

114TH CONGRESS  
2D SESSION

# S. 2852

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## AN ACT

To expand the Government's use and administration of data to facilitate transparency, effective governance, and innovation, and for other purposes.

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

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

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Open, Public, Electronic, and Necessary Government  
4 Data Act” or the “OPEN Government Data Act”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Findings; agency defined.

Sec. 3. Rule of construction.

Sec. 4. Federal information policy definitions.

Sec. 5. Requirement for making open and machine-readable the default for  
Government data.

Sec. 6. Responsibilities of the Office of Electronic Government.

Sec. 7. Data inventory and planning.

Sec. 8. Technology portal.

Sec. 9. Enhanced responsibilities for chief information officers and chief infor-  
mation officers council duties.

Sec. 10. Evaluation of agency analytical capabilities.

Sec. 11. Effective date.

7 **SEC. 2. FINDINGS; AGENCY DEFINED.**

8 (a) FINDINGS.—Congress finds the following:

9 (1) Federal Government data is a valuable na-  
10 tional resource. Managing Federal Government data  
11 to make it open, available, discoverable, and useable  
12 to the general public, businesses, journalists, aca-  
13 demics, and advocates promotes efficiency and effec-  
14 tiveness in Government, creates economic opportuni-  
15 ties, promotes scientific discovery, and most impor-  
16 tantly, strengthens our democracy.

17 (2) Maximizing the usefulness of Federal Gov-  
18 ernment data that is appropriate for release rests  
19 upon making it readily available, discoverable, and

1 usable—in a word: open. Information presumptively  
2 should be available to the general public unless the  
3 Federal Government reasonably foresees that disclo-  
4 sure could harm a specific, articulable interest pro-  
5 tected by law or the Federal Government is other-  
6 wise expressly prohibited from releasing such data  
7 due to statutory requirements.

8 (3) The Federal Government has the responsi-  
9 bility to be transparent and accountable to its citi-  
10 zens.

11 (4) Data controlled, collected, or created by the  
12 Federal Government should be originated, trans-  
13 mitted, and published in modern, open, and elec-  
14 tronic format, to be as readily accessible as possible,  
15 consistent with data standards imbued with author-  
16 ity under this Act and to the extent permitted by  
17 law.

18 (5) The effort to inventory Government data  
19 will have additional benefits, including identifying  
20 opportunities within agencies to reduce waste, in-  
21 crease efficiencies, and save taxpayer dollars. As  
22 such, this effort should involve many types of data,  
23 including data generated by applications, devices,  
24 networks, and equipment, which can be harnessed to

1 improve operations, lower energy consumption, re-  
2 duce costs, and strengthen security.

3 (6) Communication, commerce, and data tran-  
4 scend national borders. Global access to Government  
5 information is often essential to promoting innova-  
6 tion, scientific discovery, entrepreneurship, edu-  
7 cation, and the general welfare.

8 (b) AGENCY DEFINED.—In this Act, the term “agen-  
9 cy” has the meaning given that term in section 3502 of  
10 title 44, United States Code, and includes the Federal  
11 Election Commission.

12 **SEC. 3. RULE OF CONSTRUCTION.**

13 Nothing in this Act, or the amendments made by this  
14 Act, shall be construed to require the disclosure of infor-  
15 mation or records that are exempt from public disclosure  
16 under section 552 of title 5, United States Code (com-  
17 monly known as the “Freedom of Information Act”).

18 **SEC. 4. FEDERAL INFORMATION POLICY DEFINITIONS.**

19 Section 3502 of title 44, United States Code, is  
20 amended—

21 (1) in paragraph (13), by striking “; and” at  
22 the end and inserting a semicolon;

23 (2) in paragraph (14), by striking the period at  
24 the end and inserting a semicolon; and

25 (3) by adding at the end the following:

1           “(15) the term ‘data’ means recorded informa-  
2           tion, regardless of form or the media on which the  
3           data is recorded;

4           “(16) the term ‘data asset’ means a collection  
5           of data elements or data sets that may be grouped  
6           together;

7           “(17) the term ‘Enterprise Data Inventory’  
8           means the data inventory developed and maintained  
9           pursuant to section 3523;

10          “(18) the term ‘machine-readable’ means a for-  
11          mat in which information or data can be easily proc-  
12          essed by a computer without human intervention  
13          while ensuring no semantic meaning is lost;

14          “(19) the term ‘metadata’ means structural or  
15          descriptive information about data such as content,  
16          format, source, rights, accuracy, provenance, fre-  
17          quency, periodicity, granularity, publisher or respon-  
18          sible party, contact information, method of collec-  
19          tion, and other descriptions;

20          “(20) the term ‘nonpublic data asset’—

21                 “(A) means a data asset that may not be  
22                 made available to the public for privacy, secu-  
23                 rity, confidentiality, regulation, or other reasons  
24                 as determined by law; and

