicles, microcircuits and miniprocessors subject to the massive hierarchy of GSA ADP acquisition requirements. If accomplished, this reclassification would bring several thousand new items containing embedded computers under GSA’s control. Based on such past performance, we are fearful that, in the absence of an explicit definition of ADP—one which delineates and limits the scope of GSA’s authority over ADP procurement, the General Services Administration will be encouraged to continue pursuing an overly expansive interpretation of its authority under the Brooks Act. It would be intolerable to have weapons system design and procurement subject to arbitrary and unnecessary delays as now characterize computer acquisitions.

3. *Additional GSA Planning and Review Authorities.*—S. 1411 would authorize the Administrator of GSA to participate in the development of a 5-year plan for meeting the ADP and telecommunications needs of Federal agencies, including defense and intelligence agencies. It would also direct the Administrator to conduct reviews of the adequacy and efficiency of agency utilization of ADP every 3 years and report the results of these reviews directly to the Congress. The House bill, as interpreted in the House Committee report, would go the final step and explicitly subject agency “determinations of need” and specifications for ADP to GSA review. Notwithstanding this Committee’s expression of intent to the contrary, we are deeply concerned that these provisions are an open invitation for additional GSA usurpation of mission agency prerogatives concerning the determination of mission need. Such a result would be totally unjustified and dangerous to the integrity and effectiveness of vital national security programs. Again, these provisions constitute an expansion of GSA’s and OMB’s role under the Brooks Act and contradict this Committee’s expression of intent. We believe that if GSA’s role is allowed to expand into definition of mission agency ADP requirements, it will seriously undermine the present oversight, budgetary review, authorization, and appropriations process.

4. *Direct OMB Administration of Brooks Act.*—S. 1411 authorizes \$25.5 million over a three year period for additional OMB staff to carry out the paperwork reduction and ADP provisions of this Act. We are advised by OMB that if fully funded, this would amount to about 200 additional OMB positions.

OMB has not demonstrated competence in the administration of its current oversight and management responsibilities under the Brooks Act. Accordingly, there is no justification for an explicit Congressional directive that OMB become directly involved in the day-to-day

administration of the Brooks Act. It is just as inappropriate to authorize OMB to substitute its views on mission requirements for those of professional defense and intelligence authorities as it has been to arm GSA with effective powers to do so. OMB is a budget and oversight agency, not a mission agency. Like GSA, OMB does not have the expertise or the responsibility to provide for national security needs. OMB's role in defense and intelligence ADP acquisition programs should be no different than its role in the budgetary process for other DOD programs. There is no more basis for singling ADP procurement out for micromanagement by OMB, than there would be for making the OMB Director a super Secretary of Defense-Director of Central Intelligence for other national security programs.

A more immediate concern is that OMB presently manages its responsibilities under the Federal Reports Act and the Brooks Act with a staff of eight professionals. OMB's total staff to carry out all management and budget functions for the entire Government is approximately 570 professionals. It is totally unrealistic to anticipate that it will increase its staff by more than 200 in order to administer this new ADP and paperwork reduction program. We have been informally advised by OMB that OMB has already advised the Appropriations Committee that it will not seek the substantial funding for expansion of its ADP oversight staff mandated by this bill. Because it is unrealistic to expect OMB to directly administer the ADP acquisition process contemplated by this bill, we are concerned that this will inevitably necessitate a larger role for GSA than this Committee intends. For the reasons stated above, we believe that this would be a serious mistake, especially in the area of reviewing agency "determinations of need" for ADP technology.

Defense and Intelligence Amendments Adopted by the Committee

The Defense Department testified on this bill in February before the House and expressed no objection to the ADP provisions. Subsequently, working level elements of the defense and intelligence agencies became aware of the Department's official position and were deeply dissatisfied. Among other things, the Joint Chiefs of Staff have recommended to the Secretary that the Department should oppose inclusion of ADP and telecommunications provisions in the bill and seek Senate hearings. The Joint Logistics Commanders of the armed services made a similar recommendation. The Assistant Secretary of Defense for Command, Control, Communications, and Intelligence recommended to OMB on June 20, 1980 that the Administration ask for Senate hearings so that the Department could express its views to the Committee on:

- a. GSA role in determination of needs,
- b. inclusion of telecommunications, (and)
- c. possible disclosure of classified information * * * .

In addition, the Assistant Secretary expressed concern that current OMB interpretations of GSA's authority embodied in a 1976 OMB memorandum give GSA "too broad a charter."

Senator Chiles became aware of the defense and intelligence concerns about this bill and worked with Administration officials to

address those concerns. He proposed important amendments which improved the bill from a defense and intelligence viewpoint. These amendments were consistent with Administration policy and were coordinated by OMB. Unfortunately, OMB was not fully responsive to defense and intelligence concerns and DOD/intelligence community efforts to solicit support for its concerns has proved unproductive throughout consideration of this bill. Several days prior to the Committee markup of this bill, Senator Jackson inquired of the Secretary of Defense by letter whether the proposed Committee bill was really adequate from a defense and intelligence viewpoint. The Jackson letter provoked four days of intense efforts by OMB, DOD, and Central Intelligence officials to work out solutions to the defects in this bill. These efforts resulted in several amendments which were proposed to this Committee by DOD and the intelligence community and which have been included in the Committee bill.

In brief, the amendments would partially exclude telecommunications equipment from coverage of the bill, limit access to classified intelligence information under audit and review provisions to reduce the possibility of unauthorized disclosure, and attempt to assure that this Act neither expands nor reduces the scope of the Brooks Act. We approve of these amendments; however, we do not believe that they fully address defense and intelligence concerns with this bill.

We are particularly concerned that the DOD amendment to prevent expansion of the scope of the Brooks Act fails to accomplish its purpose. This amendment is well intended; however, it is contradicted by the previously cited specific provisions of the bill, which have the effect of expanding the Brooks Act. This Committee's Report attempts to reinforce the intent of the DOD amendment; however, this is merely a point of departure for GSA to interpret this provision should it become law. The House report, existing interpretations of the Brooks Act, and prima facie expansions of the Brooks Act in this bill create a serious ambiguity about the effectiveness of the DOD amendment in achieving its purpose.

Three facts stand out: First, this subject merits a far more thorough and deliberate consideration—and review by the Congress—than was possible during the hasty and intense negotiations conducted by the Administration, in the course of which the Administration's amendments to S. 1411 were drafted. For example, as a result of the hastiness with which this issue was considered, it would appear that these amendments do not adequately protect cryptologic activities that are communications security activities. Second, these amendments do not address many of the previously cited concerns of working level professionals in the defense and intelligence community. In fact, in some cases, the Administration's position actually contradicts those stated concerns. Third and most important, the defense and intelligence amendments are an exercise in damage limitation; they do not address the deficiencies of the existing law as it affects defense and intelligence programs. Indeed, modification of the existing law was beyond the permitted scope of the discussions between DOD, CIA and OMB.

FLOOR AMENDMENT—ADP DEFINED TO EXCLUDE PURELY MILITARY AND INTELLIGENCE APPLICATIONS

At the appropriate time during floor consideration of S. 1411, we intend to offer an amendment to this legislation aimed at alleviating the serious deficiencies of the present ADP acquisition system as it affects defense and intelligence programs.

Our amendment will provide a definition of automatic data processing equipment which will exclude from the definition of the term Automatic Data Processing equipment used for certain national security command, control, communications and intelligence functions. This approach is similar to the DOD amendment accepted by the Committee which further defines telecommunications equipment to exclude equipment used for certain purely military and intelligence functions. Under our amendment, ADP procurement by defense and intelligence agencies and national defense laboratories in connection with the development or deployment of weapons systems, strategic and tactical warning systems, command, control, communications and intelligence functions, and other similar critical national security functions, would be excluded from the government-wide ADP acquisition system. To the maximum degree feasible and consistent with U.S. national security interests, publicly advertised, competitively bid procedures would continue to be employed in the acquisition of such ADP systems.

In the interest of assuring that the mission agencies responsible for conducting ADP equipment procurements shall not abuse their authority, duly authorized auditing services such as the Defense Audit Agency shall continue to audit these procurements and advise the appropriate authorizing Committees of the Congress of their findings.

The purpose of our amendment is to ensure that procurements of ADPE specifically related to the execution of the defense and intelligence missions be allowed to proceed in a timely and efficient manner. It will have no effect upon automatic data processing equipment used by these agencies for administrative and business applications such as payroll, finance, logistics and personnel management.

Our amendment is in conformity with the actions taken by the Governmental Affairs Committee in adopting amendments to S. 1411 recommended by the Department of Defense, Central Intelligence Agency, and the national laboratories designed to limit the additional adverse effects of S. 1411 on these entities. To take the latter step, however, without correcting the underlying problem—the effect of the Brooks Act on our national defense posture—would be tantamount to treating some of the symptoms of the disease without addressing the causes.

There is considerable support for this approach within the Department of Defense and the other agencies responsible for meeting national security needs. The concerns expressed by the Joint Chiefs of Staff, the Joint Logistics Commanders, the Assistant Secretary of Defense Communications, Command, Control, and Intelligence—virtually none of which have been included by the compromises approved by the Administration—are addressed by our amendment.

CONCLUSION

The arguments for bringing ADP procurement procedures more closely in line with national security needs are compelling. Timely and efficient acquisition of such equipment is not possible under the present procedures, mandated fifteen years ago. The formula we propose will ensure needed flexibility, while guaranteeing the continued safeguard of monitoring by appropriate auditing agencies and proper budgetary oversight by OMB.

HENRY M. JACKSON.
WILLIAM S. COHEN.
JOHN GLENN.
TED STEVENS.

ADDITIONAL VIEWS OF MR. CHARLES H. PERCY

There are few subjects that come before this Committee that have as much universal appeal as "paperwork reduction." No one supports more paperwork for business, consumers and state and local governments. It is clearly outlined in this report that there is a need for a co-ordinated approach to begin to cut through the redtape that dominates American life today.

