

113TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To amend chapter 35 of title 44, United States Code, to provide for reform to Federal information security.

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IN THE SENATE OF THE UNITED STATES

Mr. CARPER (for himself and Mr. COBURN) introduced the following bill; which was read twice and referred to the Committee on

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**A BILL**

To amend chapter 35 of title 44, United States Code, to provide for reform to Federal information security.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Information  
5 Security Modernization Act of 2014”.

6 **SEC. 2. FISMA REFORM.**

7 (a) IN GENERAL.—Chapter 35 of title 44, United  
8 States Code, is amended by striking subchapters II and  
9 III and inserting the following:

1 “SUBCHAPTER II—INFORMATION SECURITY

2 “§ 3551. Purposes

3 “The purposes of this subchapter are to—

4 “(1) provide a comprehensive framework for en-  
5 suring the effectiveness of information security con-  
6 trols over information resources that support Fed-  
7 eral operations and assets;

8 “(2) recognize the highly networked nature of  
9 the current Federal computing environment and pro-  
10 vide effective governmentwide management and over-  
11 sight of the related information security risks, in-  
12 cluding coordination of information security efforts  
13 throughout the civilian, national security, and law  
14 enforcement communities;

15 “(3) provide for development and maintenance  
16 of minimum controls required to protect Federal in-  
17 formation and information systems;

18 “(4) provide a mechanism for improved over-  
19 sight of Federal agency information security pro-  
20 grams;

21 “(5) acknowledge that commercially developed  
22 information security products offer advanced, dy-  
23 namic, robust, and effective information security so-  
24 lutions, reflecting market solutions for the protection  
25 of critical information infrastructures important to

1 the national defense and economic security of the  
2 nation that are designed, built, and operated by the  
3 private sector; and

4 “(6) recognize that the selection of specific  
5 technical hardware and software information secu-  
6 rity solutions should be left to individual agencies  
7 from among commercially developed products.

8 **“§ 3552. Definitions**

9 “(a) IN GENERAL.—Except as provided under sub-  
10 section (b), the definitions under section 3502 shall apply  
11 to this subchapter.

12 “(b) ADDITIONAL DEFINITIONS.—As used in this  
13 subchapter:

14 “(1) The term ‘binding operational directive’  
15 means a compulsory direction to an agency that is  
16 in accordance with policies, principles, standards,  
17 and guidelines issued by the Director.

18 “(2) The term ‘incident’ means an occurrence  
19 that—

20 “(A) actually or imminently jeopardizes,  
21 without lawful authority, the integrity, con-  
22 fidentiality, or availability of information or an  
23 information system; or

1           “(B) constitutes a violation or imminent  
2           threat of violation of law, security policies, secu-  
3           rity procedures, or acceptable use policies.

4           “(3) The term ‘information security’ means  
5           protecting information and information systems  
6           from unauthorized access, use, disclosure, disrup-  
7           tion, modification, or destruction in order to pro-  
8           vide—

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

13           “(B) confidentiality, which means pre-  
14           serving authorized restrictions on access and  
15           disclosure, including means for protecting per-  
16           sonal privacy and proprietary information; and

17           “(C) availability, which means ensuring  
18           timely and reliable access to and use of infor-  
19           mation.

20           “(4) The term ‘information technology’ has the  
21           meaning given that term in section 11101 of title  
22           40.

23           “(5) The term ‘intelligence community’ has the  
24           meaning given that term in section 3(4) of the Na-  
25           tional Security Act of 1947 (50 U.S.C. 3003(4)).

1           “(6)(A) The term ‘national security system’  
2 means any information system (including any tele-  
3 communications system) used or operated by an  
4 agency or by a contractor of an agency, or other or-  
5 ganization on behalf of an agency—

6           “(i) the function, operation, or use of  
7 which—

8           “(I) involves intelligence activities;

9           “(II) involves cryptologic activities re-  
10 lated to national security;

11           “(III) involves command and control  
12 of military forces;

13           “(IV) involves equipment that is an  
14 integral part of a weapon or weapons sys-  
15 tem; or

16           “(V) subject to subparagraph (B), is  
17 critical to the direct fulfillment of military  
18 or intelligence missions; or

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

1           “(B) Subparagraph (A)(i)(V) does not include a  
2           system that is to be used for routine administrative  
3           and business applications (including payroll, finance,  
4           logistics, and personnel management applications).

5           “(7) The term ‘Secretary’ means the Secretary  
6           of Homeland Security.