1           “(B) includes data provided by contractors  
2           that is protected by contract, license, patent,  
3           trademark, copyright, confidentiality, regula-  
4           tion, or other restriction;

5           “(21) the term ‘open format’ means a technical  
6           format based on an underlying open standard that  
7           is—

8                   “(A) not encumbered by restrictions that  
9                   would impede use or reuse; and

10                   “(B) based on an underlying open stand-  
11                   ard that is maintained by a standards organiza-  
12                   tion;

13           “(22) the term ‘open Government data’ means  
14           a Federal Government public data asset that is—

15                   “(A) machine-readable;

16                   “(B) available in an open format; and

17                   “(C) part of the worldwide public domain  
18                   or, if necessary, published with an open license;

19           “(23) the term ‘open license’ means a legal  
20           guarantee applied to a data asset that is made avail-  
21           able to the public that such data asset is made avail-  
22           able—

23                   “(A) at no cost to the public; and

1           “(B) with no restrictions on copying, pub-  
 2           lishing, distributing, transmitting, citing, or  
 3           adapting; and

4           “(24) the term ‘public data asset’ means a col-  
 5           lection of data elements or a data set maintained by  
 6           the Government that—

7                   “(A) may be released; or

8                   “(B) has been released to the public in an  
 9           open format and is discoverable through a  
 10          search of Data.gov.”.

11 **SEC. 5. REQUIREMENT FOR MAKING OPEN AND MACHINE-**  
 12                   **READABLE THE DEFAULT FOR GOVERNMENT**  
 13                   **DATA.**

14          (a) AMENDMENT.—Subchapter I of chapter 35 of  
 15          title 44, United States Code, is amended by adding at the  
 16          end the following:

17 **“§ 3522. Requirements for Government data**

18          “(a) MACHINE-READABLE DATA REQUIRED.—Gov-  
 19          ernment data assets made available by an agency shall be  
 20          published as machine-readable data.

21          “(b) OPEN BY DEFAULT.—When not otherwise pro-  
 22          hibited by law, and to the extent practicable, Government  
 23          data assets shall—

24                   “(1) be available in an open format; and

25                   “(2) be available under open licenses.

1       “(c) OPEN LICENSE OR WORLDWIDE PUBLIC DO-  
2 MAIN DEDICATION REQUIRED.—When not otherwise pro-  
3 hibited by law, and to the extent practicable, Government  
4 data assets published by or for an agency shall be made  
5 available under an open license or, if not made available  
6 under an open license and appropriately released, shall be  
7 considered to be published as part of the worldwide public  
8 domain.

9       “(d) INNOVATION.—Each agency may engage with  
10 nongovernmental organizations, citizens, non-profit orga-  
11 nizations, colleges and universities, private and public  
12 companies, and other agencies to explore opportunities to  
13 leverage the agency’s public data asset in a manner that  
14 may provide new opportunities for innovation in the public  
15 and private sectors in accordance with law and regula-  
16 tion.”.

17       (b) TECHNICAL AND CONFORMING AMENDMENT.—  
18 The table of sections for subchapter I of chapter 35 of  
19 title 44, United States Code, is amended by inserting after  
20 the item relating to section 3521 the following:

“3522. Requirements for Government data.”.

21       (c) EFFECTIVE DATE.—Notwithstanding section 11,  
22 the amendments made by subsections (a) and (b) shall  
23 take effect on the date that is 1 year after the date of  
24 enactment of this Act and shall apply with respect to any



1 contract entered into by an agency on or after such effec-  
2 tive date.

3 (d) USE OF OPEN DATA ASSETS.—Not later than 1  
4 year after the date of enactment of this Act, the head of  
5 each agency shall ensure that any activities by the agency  
6 or any new contract entered into by the agency meet the  
7 requirements of section 3522 of title 44, United States  
8 Code, as added by subsection (a).

9 **SEC. 6. RESPONSIBILITIES OF THE OFFICE OF ELECTRONIC**  
10 **GOVERNMENT.**

11 (a) COORDINATION OF FEDERAL INFORMATION RE-  
12 SOURCES MANAGEMENT POLICY.—Section 3503 of title  
13 44, United States Code, is amended by adding at the end  
14 the following:

15 “(c) COORDINATION OF FEDERAL INFORMATION RE-  
16 SOURCES MANAGEMENT POLICY.—The Federal Chief In-  
17 formation Officer shall work in coordination with the Ad-  
18 ministrator of the Office of Information and Regulatory  
19 Affairs and with the heads of other offices within the Of-  
20 fice of Management and Budget to oversee and advise the  
21 Director on Federal information resources management  
22 policy.”.