Once again this summer while in Illinois I heard from constituents who have encountered this paperwork maze. One was an elderly gentleman who employs a part-time domestic workers. Yet he has written me that he must file 13 forms a year to facilitate the payment of about \$400 in taxes on the worker's income. The problem is not just with the Federal government, for some of the forms he must fill out comply with state regulations. Something is clearly wrong with our system of government when one individual must cope with a barrage of paperwork like this.

S. 1411 moves in the direction of beginning to make sense out of Federal information needs. The coordination of information within the Office of Management and Budget places the emphasis where it should lie and begins, for the first time, to add meaning to the "Management" part of OMB.

I am concerned, however, that, under S. 1411, the important management functions of paperwork may be lost in the shuffle of regulatory review. Under this bill, an Office of Information and Regulatory Affairs is established within OMB. This compares with the House-passed bill (H.R. 6410) which limits the office to enforcement of Federal information policy.

Under regulatory reform legislation that our Committee has recently reported out (S. 262), OMB is directed to review the compliance of Federal agencies with the regulatory analysis requirements of the bill. It seems likely that these requirements will be assigned to an Office of Information and Regulatory Affairs, possibly burying the paperwork reduction requirements of S. 1411. This legislation is simply too important to be given a back seat to regulatory review.

Can it happen? My experience with the Federal establishment has proven that unless legislation is tightly drawn and Congressional intent made abundantly clear, an agency will interpret it to suit its interests and not necessarily those envisaged by Congress.

It will be very important in the new OMB information management office for paperwork reduction to be given the highest priority if we are to succeed. We have strong evidence that lack of direction from the top can result in noncompliance with Congressional intent.

The Joint Economic Committee, in hearings it conducted earlier this year, has given us an excellent picture of agency avoidance of a Federal statute. The grandfather of information management—the Federal Reports Act of 1942—is the basic statute providing for control

of Federal paperwork burdens. During the JEC hearings, Comptroller General Elmer Staats revealed that "about 75 percent of all Federal paperwork is exempt from the Federal Reports Act or any other legislation providing for central control."

What is most disturbing about this charge is that USDA is subject to the Federal Reports Act and still did not comply with its modest terms. GAO found that the Food Safety and Quality Service alone had issued 1,100 bootleg forms—forms developed locally and not approved under the Federal Reports Act. This one agency has generated nearly a foot of forms that had not gone through the required processes and was requiring compliance with them around the country.

How could it happen? An aide to Mr. Staats said during the hearing: "Agriculture's clearance officer said he found it difficult to inform program people about the Federal Reports Act. His problems were aggravated because top management at Agriculture did not strongly support paperwork management."

This is the crux of our problem. We should not establish a new office at OMB unless we are absolutely sure that it will have the ability to meet its obligations. I am concerned that under an Office of Information and Regulatory Affairs neither paperwork nor regulatory review will be given adequate attention. I am particularly concerned that paperwork reduction will be given a back seat.

Consequently I feel the House title for this new and important office should be retained and its responsibilities limited. We need to make it clear that it will have primary responsibility for information management.

CHARLES H. PERCY.

XII. CHANGES IN EXISTING LAW

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

TITLE 44, UNITED STATES CODE	
Chap.	Sec.
1. Joint Committee on Printing.....	101
3. Government Printing Office.....	301
5. Production and Procurement of Printing and Binding.....	501
7. Congressional Printing and Binding.....	701
9. Congressional Record.....	901
11. Executive and Judiciary Printing and Binding.....	1101
13. Particular Reports and Documents.....	1501
15. Federal Register and Code of Federal Regulations.....	1501
17. Distribution and Sale of Public Documents.....	1701
19. Depository Library Program.....	1901
21. Archival Administration.....	2101
23. National Archives Trust Fund Board.....	2301
25. National Historical Publications and Records Commission.....	2501
27. Federal Records Council.....	2701
29. Records Management by Administrator of General Services.....	2901
31. Records Management by Federal Agencies.....	3101
33. Disposal of Records.....	3301
35. Coordination of Federal [Reporting Services] <i>Information Policy</i>	3501
37. Advertisements by Government Agencies.....	3701

CHAPTER 29—RECORDS MANAGEMENT BY ADMINISTRATOR OF
GENERAL SERVICES

- SEC.
2901. Definitions.
2902. Objectives of records management.
2903. Custody and control of property.
2904. General responsibilities of Administrator.
2905. Establishment of standards for selective retention of records; security measures.
2906. Inspection of agency records.
2907. Records centers and centralized microfilming services.
2908. Regulations.
2909. Retentions of records.
[2910. Repealed.]

* * * * *

§ 2904. General responsibilities of Administrator

The Administrator shall provide guidance and assistance to Federal agencies with respect to records creation, records maintenance and use, and records disposition. In providing such guidance and assistance, the Administrator shall have responsibility to—

(1) * * *

* * * * *

[(10) report to the Congress and to the Director of the Office of Management and Budget each year, at such time or times as he may deem desirable, on the results of the foregoing activities, including evaluations of responses by Federal agencies to any recommendations resulting from studies or inspections conducted by him.]

(10) report to the appropriate oversight and appropriations committees of the Congress and to the Director of the Office of Management and Budget annually and at such other times as he deems desirable (A) on the results of activities conducted pursuant to paragraphs (1) through (9) of this section, (B) on evaluations of responses by Federal agencies to any recommendations resulting from inspections or studies conducted under paragraphs (8) and (9) of this section, and (C) to the extent practicable, estimates of costs to the Federal Government resulting from the failure of agencies to implement such recommendations.

§ 2905. Establishment of standards for selective retention of records; security measures

(a) The Administrator of General Services shall establish standards for the selective retention of records of continuing value, and assist Federal agencies in applying the standards to records in their custody. He shall notify the head of a Federal agency of any actual, impending, or threatened unlawful removal, defacing, alteration, or destruction of records in the custody of the agency that shall come to his attention, and assist the head of the agency in initiating action through the Attorney General for the recovery of records unlawfully removed and for other redress provided by law.

(b) The Administrator of General Services shall assist the Associate Director of the Office of Information and Regulatory Affairs in conducting studies and developing standards relating to record retention requirements imposed on the public and on State and local governments by Federal agencies.

* * * * *

CHAPTER 35—COORDINATION OF FEDERAL REPORTING SERVICES

Sec.

- §3501. Information for Federal agencies.
- §3502. Definitions.
- §3503. Duties of Director of the Bureau of the Budget.
- §3504. Designation of central collection agency.
- §3505. Independent collection by an agency prohibited.
- §3506. Determination of necessity for information ; hearing.
- §3507. Cooperation of agencies in making information available.
- §3508. Unlawful disclosure of information ; penalties ; release of information to other agencies.
- §3509. Plans or forms for collecting information ; submission to Director ; approval.
- §35010. Rules and regulations.
- §35011. Penalty for failure to furnish information.

§ 3501. Information for Federal agencies

Information needed by Federal agencies shall be obtained with a minimum burden upon business enterprises, especially small business enterprises, and other persons required to furnish the information, and at a minimum cost to the Government. Unnecessary duplication of efforts in obtaining information through the use of reports, questionnaires, and other methods shall be eliminated as rapidly as practicable. Information collected and tabulated by a Federal agency shall, as far as is expedient, be tabulated in a manner to maximize the usefulness of the information to other Federal agencies and the public.

§ 3502. Definitions

As used in this chapter—

“Federal agency” means an executive department, commission, independent establishment, corporation owned or controlled by the United States, board, bureau, division, service, office, authority, or administration in the executive branch of the Government ; but does not include the General Accounting Office, independent Federal regulatory agencies, nor the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions ;

“person” means an individual, partnership, association, corporation, business trust, or legal representative, an organized group of persons, a State or territorial government or branch, or a political subdivision of a State or territory or a branch of a political subdivision ;

“information” means facts obtained or solicited by the use of written report forms, application forms, schedules, questionnaires, or other similar methods calling either for answers to identical questions from ten or more persons other than agencies, instrumentalities, or employees of the United States or for answers to questions from agencies, instrumentalities, or employees

of the United States which are to be used for statistical compilations of general public interest.

§ 3503. Duties of Director of the Bureau of the Budget

With a view to carrying out the policy of this chapter, the Director of the Bureau of the Budget from time to time shall—

(1) investigate the needs of the various Federal agencies for information from business enterprises, from other persons, and from other Federal agencies;

(2) investigate the methods used by agencies in obtaining information; and

(3) coordinate as rapidly as possible the information-collecting services of all agencies with a view to reducing the cost to the Government of obtaining information and minimizing the burden upon business enterprises and other persons, and using, as far as practicable, for continuing organization, files of information and existing facilities of the established Federal agencies.

§ 3504. Designation of central collection agency

When, after investigation, the Director of the Bureau of the Budget is of the opinion that the needs of two or more Federal agencies for information from business enterprises and other persons will be adequately served by a single collecting agency, he shall fix a time and place for a hearing at which the agencies concerned and other interested persons may have an opportunity to present their views. After the hearing, the Director may issue an order designating a collecting agency to obtain information for two or more of the agencies concerned, and prescribing (with reference to the collection of information) the duties and functions of the collecting agency so designated and the Federal agencies for which it is to act as agent. The Director may modify the order from time to time as circumstances require, but modification may not be made except after investigation and hearing.

§ 3505. Independent collection by an agency prohibited

While an order or modified order is in effect, a Federal agency covered by it may not obtain for itself information which it is the duty of the collecting agency designated by the order to obtain.

§ 3506. Determination of necessity for information; hearing

Upon the request of a party having a substantial interest, or upon his own motion, the Director of the Bureau of the Budget may determine whether or not the collection of information by a Federal agency is necessary for the proper performance of the functions of the agency or for any other proper purpose. Before making a determination, he may give the agency and other interested persons an opportunity to be heard or to submit statements in writing. To the extent, if any, that the Director determines the collection of information by the agency is unnecessary, for any reason, the agency may not engage in the collection of the information.