7   **“§ 3553. Authority and functions of the Director and**  
8           **the Secretary**

9           “(a) DIRECTOR.—The Director shall oversee agency  
10          information security policies, including—

11           “(1) developing and overseeing the implementa-  
12           tion of policies, principles, standards, and guidelines  
13           on information security, including through ensuring  
14           timely agency adoption of and compliance with  
15           standards promulgated under section 11331 of title  
16           40;

17           “(2) requiring agencies, consistent with the  
18           standards promulgated under such section 11331  
19           and the requirements of this subchapter, to identify  
20           and provide information security protections com-  
21           mensurate with the risk and magnitude of the harm  
22           resulting from the unauthorized access, use, disclo-  
23           sure, disruption, modification, or destruction of—

24           “(A) information collected or maintained  
25           by or on behalf of an agency; or

1           “(B) information systems used or operated  
2           by an agency or by a contractor of an agency  
3           or other organization on behalf of an agency;

4           “(3) ensuring that the Secretary carries out the  
5           authorities and functions under subsection (b);

6           “(4) coordinating the development of standards  
7           and guidelines under section 20 of the National In-  
8           stitute of Standards and Technology Act (15 U.S.C.  
9           278g-3) with agencies and offices operating or exer-  
10          cising control of national security systems (including  
11          the National Security Agency) to assure, to the max-  
12          imum extent feasible, that such standards and  
13          guidelines are complementary with standards and  
14          guidelines developed for national security systems;

15          “(5) overseeing agency compliance with the re-  
16          quirements of this subchapter, including through  
17          any authorized action under section 11303 of title  
18          40, to enforce accountability for compliance with  
19          such requirements;

20          “(6) coordinating information security policies  
21          and procedures with related information resources  
22          management policies and procedures; and

23          “(7) consulting with the Secretary in carrying  
24          out the authorities and functions under this sub-  
25          section.

1       “(b) SECRETARY.—The Secretary, in consultation  
2 with the Director, shall oversee the operational aspects of  
3 agency information security policies and practices for in-  
4 formation systems, except for national security systems  
5 and information systems described in paragraph (2) or (3)  
6 of subsection (e), including—

7               “(1) assisting the Director in carrying out the  
8 authorities and functions under subsection (a);

9               “(2) developing and overseeing the implementa-  
10 tion of binding operational directives to agencies to  
11 implement the policies, principles, standards, and  
12 guidelines developed by the Director under sub-  
13 section (a)(1) and the requirements of this sub-  
14 chapter, which may be repealed by the Director if  
15 the operational directives issued on behalf of the Di-  
16 rector are not in accordance with policies, principles,  
17 standards, and guidelines developed by the Director,  
18 including—

19                       “(A) requirements for reporting security  
20 incidents to the Federal information security in-  
21 cident center established under section 3556;

22                       “(B) requirements for the contents of the  
23 annual reports required to be submitted under  
24 section 3554(c)(1);

1           “(C) requirements for the mitigation of ex-  
2           igent risks to information systems; and

3           “(D) other operational requirements as the  
4           Director or Secretary may determine necessary;

5           “(3) monitoring agency implementation of in-  
6           formation security policies and practices;

7           “(4) convening meetings with senior agency of-  
8           ficials to help ensure effective implementation of in-  
9           formation security policies and practices;

10          “(5) coordinating Government-wide efforts on  
11          information security policies and practices, including  
12          consultation with the Chief Information Officers  
13          Council established under section 3603;

14          “(6) providing operational and technical assist-  
15          ance to agencies in implementing policies, principles,  
16          standards, and guidelines on information security,  
17          including implementation of standards promulgated  
18          under section 11331 of title 40, including by—

19                 “(A) operating the Federal information se-  
20                 curity incident center established under section  
21                 3556;

22                 “(B) upon request by an agency, deploying  
23                 technology to assist the agency to continuously  
24                 diagnose and mitigate against cyber threats and  
25                 vulnerabilities, with or without reimbursement;

1           “(C) compiling and analyzing data on  
2           agency information security; and

3           “(D) developing and conducting targeted  
4           operational evaluations, including threat and  
5           vulnerability assessments, on the information  
6           systems; and

7           “(7) other actions as the Secretary may deter-  
8           mine necessary to carry out this subsection on behalf  
9           of the Director.