23 (b) AUTHORITY AND FUNCTIONS OF DIRECTOR.—  
24 Section 3504(h) of title 44, United States Code, is amend-  
25 ed—

1 (1) in paragraph (1), by inserting “, the Fed-  
2 eral Chief Information Officer,” after “the Director  
3 of the National Institute of Standards and Tech-  
4 nology”;

5 (2) in paragraph (4)—

6 (A) in subparagraph (A), by striking “;  
7 and” and inserting a semicolon; and

8 (B) by adding at the end the following:

9 “(C) oversee the completeness of the En-  
10 terprise Data Inventory and the extent to which  
11 the agency is making all data collected and gen-  
12 erated by the agency available to the public in  
13 accordance with section 3523;”;

14 (3) in paragraph (5), by striking the period at  
15 the end and inserting “; and”; and

16 (4) by adding at the end the following:

17 “(6) coordinate the development and review of  
18 Federal information resources management policy by  
19 the Administrator of the Office of Information and  
20 Regulatory Affairs and the Federal Chief Informa-  
21 tion Officer.”.

22 (c) CHANGE OF NAME OF THE OFFICE OF ELEC-  
23 TRONIC GOVERNMENT.—

24 (1) DEFINITIONS.—Section 3601 of title 44,  
25 United States Code, is amended—

1 (A) by striking paragraph (1);

2 (B) by redesignating paragraphs (2)  
3 through (4) as paragraphs (1) through (3), re-  
4 spectively; and

5 (C) by inserting after paragraph (3), as so  
6 redesignated, the following:

7 “(4) ‘Federal Chief Information Officer’ means  
8 the Federal Chief Information Officer of the Office  
9 of the Federal Chief Information Officer established  
10 under section 3602;”.

11 (2) OFFICE OF THE FEDERAL CHIEF INFORMA-  
12 TION OFFICER.—Section 3602 of title 44, United  
13 States Code, is amended—

14 (A) in the heading, by striking “**Elec-**  
15 **tronic Government**” and inserting “**the**  
16 **Federal Chief Information Officer**”;

17 (B) in subsection (a), by striking “Office  
18 of Electronic Government” and inserting “Of-  
19 fice of the Federal Chief Information Officer”;

20 (C) in subsection (b), by striking “an Ad-  
21 ministrator” and inserting “a Federal Chief In-  
22 formation Officer”;

23 (D) in subsection (c), by striking “The Ad-  
24 ministrator” and inserting “The Federal Chief  
25 Information Officer”;

1 (E) in subsection (d), by striking “The Ad-  
2 ministrator” and inserting “The Federal Chief  
3 Information Officer”;

4 (F) in subsection (e), by striking “The Ad-  
5 ministrator” and inserting “The Federal Chief  
6 Information Officer”;

7 (G) in subsection (f)—

8 (i) in the matter preceding paragraph  
9 (1), by striking “the Administrator shall”  
10 and inserting “the Federal Chief Informa-  
11 tion Officer shall”; and

12 (ii) in paragraph (16), by striking  
13 “the Office of Electronic Government” and  
14 inserting “the Office of the Federal Chief  
15 Information Officer”; and

16 (H) in subsection (g), by striking “the Of-  
17 fice of Electronic Government” and inserting  
18 “the Office of the Federal Chief Information  
19 Officer”.

20 (3) CHIEF INFORMATION OFFICERS COUNCIL.—  
21 Section 3603 of title 44, United States Code, is  
22 amended—

23 (A) in subsection (b)(2), by striking “The  
24 Administrator of the Office of Electronic Gov-

1           ernment” and inserting “The Federal Chief In-  
2           formation Officer”;

3           (B) in subsection (c)(1), by striking “The  
4           Administrator of the Office of Electronic Gov-  
5           ernment” and inserting “The Federal Chief In-  
6           formation Officer”; and

7           (C) in subsection (f)(3), by striking “the  
8           Administrator” and inserting “the Federal  
9           Chief Information Officer”.

10          (4) E-GOVERNMENT FUND.—Section 3604 of  
11          title 44, United States Code, is amended—

12           (A) in subsection (a)(2), by striking “the  
13           Administrator of the Office of Electronic Gov-  
14           ernment” and inserting “the Federal Chief In-  
15           formation Officer”;

16           (B) in subsection (b), by striking “Admin-  
17           istrator” each place it appears and inserting  
18           “Federal Chief Information Officer”; and

19           (C) in subsection (c), by striking “the Ad-  
20           ministrator” and inserting “the Federal Chief  
21           Information Officer”.