§ 3507. Cooperation of agencies in making information available

For the purposes of this chapter, the Director of the Bureau of the Budget may require a Federal agency to make available to another Federal agency information obtained from any person after

December 24, 1942, and all agencies are directed to cooperate to the fullest practicable extent at all times in making information available to other agencies.

¶ This chapter does not apply to the obtaining or releasing of information by the Internal Revenue Service, the Comptroller of the Currency, the Bureau of the Public Debt, the Bureau of Accounts, and the Division of Foreign Funds Control of the Treasury Department, nor to the obtaining by a Federal bank supervisory agency of reports and information from banks as authorized by law and in the proper performance of the agency's functions in its supervisory capacity.

¶§ 3508. Unlawful disclosure of information; penalties; release of information to other agencies

¶ (a) If information obtained in confidence by a Federal agency is released by that agency to another Federal agency, all the provisions of law including penalties which relate to the unlawful disclosure of information apply to the officers and employees of the agency to which information is released to the same extent and in the same manner as the provisions apply to the officers and employees of the agency which originally obtained the information. The officers and employees of the agency to which the information is released, in addition, shall be subject to the same provisions of law, including penalties, relating to the unlawful disclosure of information as if the information has been collected directly by that agency.

¶ (b) Information obtained by a Federal agency from a person under this chapter may be released to another Federal agency only—

¶ (1) in the form of statistical totals or summaries; or

¶ (2) if the information as supplied by persons to a Federal agency had not, at the time of collection, been declared by that agency or by a superior authority to be confidential; or

¶ (3) when the persons supplying the information consent to the release of it to a second agency by the agency to which the information was originally supplied; or

¶ (4) when the Federal agency to which another Federal agency releases the information has authority to collect the information itself and the authority is supported by legal provision for criminal penalties against persons failing to supply the information.

¶§ 3509. Plans or forms for collecting information; submission to Director; approval

¶ A Federal agency may not conduct or sponsor the collection of information upon identical items, from ten or more persons, other than Federal employees, unless, in advance of adoption or revision of any plans or forms to be used in the collection—

¶ (1) the agency has submitted to the Director the plans or forms, together with copies of pertinent regulations and of other related materials as the Director of the Bureau of the Budget has specified; and

¶ (2) the Director has stated that he does not disapprove the proposed collection of information.

§ 3510. Rules and regulations

The Director of the Bureau of the Budget may promulgate rules and regulations necessary to carry out sections 3501-3511 of this title.

§ 3511. Penalty for failure to furnish information

A person failing to furnish information required by an agency shall be subject to penalties specifically prescribed by law, and no other penalty may be imposed either by way of fine or imprisonment or by the withdrawal or denial of a right, privilege, priority, allotment, or immunity, except when the right, privilege, priority, allotment, or immunity is legally conditioned on facts which would be revealed by the information requested.

§ 3512. Information for independent regulatory agencies

(a) The Comptroller General of the United States shall review the collection of information required by independent Federal regulatory agencies described in section 3502 of this chapter to assure that information required by such agencies is obtained with a minimum burden upon business enterprises, especially small business enterprises, and other persons required to furnish the information. Unnecessary duplication of efforts in obtaining information already filed with other Federal agencies or departments through the use of reports, questionnaires, and other methods shall be eliminated as rapidly as practicable. Information collected and tabulated by an independent regulatory agency shall, as far as is expedient, be tabulated in a manner to maximize the usefulness of the information to other Federal agencies and the public.

(b) In carrying out the policy of this section, the Comptroller General shall review all existing information gathering practices of independent regulatory agencies as well as requests for additional information with a view toward—

(1) avoiding duplication of effort by independent regulatory agencies, and

(2) minimizing the compliance burden on business enterprises and other persons.

(c) In complying with this section, an independent regulatory agency shall not conduct or sponsor the collection of information upon an identical item from ten or more persons, other than Federal employees, unless, in advance of adoption or revision of any plans or forms to be used in the collection—

(1) the agency submitted to the Comptroller General the plans or forms, together with the copies of pertinent regulations and of other related materials as the Comptroller General has specified; and

(2) the Comptroller General has advised that the information is not presently available to the independent agency from another source within the Federal Government and has determined that the proposed plans or forms are consistent with the provision of this section. The Comptroller General shall maintain facilities for carrying out the purposes of this section and shall render such advice to the requestive independent regulatory agency within forty-five days.

[(d) While the Comptroller General shall determine the availability from other Federal sources of the information sought and the appropriateness of the forms for the collection of such information, the independent regulatory agency shall make the final determination as to the necessity of the information in carrying out its statutory responsibilities and whether to collect such information. If no advice is received from the Comptroller General within forty-five days, the independent regulatory agency may immediately proceed to obtain such information.]

[(e) Section 3508(a) of this chapter dealing with unlawful disclosure of information shall apply to the use of information by independent regulatory agencies.]

[(f) The Comptroller General may promulgate rules and regulations necessary to carry out this chapter.]

SECTION 400A OF THE GENERAL EDUCATION PROVISIONS ACT

CONTROL OF PAPERWORK

SEC. 400A. (a) (1) (A) In order to eliminate excessive detail and unnecessary and redundant information requests and to achieve the collection of information in the most efficient and effective possible manner, the Secretary shall coordinate the collection of information and data acquisition activities of all Federal agencies, (i) whenever the respondents are primarily educational agencies or institutions [and] or (ii) whenever the purpose of such activities is to request information needed for the management of, or the formulation of, policy related to Federal education programs or research or evaluation studies related to the implementation of Federal education programs.

* * * * *

(3) (A) * * *

[(B) No collection of information or data acquisition activity subject to such procedures shall be subject to any other review, coordination, or approval procedure outside of the relevant Federal agency except as required by this subsection and except that an aggrieved agency may seek review of an adverse action by the Secretary under subparagraph (A) by the Director of the Office of Management under the rules and regulations established pursuant to section 3509 of title 44, United States Code, and the Director shall issue a decision thereon within 10 days after receipt of the request for review.]

(B) No collection of information or data acquisition activity subject to such procedures shall be subject to any other review, coordination, or approval procedure outside of the relevant Federal agency except as required by this subsection and by the Director of the Office of Management and Budget under the rules and regulations established pursuant to chapter 35 of title 44, United States Code. If a requirement for information is submitted pursuant to this Act for review, the timetable for the Director's approval established in section 3507 of the Paperwork Reduction Act of 1980 shall commence on the date the request is submitted, and no independent submission to the Director shall be required under such Act.

SECTION 201 OF THE SURFACE MINING CONTROL AND RECLAMATION
ACT OF 1977

TITLE II—OFFICE OF SURFACE MINING RECLAMATION
AND ENFORCEMENT

CREATION OF THE OFFICE

SEC. 201. (a) * * *

* * * * *

[(e) The Office shall be considered an independent Federal regu-
latory agency for the purposes of sections 3502 and 3512 of title 44
of the United States Code.]

SECTION 708 OF THE PUBLIC HEALTH SERVICE ACT

TITLE VII—HEALTH RESEARCH AND TEACHING FACIL-
ITIES AND TRAINING OF PROFESSIONAL HEALTH
PERSONNEL

PART A—GENERAL PROVISIONS

* * * * *

HEALTH PROFESSIONS DATA

SEC. 708. (a) * * *

* * * * *

[(f) In carrying out his responsibilities under this section, the
Secretary shall not be subject to the provisions of chapter 35 of title
44, United States Code.]

* * * * *

SECTION 5315 OF TITLE 5, UNITED STATES CODE

CHAPTER 53—PAY RATES AND SYSTEMS

* * * * *

SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES

* * * * *

§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following posi-
tions, for which the annual rate of basic pay shall be the rate de-

terminated with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

* * * * *

Associate Director, Office of Information and Regulatory Affairs, Office of Management and Budget.

[S. 1411, 96th Congress, 2d Session]

A BILL To improve the economy and efficiency of the Government and the private sector by improving Federal information management, and for other purposes.

That this Act may be cited as the "Paperwork Reduction Act of 1980".

Sec. 2. (a) Chapter 35 of title 44, United States Code, is amended to read as follows:

"CHAPTER 35—COORDINATION OF FEDERAL INFORMATION POLICY ·

"Sec.

"3501. Purpose.

"3502. Definitions.

"3503. Office of Information and Regulatory Affairs.

"3504. Authority and functions of Director.

"3505. Assignment of tasks and deadlines.

"3506. Federal agency responsibilities.

"3507. Public information collection activities—submission to Director, approval and delegation.

"3508. Determination of necessity for information; hearing.

"3509. Designation of central collection agency.

"3510. Cooperation of agencies in making information available.

"3511. Establishment and operation of Federal Information Locator System.

"3512. Public protection.

"3513. Director review of agency activities; reporting; agency response.

"3514. Responsiveness to Congress.

"3515. Administrative powers.

"3516. Rules and regulations.

"3517. Consultation with other agencies and the public.

"3518. Effect on existing laws and regulations.

"3519. Access to information.

"3520. Authorization of appropriations.

"§ 3501. Purpose

"The purpose of this chapter is—

"(1) to minimize the Federal paperwork burden for individuals, small businesses, State and local governments, and other persons;

"(2) to minimize the cost to the Federal Government of collecting, maintaining, using, and disseminating information;

"(3) to maximize the usefulness of information collected by the Federal Government;

"(4) to coordinate, integrate and, to the extent practicable and appropriate, make uniform Federal information policies and practices;

"(5) to ensure that automatic data processing and telecommunications technologies are acquired and used by the Federal Government in a manner which improves service delivery and program

management, increases productivity, reduces waste and fraud, and, wherever practicable and appropriate, reduces the information processing burden for the Federal Government and for persons who provide information to the Federal Government; and

“(6) to ensure that the collection, maintenance, use and dissemination of information by the Federal Government is consistent with applicable laws relating to confidentiality, including section 552a of title 5, United States Code, known as the Privacy Act.