10          “(c) REPORT.—Not later than March 1 of each year,  
11          the Director, in consultation with the Secretary, shall sub-  
12          mit to Congress a report on the effectiveness of informa-  
13          tion security policies and practices during the preceding  
14          year, including—

15               “(1) a summary of the incidents described in  
16               the annual reports required to be submitted under  
17               section 3554(c)(1), including a summary of the in-  
18               formation required under section 3554(c)(1)(A)(iii);

19               “(2) a description of the threshold for reporting  
20               major information security incidents;

21               “(3) a summary of the results of evaluations re-  
22               quired to be performed under section 3555;

23               “(4) an assessment of agency compliance with  
24               standards promulgated under section 11331 of title  
25               40; and

1           “(5) an assessment of agency compliance with  
2           the policies and procedures established under section  
3           3559(a).

4           “(d) NATIONAL SECURITY SYSTEMS.—Except for the  
5           authorities and functions described in subsection (a)(4)  
6           and subsection (c), the authorities and functions of the  
7           Director and the Secretary under this section shall not  
8           apply to national security systems.

9           “(e) DEPARTMENT OF DEFENSE AND INTELLIGENCE  
10          COMMUNITY SYSTEMS.—(1) The authorities of the Direc-  
11          tor described in paragraphs (1) and (2) of subsection (a)  
12          shall be delegated to the Secretary of Defense in the case  
13          of systems described in paragraph (2) and to the Director  
14          of National Intelligence in the case of systems described  
15          in paragraph (3).

16          “(2) The systems described in this paragraph are sys-  
17          tems that are operated by the Department of Defense, a  
18          contractor of the Department of Defense, or another enti-  
19          ty on behalf of the Department of Defense that processes  
20          any information the unauthorized access, use, disclosure,  
21          disruption, modification, or destruction of which would  
22          have a debilitating impact on the mission of the Depart-  
23          ment of Defense.

24          “(3) The systems described in this paragraph are sys-  
25          tems that are operated by an element of the intelligence

1 community, a contractor of an element of the intelligence  
2 community, or another entity on behalf of an element of  
3 the intelligence community that processes any information  
4 the unauthorized access, use, disclosure, disruption, modi-  
5 fication, or destruction of which would have a debilitating  
6 impact on the mission of an element of the intelligence  
7 community.

8 **“§ 3554. Federal agency responsibilities**

9 “(a) IN GENERAL.—The head of each agency shall—

10 “(1) be responsible for—

11 “(A) providing information security protec-  
12 tions commensurate with the risk and mag-  
13 nitude of the harm resulting from unauthorized  
14 access, use, disclosure, disruption, modification,  
15 or destruction of—

16 “(i) information collected or main-  
17 tained by or on behalf of the agency; and

18 “(ii) information systems used or op-  
19 erated by an agency or by a contractor of  
20 an agency or other organization on behalf  
21 of an agency;

22 “(B) complying with the requirements of  
23 this subchapter and related policies, procedures,  
24 standards, and guidelines, including—

1                   “(i) information security standards  
2                   promulgated under section 11331 of title  
3                   40;

4                   “(ii) operational directives developed  
5                   by the Secretary under section 3553(b);

6                   “(iii) policies and procedures issued  
7                   by the Director under section 3559; and

8                   “(iv) information security standards  
9                   and guidelines for national security sys-  
10                  tems issued in accordance with law and as  
11                  directed by the President; and

12                  “(C) ensuring that information security  
13                  management processes are integrated with  
14                  agency strategic and operational planning pro-  
15                  cesses;

16                  “(2) ensure that senior agency officials provide  
17                  information security for the information and infor-  
18                  mation systems that support the operations and as-  
19                  sets under their control, including through—

20                         “(A) assessing the risk and magnitude of  
21                         the harm that could result from the unauthor-  
22                         ized access, use, disclosure, disruption, modi-  
23                         fication, or destruction of such information or  
24                         information systems;

1           “(B) determining the levels of information  
2 security appropriate to protect such information  
3 and information systems in accordance with  
4 standards promulgated under section 11331 of  
5 title 40, for information security classifications  
6 and related requirements;

7           “(C) implementing policies and procedures  
8 to cost-effectively reduce risks to an acceptable  
9 level; and

10           “(D) periodically testing and evaluating in-  
11 formation security controls and techniques to  
12 ensure that they are effectively implemented;

13           “(3) delegate to the agency Chief Information  
14 Officer established under section 3506 (or com-  
15 parable official in an agency not covered by such  
16 section) the authority to ensure compliance with the  
17 requirements imposed on the agency under this sub-  
18 chapter, including—