22          (5) PROGRAM TO ENCOURAGE INNOVATIVE SO-  
23          LUTIONS TO ENHANCE ELECTRONIC GOVERNMENT  
24          SERVICES AND PROCESSES.—Section 3605 of title  
25          44, United States Code, is amended—

1 (A) in subsection (a), by striking “The Ad-  
2 ministrator” and inserting “The Federal Chief  
3 Information Officer”;

4 (B) in subsection (b), by striking “, the  
5 Administrator,” and inserting “, the Federal  
6 Chief Information Officer,”; and

7 (C) in subsection (c)—

8 (i) in paragraph (1)—

9 (I) by striking “The Adminis-  
10 trator” and inserting “The Federal  
11 Chief Information Officer”; and

12 (II) by striking “proposals sub-  
13 mitted to the Administrator” and in-  
14 serting “proposals submitted to the  
15 Federal Chief Information Officer”;

16 (ii) in paragraph (2), by striking “the  
17 Administrator” and inserting “the Federal  
18 Chief Information Officer”; and

19 (iii) in paragraph (4), by striking “the  
20 Administrator” and inserting “the Federal  
21 Chief Information Officer”.

22 (6) TECHNICAL AND CONFORMING AMEND-  
23 MENTS.—

24 (A) TABLE OF SECTIONS.—The table of  
25 sections for chapter 36 of title 44, United

1 States Code, is amended by striking the item  
2 relating to section 3602 and inserting the fol-  
3 lowing:

“3602. Office of the Federal Chief Information Officer.”.

4 (B) POSITIONS AT LEVEL III.—Section  
5 5314 of title 5, United States Code, is amended  
6 by striking “Administrator of the Office of  
7 Electronic Government” and inserting “Federal  
8 Chief Information Officer”.

9 (C) OFFICE OF ELECTRONIC GOVERN-  
10 MENT.—Section 507 of title 31, United States  
11 Code, is amended by striking “The Office of  
12 Electronic Government” and inserting “The Of-  
13 fice of the Federal Chief Information Officer”.

14 (D) ELECTRONIC GOVERNMENT AND IN-  
15 FORMATION TECHNOLOGIES.—Section 305 of  
16 title 40, United States Code, is amended by  
17 striking “Administrator of the Office of Elec-  
18 tronic Government” and inserting “Federal  
19 Chief Information Officer”.

20 (E) CAPITAL PLANNING AND INVESTMENT  
21 CONTROL.—Section 11302(c)(4) of title 40,  
22 United States Code, is amended by striking  
23 “Administrator of the Office of Electronic Gov-  
24 ernment” each place it appears and inserting  
25 “Federal Chief Information Officer”.

1 (F) RESOURCES, PLANNING, AND PORT-  
2 FOLIO MANAGEMENT.—The second subsection  
3 (c) of section 11319 of title 40, United States  
4 Code, is amended by striking “Administrator of  
5 the Office of Electronic Government” each  
6 place it appears and inserting “Federal Chief  
7 Information Officer”.

8 (G) ADDITIONAL TECHNICAL AND CON-  
9 FORMING AMENDMENTS.—

10 (i) Section 2222(i)(6) of title 10,  
11 United States Code, is amended by strik-  
12 ing “section 3601(4)” and inserting “sec-  
13 tion 3601(3)”.

14 (ii) Section 506D(k)(1) of the Na-  
15 tional Security Act of 1947 (50 U.S.C.  
16 3100(k)(1)) is amended by striking “sec-  
17 tion 3601(4)” and inserting “section  
18 3601(3)”.

19 (7) RULE OF CONSTRUCTION.—The amend-  
20 ments made by this subsection are for the purpose  
21 of changing the name of the Office of Electronic  
22 Government and the Administrator of such office  
23 and shall not be construed to affect any of the sub-  
24 stantive provisions of the provisions amended or to  
25 require a new appointment by the President.



1 **SEC. 7. DATA INVENTORY AND PLANNING.**

2 (a) ENTERPRISE DATA INVENTORY.—

3 (1) AMENDMENT.—Subchapter I of chapter 35  
4 of title 44, United States Code, as amended by sec-  
5 tion 5, is amended by adding at the end the fol-  
6 lowing:

7 **“§ 3523. Enterprise data inventory**

8 “(a) AGENCY DATA INVENTORY REQUIRED.—

9 “(1) IN GENERAL.—In order to develop a clear  
10 and comprehensive understanding of the data assets  
11 in the possession of an agency, the head of each  
12 agency, in consultation with the Director of the Of-  
13 fice of Management and Budget, shall develop and  
14 maintain an enterprise data inventory (in this sec-  
15 tion referred to as the ‘Enterprise Data Inventory’)  
16 that accounts for any data asset created, collected,  
17 under the control or direction of, or maintained by  
18 the agency after the effective date of this section,  
19 with the ultimate goal of including all data assets,  
20 to the extent practicable.

21 “(2) CONTENTS.—The Enterprise Data Inven-  
22 tory shall include each of the following:

23 “(A) Data assets used in agency informa-  
24 tion systems, including program administration,  
25 statistical, and financial activity.

1           “(B) Data assets shared or maintained  
2 across agency programs and bureaus.