“§ 3502. Definitions

“As used in this chapter—

“(1) the term ‘agency’ means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but does not include the General Accounting Office, Federal Election Commission, the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions, or Government-owned contractor-operated facilities including laboratories engaged in national defense research and production activities;

“(2) the term ‘burden’ means the time, effort, or financial resources expended by persons to provide information to a Federal agency;

“(3) the term ‘collection of information’ means the obtaining or soliciting of facts or opinions by an agency through the use of written report forms, application forms, schedules, questionnaires, reporting or recordkeeping requirements, or other similar methods, calling for either—

“(A) answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, ten or more persons, other than agencies, instrumentalities, or employees of the United States; or

“(B) answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes;

“(4) the term ‘data element’ means a distinct piece of information such as a name, term, number, abbreviation, or symbol;

“(5) the term ‘data element dictionary’ means a system containing common definitions and cross references for commonly used data elements;

“(6) the term ‘data profile’ means a synopsis of the questions contained in an information collection request and the official name of the request, the location of information obtained or to be obtained through the request, a list of any compilations, analyses, or reports derived or to be derived from such information, any record retention requirements associated with the request, the agency responsible for the request, the statute authorizing the request, and any other information necessary to identify, obtain, or use the data contained in such information;

“(7) the term ‘Director’ means the Director of the Office of Management and Budget;

"(8) the term 'directory of information resources' means a catalog of information collection requests, containing a data profile for each request;

"(9) the term 'independent regulatory agency' means the Board of Governors of the Federal Reserve System, the Civil Aeronautics Board, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Energy Regulatory Commission, the Federal Home Loan Bank Board, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Mine Enforcement Safety and Health Review Commission, the National Labor Relations Board, the Nuclear Regulatory Commission, the Occupational Safety and Health Review Commission, the Postal Rate Commission, the Securities and Exchange Commission, and any other similar agency designated by statute as a Federal independent regulatory agency or commission;

"(10) the term 'information collection request' means a written report form, application form, schedule, questionnaire, reporting or recordkeeping requirement, or other similar method calling for the collection of information;

"(11) the term 'information referral service' means the function that assists officials and persons in obtaining access to the Federal Information Locator System;

"(12) the term 'information systems' means management information systems;

"(13) the term 'person' means an individual partnership, association, corporation, business trust, or legal representative, an organized group of individuals, a State, territorial, or local government or branch thereof, or a political subdivision of a State, territory, or local government or a branch of a political subdivision;

"(14) the term 'practical utility' means the ability of an agency to use information it collects, particularly the capability to process such information in a timely and useful fashion;

"(15) the term 'recordkeeping requirement' means a requirement imposed by an agency on persons to maintain specified records; and

"(16) the term 'telecommunications' equipment, technology, functions, activities, or needs means the equipment, technology, functions, activities, or needs used solely for (A) the 'collection of information' as defined in subsection (3) of this section, or (B) the processing, storage, and transmission of such collected information.

"§ 3505. Office of Information and Regulatory Affairs

"(a) There is established in the Office of Management and Budget an office to be known as the Office of Information and Regulatory Affairs.

"(b) There shall be at the head of the Office an Associate Director, who shall be appointed by and shall report directly to the Director. The Associate Director shall serve as principal adviser to the Director on Federal information policy. The Director may delegate to the Asso-

ciate Director functions under this chapter, except that any such delegation shall not relieve the Director of responsibility for the administration of such function. The Director may not delegate any function under this chapter to any other officer or employee of the Office of Management and Budget except the Associate Director.

“§ 3504. Authority and functions of Director

“(a) The Director shall provide overall direction in the development and implementation of Federal information policies, principles, standards, and guidelines, including direction over the review and approval of information collection requests, the reduction of the paperwork burden, Federal statistical activities, records management activities, privacy of records, interagency sharing of information, and acquisition and use of automatic data processing and other technology for managing information resources. The authority under this section shall be exercised consistent with applicable law.

“(b) The general information policy functions of the Director shall include—

“(1) establishing uniform information resources management policies and overseeing the development of information, management principles, standards, and guidelines and promoting their use;

“(2) initiating and reviewing proposals for changes in legislation, regulations, and agency procedures to improve information practices, and informing the President and the Congress on the progress made therein;

“(3) coordinating, through the review of budget proposals and as otherwise provided in this section, agency information practices;

“(4) promoting, through the use of the Federal Information Locator System, the review of budget proposals and other methods, greater sharing of information by agencies;

“(5) evaluating agency information management practices to determine their adequacy and efficiency, and to determine compliance of such practices with the policies, principles, standards, and guidelines promulgated by the Director; and

“(6) overseeing planning for, and conduct of research with respect to, Federal collection, processing, storage, transmission, and use of information.

“(c) The information collection request clearance and other paperwork control functions of the Director shall include—

“(1) reviewing and approving information collection requests proposed by agencies;

“(2) determining whether the collection of information by an agency is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility for the agency;

“(3) ensuring that all information collection requests—

“(A) are inventoried, display a control number and, when appropriate, an expiration date;

“(B) indicate the request is in accordance with the clearance requirements of section 3507; and

- “(C) contain a statement to inform the person receiving the request why the information is being collected, how it is to be used, and whether responses to the request are voluntary, required to obtain a benefit, or mandatory;*
- “(4) designating as appropriate, in accordance with section 3509, a collection agency to obtain information for two or more agencies;*
- “(5) setting goals for reduction of the burdens of Federal information collection requests;*
- “(6) overseeing action on the recommendations of the Commission on Federal Paperwork; and*
- “(7) designing and operating, in accordance with section 3511, the Federal Information Locator System.*
- “(d) The statistical policy and coordination functions of the Director shall include—*
- “(1) developing long range plans for the improved performance of Federal statistical activities and programs;*
- “(2) coordinating, through the review of budget proposals and as otherwise provided in this section, the functions of the Federal Government with respect to gathering, interpreting, and disseminating statistics and statistical information;*
- “(3) overseeing Government-wide policies, principles, standards, and guidelines concerning statistical collection procedures and methods, statistical data classifications, and statistical information presentation and dissemination; and*
- “(4) evaluating statistical program performance and agency compliance with Government-wide policies, principles, standards, and guidelines.*
- “(e) The records management functions of the Director shall include—*
- “(1) providing advice and assistance to the Administrator of General Services in order to promote coordination in the administration of chapters 29, 31, and 33 of this title with the information policies, principles, standards, and guidelines established under this chapter;*
- “(2) reviewing compliance by agencies with the requirements of chapters 29, 31, and 33 of this title and with regulations promulgated by the Administrator of General Services thereunder; and*
- “(3) coordinating records management policies and programs with related information programs such as information collection, statistics, automatic data processing and telecommunications, and similar activities.*
- “(f) The privacy functions of the Director shall include—*
- (1) establishing policies, principles, standards, and guidelines on information disclosure and confidentiality, and on safeguarding the security of information collected or maintained by agencies;*
- “(2) providing agencies with advice and guidance about information security, restriction, exchange, and disclosure; and*
- “(3) monitoring compliance with section 552a of title 5, United States Code, and related information management laws.*

“(g) The Federal automatic data processing and telecommunications functions of the Director shall include—

“(1) establishing policies, principles, standards, and guidelines for automatic data processing and telecommunications functions and activities of the Federal Government, and overseeing the establishment of standards under section 111(f) of the Federal Property and Administrative Services Act of 1949;

“(2) monitoring the effectiveness of, and compliance with, directives issued pursuant to sections 110 and 111 of such Act of 1949 and reviewing proposed determinations under section 111(g) of such Act;

“(3) providing advice and guidance on the acquisition and use of automatic data processing and telecommunications equipment, and coordinating, through the review of budget proposals and other methods, agency proposals for acquisition and use of such equipment;

“(4) promoting the use of automatic data processing and telecommunications equipment by the Federal Government to improve the effectiveness of the use and dissemination of data in the operation of Federal programs; and

“(5) initiating and reviewing proposals for changes in legislation, regulations, and agency procedures to improve automatic data processing and telecommunications practices, and informing the President and the Congress of the progress made therein.

“(h) The Director shall, subject to section 3507(c) of this chapter, ensure that, in developing rules and regulations, agencies—

“(1) utilize efficient means in the collection, use, and dissemination of information;

“(2) provide an early and meaningful opportunity for the public to comment on proposed means for collection of information; and

“(3) assess the consequences of alternative means for the collections, use, and dissemination of information.

“§ 3505. Assignment of tasks and deadlines

“In carrying out the functions under this chapter, the Director shall—

“(1) Upon enactment of this Act—

“(A) set a goal to reduce the then existing burden of federal collections of information by 15 per centum by October 1, 1982; and

“(B) for the year following, set a goal to reduce the burden which existed upon enactment by an additional 10 per centum;

“(2) within one year after the effective date of this Act—

“(A) establish standards and requirements for agency audits of all major information systems and assign responsibility for conducting Government-wide or multiagency audits, except the Director shall not assign such responsibility for the audit of major information systems used for the conduct of criminal investigations or intelligence activities as defined in section 4-206 of Executive Order 12036, issued January 24, 1978, or successor orders;

“(B) establish the Federal Information Locator System;

“(C) identify areas of duplication in information collection requests and develop a schedule and methods for eliminating duplication;

“(D) develop a proposal to augment the Federal Information Locator System to include data profiles of major information holdings of agencies (used in the conduct of their operations) which are not otherwise required by this chapter to be included in the System; and

“(E) identify initiatives which may achieve a 10 percentum reduction in the burden of Federal collections of information associated with the administration of Federal grant programs; and

“(3) within two years after the effective date of this Act—

“(A) establish a schedule and a management control system to ensure that practices and programs of information handling disciplines, including records management, are appropriately integrated with the information policies mandated by this chapter;

“(B) identify initiatives to improve productivity in Federal operations using information processing technology;

“(C) develop a program to (i) enforce Federal information processing standards at all Federal installations and (ii) revitalize the standards development program established pursuant to section 759(f)(2) of title 40, United States Code, and separate such programs from technological advisory services;

“(D) complete action on recommendations of the Commission on Federal Paperwork by implementing, implementing with modification or rejecting such recommendations including, where necessary, development of legislation to implement such recommendations;

“(E) develop in consultation with the Administrator of General Services, a five-year plan for meeting the automatic data processing and telecommunications needs of the Federal Government in accordance with the requirements of section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) and the purposes of this chapter, and

“(F) submit to the President and the Congress legislative proposals to remove inconsistencies in laws and practices involving privacy, confidentiality, and disclosure of information.