19           “(A) designating a senior agency informa-  
20 tion security officer who shall—

21           “(i) carry out the Chief Information  
22 Officer’s responsibilities under this section;

23           “(ii) possess professional qualifica-  
24 tions, including training and experience,

1 required to administer the functions de-  
2 scribed under this section;

3 “(iii) have information security duties  
4 as that official’s primary duty; and

5 “(iv) head an office with the mission  
6 and resources to assist in ensuring agency  
7 compliance with this section;

8 “(B) developing and maintaining an agen-  
9 cywide information security program as re-  
10 quired by subsection (b);

11 “(C) developing and maintaining informa-  
12 tion security policies, procedures, and control  
13 techniques to address all applicable require-  
14 ments, including those issued under section  
15 3553 of this title and section 11331 of title 40;

16 “(D) training and overseeing personnel  
17 with significant responsibilities for information  
18 security with respect to such responsibilities;  
19 and

20 “(E) assisting senior agency officials con-  
21 cerning their responsibilities under paragraph  
22 (2);

23 “(4) ensure that the agency has trained per-  
24 sonnel sufficient to assist the agency in complying

1 with the requirements of this subchapter and related  
2 policies, procedures, standards, and guidelines;

3 “(5) ensure that the agency Chief Information  
4 Officer, in coordination with other senior agency of-  
5 ficials, reports annually to the agency head on the  
6 effectiveness of the agency information security pro-  
7 gram, including progress of remedial actions;

8 “(6) ensure that senior agency officials, includ-  
9 ing chief information officers of component agencies  
10 or equivalent officials, carry out responsibilities  
11 under this subchapter as directed by the official del-  
12 egated authority under paragraph (3); and

13 “(7) ensure that all personnel are held account-  
14 able for complying with the agency-wide information  
15 security program implemented under subsection (b).

16 “(b) AGENCY PROGRAM.—Each agency shall develop,  
17 document, and implement an agency-wide information se-  
18 curity program to provide information security for the in-  
19 formation and information systems that support the oper-  
20 ations and assets of the agency, including those provided  
21 or managed by another agency, contractor, or other  
22 source, that includes—

23 “(1) periodic assessments of the risk and mag-  
24 nitude of the harm that could result from the unau-  
25 thorized access, use, disclosure, disruption, modifica-

1 tion, or destruction of information and information  
2 systems that support the operations and assets of  
3 the agency;

4 “(2) policies and procedures that—

5 “(A) are based on the risk assessments re-  
6 quired by paragraph (1);

7 “(B) cost-effectively reduce information se-  
8 curity risks to an acceptable level;

9 “(C) ensure that information security is  
10 addressed throughout the life cycle of each  
11 agency information system; and

12 “(D) ensure compliance with—

13 “(i) the requirements of this sub-  
14 chapter;

15 “(ii) policies and procedures as may  
16 be prescribed by the Director, and infor-  
17 mation security standards promulgated  
18 under section 11331 of title 40;

19 “(iii) minimally acceptable system  
20 configuration requirements, as determined  
21 by the agency; and

22 “(iv) any other applicable require-  
23 ments, including standards and guidelines  
24 for national security systems issued in ac-

1 cordance with law and as directed by the  
2 President;

3 “(3) subordinate plans for providing adequate  
4 information security for networks, facilities, and sys-  
5 tems or groups of information systems, as appro-  
6 priate;

7 “(4) security awareness training to inform per-  
8 sonnel, including contractors and other users of in-  
9 formation systems that support the operations and  
10 assets of the agency, of—

11 “(A) information security risks associated  
12 with their activities; and

13 “(B) their responsibilities in complying  
14 with agency policies and procedures designed to  
15 reduce these risks;

16 “(5) periodic testing and evaluation of the ef-  
17 fectiveness of information security policies, proce-  
18 dures, and practices, to be performed with a fre-  
19 quency depending on risk, but no less than annually,  
20 of which such testing—

21 “(A) shall include testing of management,  
22 operational, and technical controls of every in-  
23 formation system identified in the inventory re-  
24 quired under section 3505(c); and

1           “(B) may include testing relied on in an  
2           evaluation under section 3555;

3           “(6) a process for planning, implementing, eval-  
4           uating, and documenting remedial action to address  
5           any deficiencies in the information security policies,  
6           procedures, and practices of the agency;

7           “(7) procedures for detecting, reporting, and re-  
8           sponding to security incidents, consistent with stand-  
9           ards and guidelines described in section 3556(b), in-  
10          cluding—