3           “(C) Data assets that are shared among  
4 agencies or created by more than 1 agency.

5           “(D) A clear indication of all data assets  
6 that can be made publicly available under sec-  
7 tion 552 of title 5 (commonly referred to as the  
8 ‘Freedom of Information Act’).

9           “(E) A description of whether the agency  
10 has determined that an individual data asset  
11 may be made publicly available and whether the  
12 data asset is currently available to the public.

13           “(F) Non-public data assets.

14           “(G) Government data assets generated by  
15 applications, devices, networks, and equipment,  
16 categorized by source type.

17       “(b) PUBLIC AVAILABILITY.—The Chief Information  
18 Officer of each agency shall use the guidance provided by  
19 the Director issued pursuant to section 3504(a)(1)(C)(ii)  
20 to make public data assets included in the Enterprise  
21 Data Inventory publicly available in an open format and  
22 under an open license.

23       “(c) NON-PUBLIC DATA.—Non-public data included  
24 in the Enterprise Data Inventory may be maintained in  
25 a non-public section of the inventory.

1       “(d) AVAILABILITY OF ENTERPRISE DATA INVEN-  
2 TORY.—The Chief Information Officer of each agency—

3           “(1) shall make the Enterprise Data Inventory  
4 available to the public on Data.gov;

5           “(2) shall ensure that access to the Enterprise  
6 Data Inventory and the data contained therein is  
7 consistent with applicable law and regulation; and

8           “(3) may implement paragraph (1) in a manner  
9 that maintains a non-public portion of the Enter-  
10 prise Data Inventory.

11       “(e) REGULAR UPDATES REQUIRED.—The Chief In-  
12 formation Officer of each agency shall—

13           “(1) to the extent practicable, complete the En-  
14 terprise Data Inventory for the agency not later  
15 than 1 year after the date of enactment of this sec-  
16 tion; and

17           “(2) add additional data assets to the Enter-  
18 prise Data Inventory for the agency not later than  
19 90 days after the date on which the data asset is  
20 created or identified.

21       “(f) USE OF EXISTING RESOURCES.—When prac-  
22 ticable, the Chief Information Officer of each agency shall  
23 use existing procedures and systems to compile and pub-  
24 lish the Enterprise Data Inventory for the agency.”.

1           (2) TECHNICAL AND CONFORMING AMEND-  
2           MENT.—The table of sections for subchapter I of  
3           chapter 35 of title 44, United States Code, as  
4           amended by section 5, is amended by inserting after  
5           the item relating to section 3522 the following:

“3523. Enterprise data inventory.”

6           (b) STANDARDS FOR ENTERPRISE DATA INVEN-  
7           TORY.—Section 3504(a)(1) of title 44, United States  
8           Code, is amended—

9           (1) in subparagraph (A), by striking “; and”  
10          and inserting a semicolon;

11          (2) in subparagraph (B)(vi), by striking the pe-  
12          riod at the end and inserting “; and”; and

13          (3) by adding at the end the following:

14          “(C) issue standards for the Enterprise Data  
15          Inventory described in section 3523, including—

16                 “(i) a requirement that the Enterprise  
17                 Data Inventory include a compilation of  
18                 metadata about agency data assets; and

19                 “(ii) criteria that the head of each agency  
20                 shall use in determining whether to make a par-  
21                 ticular data asset publicly available in a manner  
22                 that takes into account—

23                         “(I) the expectation of confidentiality  
24                         associated with an individual data asset;

1 “(II) security considerations, includ-  
2 ing the risk that information in an indi-  
3 vidual data asset in isolation does not pose  
4 a security risk but when combined with  
5 other available information may pose such  
6 a risk;

7 “(III) the cost and value to the public  
8 of converting the data into a manner that  
9 could be understood and used by the pub-  
10 lic;

11 “(IV) the expectation that all data as-  
12 sets that would otherwise be made avail-  
13 able under section 552 of title 5 (com-  
14 monly referred to as the ‘Freedom of In-  
15 formation Act’) be disclosed; and

16 “(V) any other considerations that the  
17 Director determines to be relevant.”.

18 (c) FEDERAL AGENCY RESPONSIBILITIES.—Section  
19 3506 of title 44, United States Code, is amended—

20 (1) in subsection (b)—

21 (A) in paragraph (1)(C), by striking “secu-  
22 rity;” and inserting the following: “security  
23 by—

24 “(i) using open format for any new  
25 Government data asset created or obtained

1 on the date that is 1 year after the date  
2 of enactment of this clause; and

3 “(ii) to the extent practicable, encour-  
4 aging the adoption of open form for all  
5 open Government data created or obtained  
6 before the date of enactment of this  
7 clause;”.