“§ 3506. Federal agency responsibilities

“(a) Each agency shall be responsible for carrying out its information management activities in an efficient, effective, and economical manner, and for complying with the information policies, principles, standards, and guidelines prescribed by the Director.

“(b) The head of each agency shall designate, within three months after the effective date of this Act, a senior official or officials who report directly to such agency head to carry out the responsibilities of the agency under this chapter.

“(c) Each agency shall—

“(1) systematically inventory its major information systems and periodically review its information management activities, including planning, budgeting, organizing, directing, training, promoting, controlling, and other managerial activities involving the collection, use, and dissemination of information;

“(2) ensure its information systems do not overlap each other or duplicate the systems of other agencies;

“(3) develop procedures for assessing the paperwork and reporting burden of proposed legislation affecting such agency;

“(4) assign to the official designated under subsection (b) the responsibility for the conduct of and accountability for any acquisitions made pursuant to a delegation of authority under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759); and

“(5) ensure that information collection requests required by law or to obtain a benefit, and submitted to nine or fewer persons, contain a statement to inform the person receiving the request that the request is not subject to the requirements of section 3507 of this chapter.

“(d) The head of each agency shall establish such procedures as necessary to ensure the compliance of the agency with the requirements of the Federal Information Locator System, including necessary screening and compliance activities.

“§ 3507. Public information collection activities—submission to Director; approval and delegation

“(a) An agency shall not conduct or sponsor the collection of information unless, in advance of the adoption or revision of the request for collection of such information—

“(1) the agency has taken actions, including consultation with the Director, to—

“(A) eliminate, through the use of the Federal Information Locator System and other means, information collections which seek to obtain information available from another source within the Federal Government;

“(B) reduce to the extent practicable and appropriate the burden on persons who will provide information to the agency; and

“(C) formulate plans for tabulating the information in a manner which will enhance its usefulness to other agencies and to the public;

“(2) the agency (A) has submitted to the Director the proposed information collection request, copies of pertinent regulations and other related materials as the Director may specify, and an explanation of actions taken to carry out paragraph (1) of this subsection, and (B) has prepared a notice to be published in the Federal Register stating that the agency has made such submission; and

“(3) the Director has approved the proposed information collection request, or the period for review of information collection requests by the Director provided under subsection (b) has elapsed.

“(b) The Director shall, within sixty days of receipt of a proposed information collection request, notify the agency involved of the

decision to approve or disapprove the request. If the Director determines that a request submitted for review cannot be reviewed within sixty days, the Director may, after notice to the agency involved, extend the review period for an additional thirty days. If the Director does not notify the agency of an extension, denial, or approval within sixty days (or, if the Director has extended the review period for an additional thirty days and does not notify the agency of a denial or approval within the time of the extension), a control number shall be assigned without further delay, the approval may be inferred, and the agency may collect the information for not more than one year.

“(c) Any disapproval by the Director, in whole or in part, of a proposed information collection request of an independent regulatory agency, or an exercise of authority under sections 3504(h) or 3509 concerning such an agency, may be voided, if the agency by a majority vote of its members overrides the Director’s disapproval or exercise of authority. The agency shall certify each override to the Director, shall explain the reasons for exercising the override authority. Where the override concerns an information collection request, the Director shall without further delay assign a control number to such request, and such override shall be valid for a period of three years.

“(d) The Director may not approve an information collection request for a period in excess of three years.

“(e) If the Director finds that a senior official of an agency designated pursuant to section 3506(b) is sufficiently independent of program responsibility to evaluate fairly whether proposed information collection requests should be approved and has sufficient resources to carry out this responsibility effectively, the Director may, by rule in accordance with the notice and comment provisions of chapter 5 of title 5, United States Code, delegate to such official the authority to approve proposed requests in specific program areas, for specific purposes, or for all agency purposes. A delegation by the Director under this section shall not preclude the Director from reviewing individual information collection requests if the Director determines that circumstances warrant such a review. The Director shall retain authority to revoke such delegations, both in general and with regard to any specific matter. In acting for the Director, any official to whom approval authority has been delegated under this section shall comply fully with the rules and regulations promulgated by the Director.

“(f) An agency shall not engage in a collection of information without obtaining from the Director a control number to be displayed upon the information collection request.

“(g) If an agency head determines a collection of information (1) is needed prior to the expiration of the sixty-day period for the review of information collection requests established pursuant to subsection (b), (2) is essential to the mission of the agency, and (3) the agency cannot reasonably comply with the provisions of this chapter within such sixty-day period, the agency head may request the Director to authorize such collection of information prior to expiration of such sixty-day period. The Director shall approve or disapprove any such authorization request within one working day after its receipt and, if approved, shall assign the information collection request a control number. Any collection of information conducted pursuant to this

subsection may be conducted without compliance with the provisions of this chapter for a maximum of 90 days after the date on which the Director received the request to authorize such collection.

“§ 3508. Determination of necessity of information; hearing

“Before approving a proposed information collection request, the Director shall determine whether the collection of information by an agency is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility. Before making a determination the Director may give the agency and other interested persons an opportunity to be heard or to submit statements in writing. To the extent, if any, that the Director determines that the collection of information by an agency is unnecessary, for any reason, the agency may not engage in the collection of the information.

“§ 3509. Designation of central collection agency

“The Director may designate a central collection agency to obtain information for two or more agencies if the Director determines that the needs of such agencies for information will be adequately served by a single collection agency, and such sharing of data is not inconsistent with any applicable law. In such cases the Director shall prescribe (with reference to the collection of information) the duties and functions of the collection agency so designated and of the agencies for which it is to act as agent (including reimbursement for costs). While the designation is in effect, an agency covered by it may not obtain for itself information which it is the duty of the collection agency to obtain. The Director may modify the designation from time to time as circumstances require. The authority herein is subject to the provisions of section 3507 (c) of this chapter.

“§ 3510. Cooperation of agencies in making information available

“(a) The Director may direct an agency to make available to another agency, or any agency may make available to another agency, information obtained pursuant to an information collection request if the disclosure is not inconsistent with any applicable law or policy.

“(b) If information obtained by an agency is released by that agency to another agency, all the provisions of law (including penalties which relate to the unlawful disclosure of information) apply to the officers and employees of the agency to which information is released to the same extent and in the same manner as the provisions apply to the officers and employees of the agency which originally obtained the information. The officers and employees of the agency to which the information is released, in addition, shall be subject to the same provisions of law, including penalties, relating to the unlawful disclosure of information as if the information had been collected directly by that agency.

“§ 3511. Establishment and operation of Federal Information Locator System

“(a) There is established in the Office of Information and Regulatory affairs a Federal Information Locator System (hereafter in this section referred to as the ‘System’) which shall be composed of a directory of information resources, a data element dictionary, and an information referral service. The System shall serve as the register of all information collection requests.

“(b) In designing and operating the System, the Director shall—

“(1) design and operate an indexing system for the System;

“(2) require the head of each agency to prepare in a form specified by the Director, and to submit to the Director for inclusion in the System, a data profile for each information collection request of such agency;

“(3) compare data profiles for proposed information collection requests against existing profiles in the System, and make available the results of such comparison to—

“(A) agency officials who are planning new information collection activities; and

“(B) on request, members of the general public; and

“(4) ensure that no actual data, except descriptive data profiles necessary to identify duplicative data or to locate information, are contained within the System.

“§ 3512. Public protection

“Notwithstanding any other provision of law, no person shall be subject to any penalty for failing to maintain or provide information to any agency if the information collection request involved was made after December 31, 1981, and does not display a current control number assigned by the Director, or fails to state that such request is not subject to this chapter.

“§ 3513. Director review of agency activities; reporting; agency response

“(a) The Director shall, with the advice and assistance of the Administrator of General Services, selectively review, at least once every three years, the information management activities of each agency to ascertain their adequacy and efficiency. In evaluating the adequacy and efficiency of such activities, the Director shall pay particular attention to whether the agency has complied with section 3506.

“(b) The Director shall report the results of the reviews to the appropriate agency head, the House Committee on Government Operations, the Senate Committee on Governmental Affairs, the House and Senate Committees on Appropriations, and the committees of the Congress having jurisdiction over legislation relating to the operations of the agency involved.

“(c) Each agency which receives a report pursuant to subsection (b) shall, within sixty days after receipt of such report, prepare and transmit to the Director, the House Committee on Government Operations, the Senate Committee on Governmental Affairs, the House and Senate Committees on Appropriations, and the committees of the Congress having jurisdiction over legislation relating to the operations of the agency, a written statement responding to the Director's report, including a description of any measures taken to alleviate or remove any problems or deficiencies identified in such report.