11           “(A) mitigating risks associated with such  
12          incidents before substantial damage is done;

13           “(B) notifying and consulting with the  
14          Federal information security incident center es-  
15          tablished in section 3556; and

16           “(C) notifying and consulting with, as ap-  
17          propriate—

18           “(i) law enforcement agencies and rel-  
19          evant Offices of Inspector General;

20           “(ii) an office designated by the Presi-  
21          dent for any incident involving a national  
22          security system;

23           “(iii) the committees of Congress de-  
24          scribed in subsection (c)(1)—

1                   “(I) not later than 7 days after  
2                   the date on which the incident is dis-  
3                   covered; and

4                   “(II) after the initial notification  
5                   under subclause (I), within a reason-  
6                   able period of time after additional in-  
7                   formation relating to the incident is  
8                   discovered; and

9                   “(iv) any other agency or office, in ac-  
10                  cordance with law or as directed by the  
11                  President; and

12                  “(8) plans and procedures to ensure continuity  
13                  of operations for information systems that support  
14                  the operations and assets of the agency.

15                  “(c) AGENCY REPORTING.—

16                   “(1) ANNUAL REPORT.—

17                   “(A) IN GENERAL.—Each agency shall  
18                   submit to the Director, the Secretary, the Com-  
19                   mittee on Government Reform, the Committee  
20                   on Homeland Security, and the Committee on  
21                   Science of the House of Representatives, the  
22                   Committee on Homeland Security and Govern-  
23                   mental Affairs and the Committee on Com-  
24                   merce, Science, and Transportation of the Sen-  
25                   ate, the appropriate authorization and appro-

1           priations committees of Congress, and the  
2           Comptroller General a report on the adequacy  
3           and effectiveness of information security poli-  
4           cies, procedures, and practices, including—

5                   “(i) a description of each major infor-  
6                   mation security incident or related sets of  
7                   incidents, including summaries of—

8                           “(I) the threats and threat ac-  
9                           tors, vulnerabilities, and impacts re-  
10                           lating to the incident;

11                           “(II) the risk assessments con-  
12                           ducted under section 3554(a)(2)(A) of  
13                           the affected information systems be-  
14                           fore the date on which the incident oc-  
15                           curred; and

16                           “(III) the detection, response,  
17                           and remediation actions;

18                   “(ii) the total number of information  
19                   security incidents, including a description  
20                   of incidents resulting in significant com-  
21                   promise of information security, system  
22                   impact levels, types of incident, and loca-  
23                   tions of affected systems;

24                   “(iii) a description of each major in-  
25                   formation security incident that involved a

1 breach of personally identifiable informa-  
2 tion, including—

3 “(I) the number of individuals  
4 whose information was affected by the  
5 major information security incident;  
6 and

7 “(II) a description of the infor-  
8 mation that was breached or exposed;  
9 and

10 “(iv) any other information as the  
11 Secretary may require.

12 “(B) UNCLASSIFIED REPORT.—

13 “(i) IN GENERAL.—Each report sub-  
14 mitted under subparagraph (A) shall be in  
15 unclassified form, but may include a classi-  
16 fied annex.

17 “(ii) ACCESS TO INFORMATION.—The  
18 head of an agency shall ensure that, to the  
19 greatest extent practicable, information is  
20 included in the unclassified version of the  
21 reports submitted by the agency under  
22 subparagraph (A).

23 “(2) OTHER PLANS AND REPORTS.—Each  
24 agency shall address the adequacy and effectiveness

1 of information security policies, procedures, and  
2 practices in management plans and reports.

3 “(d) PERFORMANCE PLAN.—(1) In addition to the  
4 requirements of subsection (c), each agency, in consulta-  
5 tion with the Director, shall include as part of the per-  
6 formance plan required under section 1115 of title 31 a  
7 description of—

8 “(A) the time periods; and

9 “(B) the resources, including budget, staffing,  
10 and training,

11 that are necessary to implement the program required  
12 under subsection (b).

13 “(2) The description under paragraph (1) shall be  
14 based on the risk assessments required under subsection  
15 (b)(1).

16 “(e) PUBLIC NOTICE AND COMMENT.—Each agency  
17 shall provide the public with timely notice and opportuni-  
18 ties for comment on proposed information security policies  
19 and procedures to the extent that such policies and proce-  
20 dures affect communication with the public.