8 (B) in paragraph (4), by striking “sub-  
9 chapter; and” and inserting “subchapter and a  
10 review of each agency’s Enterprise Data Inven-  
11 tory described in section 3523;”;

12 (C) in paragraph (5), by striking the pe-  
13 riod at the end and inserting “; and”; and

14 (D) by adding at the end the following:

15 “(6) in consultation with the Director, develop  
16 an open data plan as a part of the requirement for  
17 a strategic information resources management plan  
18 described in paragraph (2) that, at a minimum and  
19 to the extent practicable—

20 “(A) requires the agency to develop proc-  
21 esses and procedures that—

22 “(i) require each new data collection  
23 mechanism to use an open format; and

24 “(ii) allow the agency to collaborate  
25 with non-Government entities, researchers,

1           businesses, and private citizens for the  
2           purpose of understanding how data users  
3           value and use open Government data;

4           “(B) identifies and implements methods  
5           for collecting and analyzing digital information  
6           on data asset usage by users within and outside  
7           of the agency, including designating a point of  
8           contact within the agency to assist the public  
9           and to respond to quality issues, usability, rec-  
10          ommendations for improvements, and com-  
11          plaints about adherence to open data require-  
12          ments in accordance with subsection (d)(2);

13          “(C) develops and implements a process to  
14          evaluate and improve the timeliness, complete-  
15          ness, accuracy, usefulness, and availability of  
16          open Government data;

17          “(D) requires the agency to update the  
18          plan at an interval determined by the Director;

19          “(E) includes requirements for meeting the  
20          goals of the agency open data plan including  
21          technology, training for employees, and imple-  
22          menting procurement standards, in accordance  
23          with existing law, that allow for the acquisition  
24          of innovative solutions from the public and pri-  
25          vate sector; and

1           “(F) prohibits the dissemination and acci-  
2           dental disclosure of nonpublic data assets.”;

3           (2) in subsection (c), by striking “With respect  
4           to” and inserting “Except as provided under sub-  
5           section (j), with respect to”;

6           (3) in subsection (d)—

7           (A) in the matter preceding paragraph (1),  
8           by striking “shall”;

9           (B) in paragraph (1)—

10           (i) in the matter preceding subpara-  
11           graph (A), by inserting “shall” before “en-  
12           sure”;

13           (ii) in subparagraph (A), by striking  
14           “sources” and inserting “sources and  
15           uses”; and

16           (iii) in subparagraph (C), by inserting  
17           “, including providing access to open Gov-  
18           ernment data online” after “economical  
19           manner”;

20           (C) in paragraph (2), by inserting “shall”  
21           before “regularly”;

22           (D) in paragraph (3)—

23           (i) by inserting “shall” before “pro-  
24           vide”; and



1 (ii) by striking “; and” and inserting  
2 a semicolon;

3 (E) in paragraph (4)—

4 (i) in the matter preceding subpara-  
5 graph (A), by inserting “may” before  
6 “not”; and

7 (ii) by striking the period at the end  
8 and inserting a semicolon; and

9 (F) by adding at the end the following:

10 “(5) shall take the necessary precautions to en-  
11 sure that the agency maintains the production and  
12 publication of data assets which are directly related  
13 to activities that protect the safety of human life or  
14 property, as identified by the open data plan of the  
15 agency required by subsection (b)(6); and

16 “(6) may engage the public in using open Gov-  
17 ernment data and encourage collaboration by—

18 “(A) publishing information on open Gov-  
19 ernment data usage in regular, timely intervals,  
20 but not less than annually;

21 “(B) receiving public input regarding pri-  
22 orities for the analysis and disclosure of data  
23 assets to be published;

1           “(C) assisting civil society groups and  
2 members of the public working to expand the  
3 use of open Government data; and

4           “(D) hosting challenges, competitions,  
5 events, or other initiatives designed to create  
6 additional value from open Government data.”;  
7 and

8           (4) by adding at the end the following:

9           “(j) COLLECTION OF INFORMATION EXCEPTION.—  
10 Notwithstanding subsection (c), an agency is not required  
11 to meet the requirements of paragraphs (2) and (3) of  
12 such subsection if—

13           “(1) the waiver of those requirements is ap-  
14 proved by the head of the agency;

15           “(2) the collection of information is—

16           “(A) online and electronic;

17           “(B) voluntary and there is no perceived or  
18 actual tangible benefit to the provider of the in-  
19 formation;

20           “(C) of an extremely low burden that is  
21 typically completed in 5 minutes or less; and

22           “(D) focused on gathering input about the  
23 performance of, or public satisfaction with, an  
24 agency providing service; and

1           “(3) the agency publishes representative sum-  
2           maries of the collection of information under sub-  
3           section (c).”.