“§ 3514. Responsiveness to Congress

“(a) The Director shall keep the Congress and its committees fully and currently informed of the major activities under this chapter, and shall submit a report thereon to the President of the Senate and the Speaker of the House of Representatives annually and at

such other times as the Director determines necessary. The Director shall include in any such report—

“(1) proposals for legislative action needed to improve Federal information management, including, with respect to information collection, recommendations to reduce the burden on individuals, small businesses, State and local governments, and other persons;

“(2) a compilation of legislative impediments to the collection of information which the Director concludes that an agency needs but does not have authority to collect;

“(3) an analysis by agency, and by categories the Director finds useful and practicable, describing the estimated reporting hours required of persons by information collection requests, including to the extent practicable identification of statutes and regulations which impose the greatest number of reporting hours;

“(4) a summary of accomplishments and planned initiatives to reduce burdens of Federal information collection requests;

“(5) a tabulation of areas of duplication in agency information collection requests identified during the preceding year and efforts made to preclude the collection of duplicate information, including designations of central collection agencies;

“(6) a list of each instance in which an agency engaged in the collection of information under the authority of section 3507 (g) and an identification of each agency involved;

“(7) a list of all violations of provisions of this chapter and rules, regulations, guidelines, policies, and procedures issued pursuant to this chapter; and

“(8) with respect to recommendations of the Commission on Federal Paperwork—

“(A) a description of the specific actions taken on or planned for each recommendation;

“(B) a target date for implementing each recommendation accepted but not implemented; and

“(C) an explanation of the reasons for any delay in completing action on such recommendations.

“(b) The preparation of any report required by this section shall not increase the collection of information burden on persons outside the Federal Government.

“§ 3515. Administrative powers

“Upon the request of the Director, each agency (other than an independent regulatory agency) shall make its services, personnel, and facilities available to the Director for the performance of functions under this chapter.

“§ 3516. Rules and regulations

“The Director may promulgate rules, regulations, or procedures necessary to exercise the authority provided by this chapter.

“§ 3517. Consultation with other agencies and the public

“In the development of information policies, plans, rules, regulations, and procedures, and in approving information collection requests, the Director shall provide affected agencies and persons early and meaningful opportunity for consultation.

“§ 3518. Effect on existing laws and regulations

“(a) Except as otherwise provided in this chapter, the authority of an agency under any other law to prescribe policies, rules, regulations, and procedures for Federal information activities is subject to the authority conferred on the Director by this chapter.

“(b) Nothing in this chapter shall be deemed to affect or reduce the authority of the Secretary of Commerce pursuant to Reorganization Plan No. 1 of 1977 (as amended) and Executive order, relating to telecommunications and information policy, procurement and management of telecommunications and information systems, spectrum use, and related matters.

“(c) (1) Except as provided in paragraph (2), this chapter does not apply to the collection of information—

“(A) during the conduct of a Federal criminal investigation or prosecution, or during the disposition of a particular criminal matter;

“(B) during the conduct of (i) a civil action to which the United States or any official or agency thereof is a party or (ii) an administrative action or investigation involving an agency against specific individuals or entities;

“(C) by compulsory process pursuant to the Antitrust Civil Process Act; or

“(D) during the conduct of intelligence activities as defined in section 4-206 of Executive Order 12036, issued January 24, 1978, or successor orders.

“(2) This chapter applies to the collection of information during the conduct of general investigations (other than information collected in an antitrust investigation to the extent provided in subparagraph (C) of paragraph (1)) undertaken with reference to a category of individuals or entities such as a class of licensees or an entire industry.

“(d) Nothing in this chapter shall be interpreted as increasing or decreasing the authority conferred by Public Law 89-306 on the Administrator of the General Services Administration, the Secretary of Commerce, or the Director of the Office of Management and Budget.

“(e) Nothing in this chapter affects in any way an existing authority of the President, the Office of Management and Budget or the Director thereof, under the laws of the United States, with respect to the substantive policies and programs of departments, agencies and offices.

“§ 3519. Access to information

“Under the conditions and procedures prescribed in section 313 of the Budget and Accounting Act of 1921, as amended, the Director and personnel in the Office of Information and Regulatory Affairs shall furnish such information as the Comptroller General may require for the discharge of his responsibilities. For this purpose, the Comptroller General or representatives thereof shall have access to all books, documents, papers and records of the Office.

“§ 3520. Authorization of appropriations

“There are hereby authorized to be appropriated to carry out provisions of this chapter, and for no other purpose, sums—

"(1) not to exceed \$8,000,000 for the fiscal year ending September 30, 1981;

"(2) not to exceed \$8,500,000 for the fiscal year ending September 30, 1982; and

"(3) not to exceed \$9,000,000 for the fiscal year ending September 30, 1983."

(b) The item relating to chapter 35 in the table of chapters for such title is amended to read as follows:

"35. Coordination of Federal Information Policy.

(c) (1) Section 2904(10) of such title is amended to read as follows:

"(10) report to the appropriate oversight and appropriations committee of the Congress and to the Director of the Office of Management and Budget annually and at such other times as the Administrator deems desirable (A) on the results of activities conducted pursuant to paragraphs (1) through (9) of this section, (B) on evaluations of responses by Federal agencies to any recommendations resulting from inspections or studies conducted under paragraphs (8) and (9) of this section, and (C) to the extent practicable, estimates of costs to the Federal Government resulting from the failure of agencies to implement such recommendations."

(2) Section 2905 of such title is amended by redesignating the text thereof as subsection (a) and by adding at the end of such section the following new subsection:

"(b) The Administrator of General Services shall assist the Associate Director for the Office of Information and Regulatory Affairs in conducting studies and developing standards relating to record retention requirements imposed on the public and on State and local governments by Federal agencies."

SEC. 3. (a) The President and the Director of the Office of Management and Budget may delegate to the Associate Director for the Office of Information and Regulatory Affairs all functions, authority, and responsibility under section 103 of the Budget and Accounting Procedures Act of 1950 (31 USC 186). The Director may not delegate such functions, authority, and responsibility to any other officer or employee of the Office of Management and Budget.

(b) The Director of the Office of Management and Budget may delegate, but only to the Associate Director for the Office of Information and Regulatory Affairs all functions, authority, and responsibility of the Director under section 552a of title 5, United States Code, and under sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 USC 757 and 758). The Director may not delegate such functions, authority, and responsibility to any other officer or employee of the Office of Management and Budget.

SEC. 4. (a) Section 400A of the General Education Provisions Act is amended by (1) striking out "and" after "institutions" in subsection (a) (1) (A) and inserting in lieu thereof "or", and (2) by amending subsection (a) (3) (B) to read as follows:

"(B) No collection of information or data acquisition activity subject to such procedures shall be subject to any other review, coordination, or approval procedure outside of the relevant Federal agency,

except as required by this subsection and by the Director of the Office of Management and Budget under the rules and regulations established pursuant to chapter 35 of title 44, United States Code. If a requirement for information is submitted pursuant to this Act for review, the timetable for the Director's approval established in section 3507 of the Paperwork Reduction Act of 1980 shall commence on the date the request is submitted, and no independent submission to the Director shall be required under such Act."

(b) Section 201(e) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1211) is repealed.

(c) Section 708(f) of the Public Health Service Act (42 U.S.C. 292h(f)) is repealed.

(d) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"Associate Director, Office of Information and Regulatory Affairs, Office of Management and Budget."

Sec. 5. This Act shall take effect on October 1, 1980.

Amend the title so as to read: "A bill to reduce paperwork and enhance the economy and efficiency of the Government and the private sector by improving Federal information policymaking, and for other purposes."

XIII. APPENDIX

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., July 25, 1980.

B-182087

HON. LAWTON CHILES,
*Chairman, Subcommittee on Federal Spending Practices and Open
Government, Committee on Governmental Affairs, U.S. Senate.*

DEAR MR. CHAIRMAN: In response to your request, we have prepared comments on the Subcommittee's proposed substitute bill for S. 1411, dated June 20, 1980, the "Paperwork Reduction Act of 1980." These comments supplement my earlier comments provided October 31, 1979, on S. 1411. The bill would create a central office in the Office of Management and Budget (OMB) responsible for setting Government-wide information policies and for providing oversight for the agencies' information management activities. Such oversight would include periodic evaluations of the agencies' information management activities. The activities covered by the bill include reports clearance and paperwork control, statistics, privacy, automatic data processing (ADP), telecommunications, and records management.

These last three items—ADP, telecommunications, and records management—have been added to the information management functions initially assigned to the OMB office by S. 1411. The addition of these functions will provide for an integrated approach to Federal information management to insure that consistent policies are established and that central management is strengthened. ADP and telecommunications, in particular, provide the tools by which the Government can manage its information resources more effectively. Furthermore, these additions are consistent with the objectives of those areas contained in S. 1411 to reduce the reporting burden on the public and the Government's costs in acquiring, disseminating, using, storing, and disposing of information.

We strongly support the objectives of the proposed substitute bill. We believe it provides the basic central management structure—including the authority, responsibility, and accountability—for exerting badly needed control and oversight for these interrelated areas. Significantly, our analysis of the bill indicates that its provisions are generally consistent with many of the recommendations of the Commission on Federal Paperwork.

NEW MANAGEMENT STRUCTURE CREATED

A new management structure for the Government's information activities would be created by the bill. The proposed structure consists of two key elements, both of which we believe are essential. First, a

central office is created within OMB, with broad responsibilities for developing consistent information policies and overseeing agency activities. Second, a high-level official is to be designated within each agency who will be held accountable for insuring that the agencies effectively carry out their information management activities.

We favor the creation of a statutory office in OMB headed by an appointee of the OMB Director as provided in the bill. Placing the office in OMB and providing this type of appointment would give the OMB Director line authority for exercising the office's functions to assure accountability to the President and the Congress.

We strongly support the creation of this structure which we believe should enhance the economy and efficiency of Government information activities and ultimately reduce the reporting, recordkeeping, and related regulatory burdens imposed on the public.

The proposed bill provides for linking together OMB's existing responsibilities for overseeing the regulatory process with the closely related information management functions described above. This relationship between the regulatory process and information management is reflected in OMB's existing Office of Regulatory and Information Policy.