21 **“§ 3555. Annual independent evaluation**

22 “(a) IN GENERAL.—(1) Each year each agency shall  
23 have performed an independent evaluation of the informa-  
24 tion security program and practices of that agency to de-  
25 termine the effectiveness of such program and practices.

1       “(2) Each evaluation under this section shall in-  
2 clude—

3               “(A) testing of the effectiveness of information  
4 security policies, procedures, and practices of a rep-  
5 resentative subset of the agency’s information sys-  
6 tems;

7               “(B) an assessment of the effectiveness of the  
8 information security policies, procedures, and prac-  
9 tices of the agency; and

10              “(C) separate presentations, as appropriate, re-  
11 garding information security relating to national se-  
12 curity systems.

13       “(b) INDEPENDENT AUDITOR.—Subject to sub-  
14 section (c)—

15              “(1) for each agency with an Inspector General  
16 appointed under the Inspector General Act of 1978,  
17 the annual evaluation required by this section shall  
18 be performed by the Inspector General or by an  
19 independent external auditor, as determined by the  
20 Inspector General of the agency; and

21              “(2) for each agency to which paragraph (1)  
22 does not apply, the head of the agency shall engage  
23 an independent external auditor to perform the eval-  
24 uation.

1           “(c) NATIONAL SECURITY SYSTEMS.—For each  
2 agency operating or exercising control of a national secu-  
3 rity system, that portion of the evaluation required by this  
4 section directly relating to a national security system shall  
5 be performed—

6                   “(1) only by an entity designated by the agency  
7 head; and

8                   “(2) in such a manner as to ensure appropriate  
9 protection for information associated with any infor-  
10 mation security vulnerability in such system com-  
11 mensurate with the risk and in accordance with all  
12 applicable laws.

13           “(d) EXISTING EVALUATIONS.—The evaluation re-  
14 quired by this section may be based in whole or in part  
15 on an audit, evaluation, or report relating to programs or  
16 practices of the applicable agency.

17           “(e) AGENCY REPORTING.—(1) Each year, not later  
18 than such date established by the Director, the head of  
19 each agency shall submit to the Director the results of  
20 the evaluation required under this section.

21                   “(2) To the extent an evaluation required under this  
22 section directly relates to a national security system, the  
23 evaluation results submitted to the Director shall contain  
24 only a summary and assessment of that portion of the  
25 evaluation directly relating to a national security system.

1           “(f) PROTECTION OF INFORMATION.—Agencies and  
2 evaluators shall take appropriate steps to ensure the pro-  
3 tection of information which, if disclosed, may adversely  
4 affect information security. Such protections shall be com-  
5 mensurate with the risk and comply with all applicable  
6 laws and regulations.

7           “(g) OMB REPORTS TO CONGRESS.—(1) The Direc-  
8 tor shall summarize the results of the evaluations con-  
9 ducted under this section in the report to Congress re-  
10 quired under section 3553(c).

11           “(2) The Director’s report to Congress under this  
12 subsection shall summarize information regarding infor-  
13 mation security relating to national security systems in  
14 such a manner as to ensure appropriate protection for in-  
15 formation associated with any information security vulner-  
16 ability in such system commensurate with the risk and in  
17 accordance with all applicable laws.

18           “(3) Evaluations and any other descriptions of infor-  
19 mation systems under the authority and control of the Di-  
20 rector of Central Intelligence or of National Foreign Intel-  
21 ligence Programs systems under the authority and control  
22 of the Secretary of Defense shall be made available to Con-  
23 gress only through the appropriate oversight committees  
24 of Congress, in accordance with applicable laws.

1       “(h) COMPTROLLER GENERAL.—The Comptroller  
2 General shall periodically evaluate and report to Congress  
3 on—

4               “(1) the adequacy and effectiveness of agency  
5 information security policies and practices; and

6               “(2) implementation of the requirements of this  
7 subchapter.

8       “(i) ASSESSMENT TECHNICAL ASSISTANCE.—The  
9 Comptroller General may provide technical assistance to  
10 an Inspector General or the head of an agency, as applica-  
11 ble, to assist the Inspector General or head of an agency  
12 in carrying out the duties under this section, including by  
13 testing information security controls and procedures.