4           (d) REPOSITORY.—The Director of the Office of  
5           Management and Budget shall collaborate with the Office  
6           of Government Information Services and the Adminis-  
7           trator of General Services to develop and maintain an on-  
8           line repository of tools, best practices, and schema stand-  
9           ards to facilitate the adoption of open data practices. The  
10          repository shall—

11           (1) include definitions, regulation and policy,  
12           checklists, and case studies related to open data, this  
13           Act, and the amendments made by this Act; and

14           (2) facilitate collaboration and the adoption of  
15           best practices across the Federal Government relat-  
16           ing to the adoption of open data practices.

17          (e) SYSTEMATIC AGENCY REVIEW OF OPER-  
18          ATIONS.—Section 305 of title 5, United States Code, is  
19          amended—

20           (1) in subsection (b), by adding at the end the  
21           following: “To the extent practicable, each agency  
22           shall use existing data to support such reviews if the  
23           data is accurate and complete.”;

24           (2) in subsection (c)—

1 (A) by redesignating paragraphs (2) and  
2 (3) as paragraphs (3) and (4), respectively; and

3 (B) by inserting after paragraph (1) the  
4 following:

5 “(2) determining the status of achieving the  
6 mission, goals, and objectives of the agency as de-  
7 scribed in the strategic plan of the agency published  
8 pursuant to section 306;” and

9 (3) by adding at the end the following:

10 “(d) OPEN DATA COMPLIANCE REPORT.—Not later  
11 than 1 year after the date of enactment of this subsection,  
12 and every 2 years thereafter, the Director of the Office  
13 of Management and Budget shall electronically publish a  
14 report on agency performance and compliance with the  
15 Open, Public, Electronic, and Necessary Government Data  
16 Act and the amendments made by that Act.”.

17 (f) GAO REPORT.—Not later than 3 years after the  
18 date of enactment of this Act, the Comptroller General  
19 of the United States shall submit to the Committee on  
20 Homeland Security and Governmental Affairs of the Sen-  
21 ate and the Committee on Oversight and Government Re-  
22 form of the House of Representatives a report that identi-  
23 fies—

1           (1) the value of information made available to  
2           the public as a result of this Act and the amend-  
3           ments made by this Act;

4           (2) whether it is valuable to expand the publicly  
5           available information to any other data assets; and

6           (3) the completeness of the Enterprise Data In-  
7           ventory at each agency required under section 3523  
8           of title 44, United States Code, as added by this sec-  
9           tion.

10 **SEC. 8. TECHNOLOGY PORTAL.**

11           (a) AMENDMENT.—Subchapter I of chapter 35 of  
12 title 44, United States Code, is amended by inserting after  
13 section 3511 the following:

14 **“§ 3511A. Technology portal**

15           “(a) DATA.GOV REQUIRED.—The Administrator of  
16 General Services shall maintain a single public interface  
17 online as a point of entry dedicated to sharing open Gov-  
18 ernment data with the public.

19           “(b) COORDINATION WITH AGENCIES.—The Director  
20 of the Office of Management and Budget shall determine,  
21 after consultation with the head of each agency and the  
22 Administrator of General Services, the method to access  
23 any open Government data published through the inter-  
24 face described in subsection (a).”.

1 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
2 The table of sections for subchapter I of chapter 35 of  
3 title 44, United States Code, as amended by this Act, is  
4 amended by inserting after the item relating to section  
5 3511 the following:

“3511A. Technology portal.”.

6 (c) DEADLINE.—Not later than 180 days after the  
7 date of enactment of this Act, the Administrator of Gen-  
8 eral Services shall meet the requirements of section  
9 3511A(a) of title 44, United States Code, as added by sub-  
10 section (a).

11 **SEC. 9. ENHANCED RESPONSIBILITIES FOR CHIEF INFOR-**  
12 **MATION OFFICERS AND CHIEF INFORMATION**  
13 **OFFICERS COUNCIL DUTIES.**

14 (a) AGENCY CHIEF INFORMATION OFFICER GEN-  
15 ERAL RESPONSIBILITIES.—

16 (1) GENERAL RESPONSIBILITIES.—Section  
17 11315(b) of title 40, United States Code, is amend-  
18 ed—

19 (A) in paragraph (2), by striking “; and”  
20 and inserting a semicolon;

21 (B) in paragraph (3), by striking the pe-  
22 riod at the end and inserting a semicolon; and

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

1           “(4) data asset management, format standard-  
2           ization, sharing of data assets, and publication of  
3           data assets;

4           “(5) the compilation and publication of the En-  
5           terprise Data Inventory for the agency required  
6           under section 3523 of title 44;

7           “(6) ensuring that agency data conforms with  
8           open data best practices;

9           “(7) ensuring compliance with the requirements  
10          of subsections (b), (c), (d), and (f) of section 3506  
11          of title 44;

12          “(8) engaging agency employees, the public,  
13          and contractors in using open Government data and  
14          encourage collaborative approaches to improving  
15          data use;

