

111TH CONGRESS
2D SESSION

S. 3321

To establish an advisory committee to issue nonbinding governmentwide guidelines on making public information available on the Internet, to require publicly available Government information held by the executive branch to be made available on the Internet, to express the sense of Congress that publicly available information held by the legislative and judicial branches should be available on the Internet, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 6, 2010

Mr. TESTER introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To establish an advisory committee to issue nonbinding governmentwide guidelines on making public information available on the Internet, to require publicly available Government information held by the executive branch to be made available on the Internet, to express the sense of Congress that publicly available information held by the legislative and judicial branches should be available on the Internet, 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.**

2 This Act may be cited as the “Public Online Informa-
3 tion Act of 2010”.

4 **SEC. 2. TABLE OF CONTENTS.**

5 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Definitions.
- Sec. 4. Purposes.
- Sec. 5. Findings of Congress.
- Sec. 6. Establishment of Public Online Information Advisory Committee.
- Sec. 7. Executive branch Internet publication mandate.
- Sec. 8. Legislative and judicial information.
- Sec. 9. Government Printing Office.

6 **SEC. 3. DEFINITIONS.**

7 In this Act:

8 (1) **ADVISORY COMMITTEE.**—The term “advi-
9 sory committee” means the Public Online Informa-
10 tion Advisory Committee established under section
11 6.

12 (2) **AGENCY.**—The term “agency” means an
13 executive agency or an independent regulatory agen-
14 cy.

15 (3) **CIO.**—The term “CIO” means a chief in-
16 formation officer of an independent regulatory agen-
17 cy.

18 (4) **EXECUTIVE AGENCY.**—The term “executive
19 agency” means any of the following:

20 (A) An executive department, as defined in
21 section 101 of title 5, United States Code.

1 (B) A military department, as defined in
2 section 102 of such title.

3 (C) A Government corporation, as defined
4 in section 103 of such title.

5 (D) Any other establishment in the execu-
6 tive branch of the Government (including the
7 Executive Office of the President), other than
8 an independent regulatory agency.

9 (5) INDEPENDENT REGULATORY AGENCY.—The
10 term “independent regulatory agency” means an
11 independent establishment, as defined in section 104
12 of title 5, United States Code.

13 (6) RECORD.—The term “record”—

14 (A) has the meaning provided the term
15 “records” in section 3301 of title 44, United
16 States Code; and

17 (B) includes contracts entered into by per-
18 sons working as agents of the Federal Govern-
19 ment, including records in the possession of
20 Government contractors.

21 (7) PUBLIC RECORD.—The term “public
22 record” means any record, regardless of form or for-
23 mat, that an agency discloses, publishes, dissemi-
24 nates, or makes available to the public.

1 (8) E-GOVERNMENT ADMINISTRATOR.—The
2 term “E-Government Administrator” means the Ad-
3 ministrator of the Office of Electronic Government
4 established under section 3602 of title 44, United
5 States Code.

6 **SEC. 4. PURPOSES.**

7 The purposes of this Act include the following:

8 (1) To establish an advisory committee to issue
9 nonbinding guidelines for all three branches of Gov-
10 ernment regarding making public information avail-
11 able on the Internet, with sufficient flexibility to
12 adapt to changes in technology.

13 (2) To empower the E-Government Adminis-
14 trator to establish binding rules concerning making
15 publicly available Government information held by
16 executive agencies to be made available on the Inter-
17 net, and to empower independent regulatory agen-
18 cies to do the same.

19 (3) To express the sense of Congress that pub-
20 licly available information held by the legislative and
21 judicial branches should be available on the Internet.

22 (4) To encourage the Government Printing Of-
23 fice to make all of its publications available on the
24 Internet in the formats most useful to the public,

1 after having considered the formats identified by the
2 Advisory Committee.

3 **SEC. 5. FINDINGS OF CONGRESS.**

4 Congress finds the following:

5 (1) The Federal Government holds a vast re-
6 pository of public information. Throughout the his-
7 tory of the United States, the Government has at-
8 tempted to make that information available to the
9 public, whether through the United States Postal
10 Service, the Federal Depository Library Program,
11 the Presidential Library System, Agency Reading
12 Rooms, under section 552 of title 5, United States
13 Code (commonly referred to as the “Freedom of In-
14 formation Act”), or by other means. Providing this
15 information to the general public is a public good:
16 Informed citizens are informed voters. However,
17 even with these efforts, Government information is
18 too often hard to find, difficult to understand, ex-
19 pensive to obtain in useful formats, and available in
20 only a few locations.

21 (2) The advent of the Internet presents the op-
22 portunity for the Government to make information
23 readily available to many more people in the United
24 States. The Internet is ubiquitous, turning every
25 computer into a portal to the largest library in the

1 world. The Government has made some efforts to
2 take advantage of this new medium. As the public
3 moves online, the Government must do so as well.

4 (3) In addition to the traditional means of dis-
5 seminating public information, the Federal Govern-
6 ment should make all of its public information avail-
7 able on the Internet. It should do so in ways that
8 take advantage of modern technology, that antici-
9 pate the needs of the public, and that provide access
10 to the greatest number of people. The Government
11 should strive to make its information available on
12 the Internet in real-time and in machine processable
13 formats.

14 (4) The creation of this vast new information li-
15 brary will empower citizens of the United States to
16 gain a better understanding of how their Govern-
17 ment functions and what it does in their name. It
18 will also give innovators new tools to build on this
19 information and provide better goods and services to
20 the people of the United States. Government services
21 will be provided more efficiently, saving the tax-
22 payers money and allowing them to be more involved
23 in the lives of their communities.