14 **“§ 3556. Federal information security incident center**

15       “(a) IN GENERAL.—The Secretary shall ensure the  
16 operation of a central Federal information security inci-  
17 dent center to—

18               “(1) provide timely technical assistance to oper-  
19 ators of agency information systems regarding secu-  
20 rity incidents, including guidance on detecting and  
21 handling information security incidents;

22               “(2) compile and analyze information about in-  
23 cidents that threaten information security;

1           “(3) inform operators of agency information  
2 systems about current and potential information se-  
3 curity threats, and vulnerabilities;

4           “(4) provide, as appropriate, intelligence and  
5 other information about cyber threats,  
6 vulnerabilities, and incidents to agencies to assist in  
7 risk assessments conducted under section 3554(b);  
8 and

9           “(5) consult with the National Institute of  
10 Standards and Technology, agencies or offices oper-  
11 ating or exercising control of national security sys-  
12 tems (including the National Security Agency), and  
13 such other agencies or offices in accordance with law  
14 and as directed by the President regarding informa-  
15 tion security incidents and related matters.

16       “(b) NATIONAL SECURITY SYSTEMS.—Each agency  
17 operating or exercising control of a national security sys-  
18 tem shall share information about information security in-  
19 cidents, threats, and vulnerabilities with the Federal infor-  
20 mation security incident center to the extent consistent  
21 with standards and guidelines for national security sys-  
22 tems, issued in accordance with law and as directed by  
23 the President.

1 **“§ 3557. National security systems**

2 “The head of each agency operating or exercising  
3 control of a national security system shall be responsible  
4 for ensuring that the agency—

5 “(1) provides information security protections  
6 commensurate with the risk and magnitude of the  
7 harm resulting from the unauthorized access, use,  
8 disclosure, disruption, modification, or destruction of  
9 the information contained in such system;

10 “(2) implements information security policies  
11 and practices as required by standards and guide-  
12 lines for national security systems, issued in accord-  
13 ance with law and as directed by the President; and

14 “(3) complies with the requirements of this sub-  
15 chapter.

16 **“§ 3558. Effect on existing law**

17 “Nothing in this subchapter, section 11331 of title  
18 40, or section 20 of the National Standards and Tech-  
19 nology Act (15 U.S.C. 278g–3) may be construed as af-  
20 fecting the authority of the President, the Office of Man-  
21 agement and Budget or the Director thereof, the National  
22 Institute of Standards and Technology, or the head of any  
23 agency, with respect to the authorized use or disclosure  
24 of information, including with regard to the protection of  
25 personal privacy under section 552a of title 5, the dislo-  
26 sure of information under section 552 of title 5, the man-

1 agement and disposition of records under chapters 29, 31,  
2 or 33 of title 44, the management of information resources  
3 under subchapter I of chapter 35 of this title, or the dis-  
4 closure of information to the Congress or the Comptroller  
5 General of the United States.”.

6 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

7 (1) TABLE OF SECTIONS.—The table of sections  
8 for chapter 35 of title 44, United States Code is  
9 amended by striking the matter relating to sub-  
10 chapters II and III and inserting the following:

“SUBCHAPTER II—INFORMATION SECURITY

“3551. Purposes.

“3552. Definitions.

“3553. Authority and functions of the Director and the Secretary.

“3554. Federal agency responsibilities.

“3555. Annual independent evaluation.

“3556. Federal information security incident center.

“3557. National security systems.

“3558. Effect on existing law.”.

11 (2) CYBERSECURITY RESEARCH AND DEVELOP-  
12 MENT ACT.—Section 8(d)(1) of the Cybersecurity  
13 Research and Development Act (15 U.S.C. 7406) is  
14 amended by striking “section 3534” and inserting  
15 “section 3554”.

16 (3) HOMELAND SECURITY ACT OF 2002.—Sec-  
17 tion 1001(c)(1)(A) of the Homeland Security Act of  
18 2002 (6 U.S.C. 511) by striking “section 3532(3)”  
19 and inserting “section 3552(b)(5)”.

20 (4) NATIONAL INSTITUTE OF STANDARDS AND  
21 TECHNOLOGY ACT.—Section 20 of the National In-

1       stitute of Standards and Technology Act (15 U.S.C.  
2       278g-3) is amended—

3               (A) in subsection (a)(2), by striking “sec-  
4       tion 3532(b)(2)” and inserting “section  
5       3552(b)(5)”; and

6               (B) in subsection (e)—

7                   (i) in paragraph (2), by striking “sec-  
8       tion 3532(1)” and inserting “section  
9       3552(b)(2)”; and

10                  (ii) in paragraph (5), by striking “sec-  
11       tion 3532(b)(2)” and inserting “section  
12       3552(b)(5)”.