16          “(9) supporting the agency Performance Im-  
17          provement Officer in generating data to support the  
18          function of the Performance Improvement Officer  
19          described in section 1124(a)(2) of title 31;

20          “(10) reviewing the information technology in-  
21          frastructure of the agency and the impact of such  
22          infrastructure on making data assets accessible to  
23          reduce barriers that inhibit data asset accessibility;

24          “(11) ensuring that, to the extent practicable,  
25          the agency is maximizing its own use of data, includ-

1 ing data generated by applications, devices, net-  
2 works, and equipment owned by the Government and  
3 such use is not otherwise prohibited, to reduce costs,  
4 improve operations, and strengthen security and pri-  
5 vacy protections; and

6 “(12) identifying points of contact for roles and  
7 responsibilities related to open data use and imple-  
8 mentation as required by the Director of the Office  
9 of Management and Budget.”.

10 (2) ADDITIONAL DEFINITIONS.—Section 11315  
11 of title 40, United States Code, is amended by add-  
12 ing at the end the following:

13 “(d) ADDITIONAL DEFINITIONS.—In this section, the  
14 terms ‘data’, ‘data asset’, ‘Enterprise Data Inventory’,  
15 and ‘open Government data’ have the meanings given  
16 those terms in section 3502 of title 44.”.

17 (b) AMENDMENT.—Section 3603(f) of title 44,  
18 United States Code, is amended by adding at the end the  
19 following:

20 “(8) Work with the Office of Government Infor-  
21 mation Services and the Director of the Office of  
22 Science and Technology Policy to promote data  
23 interoperability and comparability of data assets  
24 across the Government.”.



1 **SEC. 10. EVALUATION OF AGENCY ANALYTICAL CAPABILI-**  
2 **TIES.**

3 (a) AGENCY REVIEW OF EVALUATION AND ANALYSIS  
4 CAPABILITIES; REPORT.—Not later than 3 years after the  
5 date of enactment of this Act, the Chief Operating Officer  
6 of each agency shall submit to the Committee on Home-  
7 land Security and Governmental Affairs of the Senate, the  
8 Committee on Oversight and Government Reform of the  
9 House of Representatives, and the Director of the Office  
10 of Management and Budget a report on the review de-  
11 scribed in subsection (b).

12 (b) REQUIREMENTS OF AGENCY REVIEW.—The re-  
13 port required under subsection (a) shall assess the cov-  
14 erage, quality, methods, effectiveness, and independence of  
15 the agency’s evaluation research and analysis efforts, in-  
16 cluding each of the following:

17 (1) A list of the activities and operations of the  
18 agency that are being evaluated and analyzed and  
19 the activities and operations that have been evalu-  
20 ated and analyzed during the previous 5 years.

21 (2) The extent to which the evaluations re-  
22 search and analysis efforts and related activities of  
23 the agency support the needs of various divisions  
24 within the agency.

25 (3) The extent to which the evaluation research  
26 and analysis efforts and related activities of the

1 agency address an appropriate balance between  
2 needs related to organizational learning, ongoing  
3 program management, performance management,  
4 strategic management, interagency and private sec-  
5 tor coordination, internal and external oversight, and  
6 accountability.

7 (4) The extent to which the agency uses meth-  
8 ods and combinations of methods that are appro-  
9 priate to agency divisions and the corresponding re-  
10 search questions being addressed, including an ap-  
11 propriate combination of formative and summative  
12 evaluation research and analysis approaches.

13 (5) The extent to which evaluation and research  
14 capacity is present within the agency to include per-  
15 sonnel, agency process for planning and imple-  
16 menting evaluation activities, disseminating best  
17 practices and findings, and incorporating employee  
18 views and feedback.

19 (6) The extent to which the agency has the ca-  
20 pacity to assist front-line staff and program offices  
21 to develop the capacity to use evaluation research  
22 and analysis approaches and data in the day-to-day  
23 operations.

24 (c) GAO REVIEW OF AGENCY REPORTS.—Not later  
25 than 4 years after the date of enactment of this Act, the

1 Comptroller General of the United States shall submit to  
2 Congress a report that summarizes agency findings and  
3 highlights trends from the reports submitted pursuant to  
4 subsection (a) and, if appropriate, recommends actions to  
5 further improve agency capacity to use evaluation tech-  
6 niques and data to support evaluation efforts.

7 **SEC. 11. EFFECTIVE DATE.**

8 This Act, and the amendments made by this Act,  
9 shall take effect on the date that is 180 days after the  
10 date of enactment of this Act.

Passed the Senate December 10 (legislative day, De-  
cember 9), 2016.

Attest:

*Secretary.*

114<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 2852**

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**AN ACT**

To expand the Government's use and administration of data to facilitate transparency, effective governance, and innovation, and for other purposes.