We believe this combination of functions has worked well. The principal areas of growth in Federal paperwork burdens are associated with new regulations. Therefore, it seems appropriate to retain the existing link between the functions for controlling both regulatory and paperwork burdens. We would urge, however, that the new Office of Information and Regulatory Policy not be given added responsibilities which could divert it from its basic mission of improving Federal information management.

The bill authorizes specific funding to carry out the office's functions. We believe this is essential for the office to succeed. Historically, limited resources have been applied to the information management areas. Accordingly, we agree the Congress should provide specific resource allocations to OMB to support these activities.

SCOPE OF ACTIVITIES ASSIGNED THE NEW OFFICE

Under the bill, Federal information-related activities include reports clearance and paperwork control, statistics, privacy, records management, automatic data processing, and telecommunications. We agree that the policy-setting and oversight responsibilities—but not the operating responsibilities—for these areas should be vested in the new OMB office. This should facilitate the establishment of consistent policies and standards covering Federal information management activities. A list of GAO reports calling for improved management and oversight in the areas covered by the bill is in enclosure I.

At the present time, OMB has some degree of responsibility in the paperwork, privacy, ADP, and telecommunications areas. Under the bill, the extent of OMB's responsibility in these areas will be expanded or clarified. The areas of records management policy and statistical policy will be added.

With regard to records management, the bill recognizes the need to provide a cohesive Federal information policy and to coordinate

the various components of Federal information practices. Records management, concerned with information use and disposition, is a vital element of information policy. In the past, this function has not received the level of management attention it deserves. For example, although the General Services Administration (GSA) is authorized to do so, it does not always report to OMB or to the Congress serious weaknesses in agencies' records management programs along with the potential for savings if corrective actions are taken. We pointed this problem out as early as 1973, but in a recent study we found that GSA's actions to date have been inadequate.

We believe the assignment of oversight responsibility in OMB and the periodic evaluations required by the bill would remedy this situation. In doing so, the benefits which improved records management practices can bring to the performance of Federal programs can be realized.

For the first time, records retention requirements imposed on the public and on State and local governments would come under review. The GSA presently reviews Federal agency records retention. However, no agency reviews records retention requirements imposed by Federal regulations on individuals, industry, or State and local governments. Therefore, these retention requirements often lack consistency or clarity. We favor coordinating retention requirements as recommended by the Commission on Federal Paperwork and as proposed in the bill.

We strongly support the provisions in the proposed substitute bill for consolidating, elevating, and clarifying OMB's policy function for the acquisition and management of automatic data processing and telecommunications resources. We are especially pleased that policy and oversight for ADP and telecommunications are included among the general functions of the Director.

The present situation in ADP is characterized by :

- The confusion of policy roles between OMB and GSA ;
- Overly complex and costly software that too often fails to meet user needs, is inefficient, or simply does not work; and
- A costly, prolonged, and ineffective acquisition process which too often emphasizes hardware characteristics over sound financial investment.

The bill reemphasizes the principles contained in the Brooks Act (Public Law 89-306) for strong oversight and management of the acquisition and use of ADP resources. The functions assigned OMB, GSA, and the Department of Commerce under the Brooks Act are not changed. However, by reemphasizing the Brooks Act, the bill attempts to strengthen the leadership and central direction provided by these agencies. Further, the consolidation within OMB of policy-making and oversight responsibilities for the other information management functions covered by the bill should enhance the capability for applying advanced information technology to the problems of controlling paperwork burdens and improving the quality of data for program management and evaluation.

With regard to telecommunications policy, we have long been concerned with the lack of the focal point and the fragmented organizational arrangement for managing the Government's own communica-

tions. In a 1969 report, we recommended that the President consider a realignment which would establish an organization and give it stature, authority, and resources sufficient to serve as the Government's central focal point in telecommunications matters. As a result of our report and other studies, the Office of Telecommunications Policy was established. Unfortunately, this Office was not given the authority and resources we considered necessary to be effective.

Executive Order 12046 dispersed the Office's limited functions and authority to six separate organizations eliminating the focal point. Furthermore, the specific authority and responsibilities assigned by the Executive Order to the six organizations, and the boundaries between them, are not clear. As we understand the intent of the proposed bill, it would establish OMB as the policy setting focal agency for Federal Government telecommunications.

We are concerned, however, that the proposed section 3518(b) may unnecessarily confuse OMB's Federal telecommunications responsibilities as described in section 3504(g). Section 3518(b) appears to reserve for the Secretary of Commerce responsibility for (1) establishing policies concerning spectrum assignments to United States owned and operated radio stations and (2) coordinating telecommunications activities of the executive branch. These functions, long with responsibility for advising OMB on policies for procurement and management of Federal telecommunications systems, were transferred to the Secretary by Reorganization Plan No. 1 of 1977, as amended. We believe that leaving the three functions with the Secretary of Commerce, instead of clearly transferring responsibility for them to OMB, would fragment and weaken OMB's role in establishing Federal telecommunications policy. The proposed provision would not truly focus accountability for all Federal telecommunications policy in OMB. We suggest that section 3518(b) be modified as shown in enclosure II.

This suggested modification will also take care of an additional concern with section 3518(b). We believe the references to "information policy" and "information systems" are unnecessarily broad and could be construed to refer to statistical policy responsibilities vested in OMB by this bill and ADP acquisition responsibilities assigned OMB and GSA under the Brooks Act. Furthermore, we note that Executive Order 12046, assigning the telecommunications functions to the Department of Commerce, does not use these terms in describing Commerce's functions. We therefore suggest that the references to "information" be deleted in both cases. This would make section 3518(b) consistent with other parts of this bill and the telecommunications executive order.

In another telecommunications matter, we believe the references in section 3504(g)(2) and section 3(b) to section 110 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757) may be inappropriate. Section 110 establishes a Federal telecommunications fund used by GSA to finance telecommunications services and equipment or other expenses for operating a Federal telecommunications system. Since section 110 does not contain any provisions concerning the establishment of policy or guidance, we believe the reference to it should be eliminated.

An additional reason for deleting this reference in section 3504(g)(2) is that only a fraction of the Government's telecommunications are

financed by the fund. Therefore, reference to it could imply a limitation on the Director's monitoring authority. Alternatively, if the intent is to provide monitoring over all Federal telecommunications under section 3504(g)(2), substitute language should be used, such as that suggested in enclosure II.

We have issued many reports on management problems and Government-wide issues in the rapidly growing ADP and telecommunications areas calling on OMB to develop, strengthen, improve, or clarify its policy and guidance. For example, in just 10 of 57 reports issued in the last decade on software and system problems, we found waste of almost \$300 million and years of delay on individual systems. We attribute much of this waste and delay to the lack of OMB guidance or management control for computer system development. We have also reported on the special and complex problems of privacy in ADP and communications systems.

OMB has lacked both sufficient staff and the organizational structure to address many of our recommendations and concerns. The bill's provisions for an administrator at a sufficient level of authority and separate fund authorization address these problems. The bill's ADP and telecommunications provisions would accomplish several of the key recommendations of the President's Reorganization Project for Federal ADP Activities and are also generally consistent with several Paperwork Commission recommendations.

PAPERWORK AND STATISTICAL POLICY

The bill would bring about significant changes in the controls over collecting information from the public, which include:

Ending the currently fragmented reports clearance responsibility and combining it with the statistical policy function in a single organization; and

Strengthening and clarifying the Federal Reports Act.

Consolidating fragmented activities

Progress toward achieving the Federal Report Act's paperwork control objectives is hampered because there is no central management authority. Instead, control responsibility is fragmented among three organizations—OMB, GAO, and the Department of Education—and a substantial portion of the burden imposed on the public is outside the central control process. We strongly favor consolidating the fragmented responsibilities into the new OMB office and eliminating the exemptions to the Federal Reports Act clearance process.

Until 1973, the responsibility for paperwork control was in OMB. Then GAO was assigned responsibility for reviewing and clearing the independent regulatory agencies' reports. Subsequently, the Department of Health, Education and Welfare (HEW)¹ was assigned responsibility over all Federal data collections from educational institutions and programs. This last responsibility was recently transferred to the Department of Education.

S. 1411, as initially introduced, would consolidate the reports approval authority in OMB, eliminating the exemptions to the central

¹ Now Department of Health and Human Services

clearance process. However, the companion legislation passed by the House of Representatives (H.R. 6410), retains the exemption vested in the Secretary of Education. The Secretary of Education would retain the final approval authority over education information collections through September 30, 1982.

The Subcommittee's substitute bill achieves a compromise, retaining the coordinating mechanism of educational information collections in the Department of Education, but vesting final reports clearance authority in the OMB Director. We concur in this compromise, recognizing that the education coordination unit could be delegated OMB's clearance authority, provided the unit demonstrates sufficient capability.

In 1977, the President shifted the responsibility for setting statistical policies and standards and coordinating Federal statistical activities from OMB to the Department of Commerce. These responsibilities are closely related to the Federal Reports Act objectives for controlling paperwork burdens. For example, the application of statistical procedures to information collection may be helpful in improving the quality of the information collected and in reducing the reporting burden imposed on the public.

Because of this close relationship, the necessary coordination between the two functions is enhanced if the functions reside in a single organization. There is also a need to balance the sometimes conflicting interests of paperwork reduction on one hand, and those for improved statistics on the other, which can best be performed if both functions are in one organization. We therefore strongly favor transferring this function from the Department of Commerce to OMB.

In addition, agencies responsible for about 75 percent of the paperwork burdens are exempt from the Federal Reports Act. These include the Internal Revenue Service (IRS), other Treasury Department agencies, and supervisory functions of the bank regulatory agencies. The Commission on Federal Paperwork recommended, and we agree, that these exemptions be eliminated. The obvious reason is that controls are weakened by the exemptions.

Preserving regulatory agencies' independence

As discussed in our October 1979 letter, a key issue raised as a result of centralizing the clearance responsibility is how to preserve the independence of the independent regulatory agencies. For those agencies defined either in this bill or in their enabling legislation as independent regulatory agencies, section 3507 includes an important "override" provision. This section provides that OMB review proposed information requests. Any disapproval of a request proposed by an independent regulatory agency may be overturned if the agency's members vote, by a majority, to override OMB's decision.