13       (5) TITLE 10.—Title 10, United States Code, is  
14       amended—

15               (A) in section 2222(j)(5), by striking “sec-  
16       tion 3542(b)(2)” and inserting “section  
17       3552(b)(5)”; and

18               (B) in section 2223(c)(3), by striking “sec-  
19       tion 3542(b)(2)” and inserting “section  
20       3552(b)(5)”; and

21               (C) in section 2315, by striking “section  
22       3542(b)(2)” and inserting “section  
23       3552(b)(5)”.

24       (c) OTHER PROVISIONS.—

1           (1) CIRCULAR A-130.—Not later than 180 days  
2 after the date of enactment of this Act, the Director  
3 of the Office of Management and Budget shall revise  
4 Office of Management and Budget Circular A-130  
5 to eliminate inefficient or wasteful reporting.

6           (2) ISPAB.—Section 21(b) of the National In-  
7 stitute of Standards and Technology Act (15 U.S.C.  
8 278g-4(b)) is amended—

9           (A) in paragraph (2), by inserting “, the  
10 Secretary of Homeland Security,” after “the  
11 Institute”; and

12           (B) in paragraph (3), by inserting “the  
13 Secretary of Homeland Security,” after “the  
14 Secretary of Commerce,”.

15 **SEC. 3. FEDERAL DATA BREACH RESPONSE GUIDELINES.**

16           (a) IN GENERAL.—Subchapter II of chapter 35 of  
17 title 44, United States Code, as added by this Act, is  
18 amended by adding at the end the following:

19 **“§ 3559. Privacy breach requirements**

20           “(a) POLICIES AND PROCEDURES.—The Director, in  
21 consultation with the Secretary, shall establish and over-  
22 see policies and procedures for agencies to follow in the  
23 event of a breach of information security involving the dis-  
24 closure of personally identifiable information, including re-  
25 quirements for—

1           “(1) timely notice to affected individuals based  
2           on a determination of the level of risk and consistent  
3           with law enforcement and national security consider-  
4           ations;

5           “(2) timely reporting to the Federal informa-  
6           tion security incident center established under sec-  
7           tion 3556 or other Federal cybersecurity center, as  
8           designated by the Director;

9           “(3) timely notice to committees of Congress  
10          with jurisdiction over cybersecurity; and

11          “(4) such additional actions as the Director  
12          may determine necessary and appropriate, including  
13          the provision of risk mitigation measures to affected  
14          individuals.

15          “(b) **CONSIDERATIONS.**—In carrying out subsection  
16 (a), the Director shall consider recommendations made by  
17 the Government Accountability Office, including rec-  
18 ommendations in the December 2013 Government Ac-  
19 countability Office report entitled ‘Information Security:  
20 Agency Responses to Breaches of Personally Identifiable  
21 Information Need to Be More Consistent’ (GAO–14–34).

22          “(c) **REQUIRED AGENCY ACTION.**—The head of each  
23 agency shall ensure that actions taken in response to a  
24 breach of information security involving the disclosure of  
25 personally identifiable information under the authority or

1 control of the agency comply with policies and procedures  
2 established under subsection (a).

3 “(d) TIMELINESS.—

4 “(1) IN GENERAL.—Except as provided in para-  
5 graph (2), the policies and procedures established  
6 under subsection (a) shall require that the notice to  
7 affected individuals required under subsection (a)(1)  
8 be made without unreasonable delay and with con-  
9 sideration of the likely risk of harm and the level of  
10 impact, but not later than 60 days after the date on  
11 which the head of an agency discovers the breach of  
12 information security involving the disclosure of per-  
13 sonally identifiable information.

14 “(2) DELAY.—The Attorney General, the head  
15 of an element of the intelligence community (as such  
16 term is defined under section 3(4) of the National  
17 Security Act of 1947 (50 U.S.C. 3003(4)), or the  
18 Secretary may delay the notice to affected individ-  
19 uals under subsection (a)(1) for not more than 180  
20 days, if the notice would disrupt a law enforcement  
21 investigation, endanger national security, or hamper  
22 security remediation actions from the breach of in-  
23 formation security involving the disclosure of person-  
24 ally identifiable information.”.

1           (b) TECHNICAL AND CONFORMING AMENDMENT.—  
2 The table of sections for subchapter II for chapter 35 of  
3 title 44, United States Code, as added by this Act, is  
4 amended by inserting after the item relating to section  
5 3558 the following:

“3559. Privacy breach requirements.”.