As we understand it, as presently drafted, section 3507 would enable an independent regulatory agency to overturn an OMB determination that an information collection request is unnecessary, without regard to the section of the bill relied on by OMB. For example, should the Director, OMB, make a determination under section 3509, having the effect of precluding an independent regulatory agency from collecting certain information, our understanding is that the independent regulatory agency could overturn the Director's decision.

We endorse this provision, and believe it provides more than ample protection for the independent regulatory agencies. Although GAO's authority under the present Federal Reports Act does not extend to the issue of the regulatory agencies' need for information, our experience indicates that those agencies should have no difficulty in justifying their legitimate information requirements. The provision that the independent regulatory agencies certify their use of the override to OMB provides added protection, both for the agencies and the public, as it enables Congress to monitor these actions.

Changes to the Federal Reports Act

The changes in the organizational arrangements are only part of the problem needing resolution. We believe that major revisions are needed to clarify and strengthen the Federal Reports Act.

Section 2(a) of the bill replaces the Federal Reports Act, incorporating five needed changes. Our October 1979 comments provide a more detailed discussion of these changes. First, recordkeeping requirements are specifically included in the reports clearance process. Second, the act's definition of "information" is clarified to eliminate an ambiguity. Third, the bill clarifies agency responsibilities by requiring agencies to take specific actions before they request approval of their forms. Fourth, OMB is required to evaluate the agencies' information management controls. Fifth, the bill authorizes OMB to delegate its clearance authority to the agencies in cases where the agencies have demonstrated sufficient capability. This would enable OMB to shift its emphasis to a policy setting and management oversight role in contrast to the time-consuming effort of clearing individual reporting and recordkeeping requirements.

Emergency clearance procedure

We endorse the concept of an emergency clearance procedure and have cleared proposed reporting requirements for the independent regulatory agencies when emergency conditions have existed. However, we are concerned about the specific provision for emergency clearance of proposed reporting requirements contained in the bill and suggest some modification as shown in enclosure II.

The provision establishes very broad criteria to serve as a basis for agency requests for emergency clearances, with little time (1 workday) being allowed OMB to take any sort of review action. These criteria are an agency head's determination that the proposed reporting requirement (1) is needed before 60 days, and (2) is essential to the agency's mission. We believe such criteria provide too weak a test as to whether emergency circumstances actually exist. All proposed information collections should meet the criteria of being essential to an agency's mission. It may also be necessary for an agency to collect information before the conclusion of a 60-day period, but we question the need for a 1-day response in each proposed emergency case. Requiring a decision by the OMB Director in 1 workday essentially precludes any investigation and analysis of the proposed reporting requirement.

To strengthen the provision, we suggest adding criteria that a proposed information collection be necessary to preclude public harm or to respond to an unforeseen event. The addition of statutory criteria would provide the necessary guidance to limit agency proposals for emergency clearances to true emergencies.

We also suggest changing the 1 workday limit for a decision by the OMB Director to a minimum 2 workday period. One workday effectively precludes any opportunity on the part of the central clearance agency for raising questions about the proposed reporting requirement with either agency staff or proposed respondents. By allowing a 2-day period, the central clearance agency would have some chance to at least make limited inquiries about the requirement. In our own clearance procedure, such inquiries have enabled us to rectify problems noted during the discussions or during our brief review of the requirement. We were also able to meet the agencies' needs for quick approval of proposed reporting requirements. We recognize, however, that in cases where advance discussions with proposed respondents would jeopardize the information collection, such discussions would not be held. Still, a second day would permit an opportunity to at least make a limited review of the requirement and correct identified problems.

Burden reduction goal

The Subcommittee's proposed substitute bill requires that the OMB Director set, upon enactment, a goal to reduce the public reporting burden by 15 percent by October 1, 1982. The Director is to also set a reduction goal of not less than 10 percent for fiscal year 1983.

Burden reduction goals can be useful provided the extent of the reporting burden is reasonably known and the goals remain flexible to account for changing conditions. However, the true extent of the reporting and recordkeeping burden imposed on the public is not known due to exemptions, information collections in violation of the Federal Reports Act, and technical problems in estimating burden.

We believe a more useful approach would be to add a requirement that OMB establish, within 1 year, a reasonably accurate total reporting and recordkeeping burden figure. This baseline figure could then be used to establish reduction goals for subsequent years. It would be necessary for the goals to remain flexible because new legislation can result in increased public reporting burden.

Followup on Paperwork Commission recommendations

Further improvements in carrying out Federal information activities should be brought about as the agencies implement the Paperwork Commission's recommendations.

We are pleased that the bill extends for an additional 2 years OMB's statutory authority to oversee action on the recommendations of the Commission. We recommended such an extension in our recent report on the Commission recommendations (GGD-80-36; March 14, 1980). OMB's September 1979 report states that almost half of the recommendations, including many requiring legislation, are still open. We believe the additional time is necessary to complete the job.

Federal Information Locator System

We endorse the creation of a Federal Information Locator System, which would provide a source for locating information maintained by different Federal agencies and which would help identify and eliminate unnecessary duplicate collections of information from the public. We recommended developing such a system in a 1975 report to the Senate Committee on Government Operations (GGD-75-85; July 24, 1975).

OMB has begun work on a locator system and some progress has been made. Much remains to be done, however. In this regard, we suggest that the milestone date for establishing the locator system be changed to 2 years after enactment of the bill, instead of the existing 1-year milestone. We are concerned that 1 year may not be long enough to solve the problems which inevitably arise in developing a complex information system. We have reported over the past several years on numerous failures of information systems development efforts due to inadequate planning. The complexity of the locator system development, the large number of agencies involved, and the system's projected costs mandate that each step of development be carefully planned.

The development of the proposed locator system should be closely coordinated with GAO's efforts to maintain its inventory of Federal information resources. This inventory was established under Title VIII of the Congressional Budget Act of 1974 (P.L. 93-344). The proposed system addresses, as we do, the identification, location, and nature of agencies' information sources and their potential use in the congressional decisionmaking process.

Coordination between the proposed OMB office and GAO will insure that overlap and duplication of efforts are minimized. As developmental efforts of the locator system proceed, OMB may wish to incorporate some of the features of our data files. And, if the locator system can successfully meet its public use requirements and the Congress' information needs, we may wish to consider consolidating some of our data collection and related activities.

OMB has reorganized its information and regulatory oversight activities, bringing together most of its existing functions related to the bill. This is a positive step. We do not, however, believe it negates in any way, the need for this legislation. Without the legislation, fragmented policy and oversight responsibilities will continue and badly needed changes in Federal information management controls will not be effected. The bill would greatly strengthen the hand of OMB in exercising its broad responsibilities for improving the management of the Federal Government.

In conclusion, we see enactment of the proposed substitute bill for S. 1411 as an important landmark in a concerted effort to establish consistent Federal information policies. The management structure and tools put into place by this legislation will assist us in working toward solutions for the many information problems now existing. We believe the bill offers great potential for controlling paperwork burdens and improving program management through more efficient and effective use of information resources. We should not, however, deceive ourselves or others that this legislation represents more than the beginning of a long and difficult task.

We believe this proposed legislation is extremely important and hope that it will receive early consideration. We will be happy to assist in any way we can.

Sincerely yours,

ELMER B. STAATS,
*Comptroller General
of the United States.*

Enclosures: 2.

ENCLOSURE I

GAO REPORTS ON INFORMATION MANAGEMENT

Title	Recipient	Report number and date
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Letter Report On Federal And State Officials' Views On The Operations Of Five Federal/State Cooperative Statistical Programs.	Chairman, Subcommittee On Census And Population; House Committee On Post Office And Civil Service.	GGD-80-50, Mar. 31, 1980.
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Farmers Home Administration's ADP Development Project—Current Status And Unresolved Problems.do.....	FGMSD-80-34, Feb. 15, 1980.
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ENCLOSURE I—Continued

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ENCLOSURE I—Continued

GAO REPORTS ON INFORMATION MANAGEMENT—Continued

Title	Recipient	Report number and date
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ENCLOSURE II

PROPOSED BILL CHANGES

Proposed revision to Section 3504(g) (2)

(2) (A) Monitoring the effectiveness of, and compliance with, directives issued pursuant to section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) and reviewing proposed determinations under section 111(g) of such Act.

(B) Monitoring the effectiveness of, and compliance with, directives for Federal telecommunications.

Proposed revision to Section 3507(g)

(g) (1) If an agency head determines an information collection (1) is needed before 60 days, (2) is essential to the agency's mission, and (3) the agency cannot reasonably comply with the provisions of this section, the agency head may request the Director to provide emergency clearance of such information collection. The Director shall either approve or disapprove such emergency requests within 2 work-days. Any information collection conducted pursuant to this provision may be conducted without compliance with the provisions of this chapter for a maximum of 90 days.

(2) In determining whether to approve or disapprove emergency requests, the Director shall require that the agency head show that either of two conditions exist:

(A) Public harm will result if normal clearance procedures are followed, or

(B) An unanticipated event has occurred and the use of normal clearance procedures will prevent or disrupt the collection of information related to the event or will cause a statutory deadline to be missed.

(3) In the event of disapproval of a request for emergency clearance, the Director shall immediately proceed with review of the collection as provided in subparagraph (c).

Proposed revision to Section 3518(b)

(b) (1) The Department of Commerce, pursuant to law and Executive Order, retains its responsibility for conducting telecommunications research and development and its other telecommunications functions, except for those that pertain to the Federal sector as assigned to the Director, Office of Management and Budget under this Act.

(2) The Department of State, pursuant to law and Executive Order, shall continue to exercise primary authority for the conduct of foreign policy with respect to telecommunications in coordination with other agencies as appropriate.

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