24 (5) Accomplishing these goals requires signifi-
25 cant coordination. It also requires the creation of

1 new authorities and responsibilities within the Gov-
2 ernment, and the identification of appropriate tech-
3 nology standards.

4 **SEC. 6. ESTABLISHMENT OF PUBLIC ONLINE INFORMATION**
5 **ADVISORY COMMITTEE.**

6 (a) ESTABLISHMENT.—There is established an advi-
7 sory committee to be known as the “Public Online Infor-
8 mation Advisory Committee”.

9 (b) PURPOSES.—The purposes of the Advisory Com-
10 mittee are—

11 (1) to coordinate and encourage the efforts of
12 the Government to make Government information
13 from all three branches of Government available on
14 the Internet; and

15 (2) to issue nonbinding guidelines on how the
16 Government should make public information avail-
17 able on the Internet, and update the guidelines as
18 appropriate.

19 (c) MEMBERSHIP.—

20 (1) IN GENERAL.—The Advisory Committee
21 shall be composed of 19 members (including the
22 Chair), of whom—

23 (A) 6 members shall be appointed by the
24 E-Government Administrator;

1 (B) 6 members shall be appointed by the
2 Director of the Administrative Office of the
3 Courts;

4 (C) 3 members shall be appointed by the
5 Chairman, in consultation with the Ranking
6 Member, of the Committee on Homeland Security
7 and Governmental Affairs of the Senate,
8 with not more than 2 members chosen being
9 from the party in the majority of the Senate at
10 the time of appointment; and

11 (D) 3 members shall be appointed by the
12 Chair, in consultation with the Ranking Mem-
13 ber, of the Committee on Oversight and Gov-
14 ernment Reform of the House of Representa-
15 tives, with not more than 2 members chosen
16 being from the party in the majority of the
17 House of Representatives at the time of ap-
18 pointment.

19 (2) DIVERSITY OF EXPERIENCE.—The members
20 of the Advisory Committee shall represent a diverse
21 range of perspectives, including members—

22 (A) from non-profit organizations; and

23 (B) with expertise in relevant subject
24 areas.

1 (3) CHAIR.—The Chair shall be appointed by
2 the Administrator of General Services, after confer-
3 ring with the E-Government Administrator, the Di-
4 rector of the Administrative Office of the Courts, the
5 Chairman of the Committee on Homeland Security
6 and Governmental Affairs of the Senate, and the
7 Chair of the Committee on Oversight and Govern-
8 ment Reform of the House of Representatives.

9 (4) VICE CHAIR.—A Vice Chair shall be se-
10 lected from among the members of the Advisory
11 Committee by the Chair.

12 (5) LIMITATION ON GOVERNMENT EMPLOYEE
13 MEMBERS.—Not more than 6 members of the Advi-
14 sory Committee may be Government employees.

15 (6) TERMS OF OFFICE.—Each member of the
16 Advisory Committee shall be appointed for a renew-
17 able term of 5 years, except that—

18 (A) $\frac{1}{3}$ of the members initially appointed
19 shall be appointed for a 3-year term;

20 (B) $\frac{1}{3}$ of the members initially appointed
21 shall be appointed for a 4-year term; and

22 (C) $\frac{1}{3}$ of the members initially appointed
23 and the Chair shall be appointed for a 5-year
24 term.

1 (7) INITIAL APPOINTMENTS.—The initial ap-
2 pointments of members of the Advisory Committee
3 shall be made not later than 90 days after the date
4 of the enactment of this Act.

5 (8) MEETINGS.—The Advisory Committee shall
6 meet not less than 6 times per year.

7 (d) POWERS OF ADVISORY COMMITTEE.—

8 (1) IN GENERAL.—From time to time, the Ad-
9 visory Committee shall—

10 (A) examine its legislative charter, struc-
11 ture, and funding; and

12 (B) make recommendations to Congress,
13 the President, and the Courts regarding how
14 the Advisory Committee could be restructured
15 to better accomplish its mission of making Gov-
16 ernment information available to the public on
17 the Internet.

18 (2) PUBLICATION OF RECOMMENDATIONS.—
19 The recommendations required under paragraph (1)
20 shall be published in print and on the Internet.

21 (3) SPECIFIC POWERS.—In order to carry out
22 the purposes described in subsection (b), the Advi-
23 sory Committee is authorized to—

24 (A) hold hearings;

25 (B) issue recommendations to Congress;

1 (C) issue recommendations to agencies;

2 (D) issue reports, guidelines, and memo-
3 randa;

4 (E) articulate guidelines on how the Gov-
5 ernment should make public records available
6 on the Internet, update the guidelines as appro-
7 priate, and inquire into Government compliance
8 with the guidelines;

9 (F) hold or host conferences and symposia;

10 (G) enter into cooperative agreements with
11 outside experts to obtain relevant advice or ex-
12 pertise, and oversee staff;

13 (H) establish subcommittees; and

14 (I) establish rules of procedure.

15 (4) RELATIONSHIP TO FACa.—The Advisory
16 Committee shall not be subject to the control of any
17 advisory committee management officer designated
18 under section 8(b)(1) of the Federal Advisory Com-
19 mittee Act (5 U.S.C. App.).

20 (e) OPERATIONS.—

21 (1) OPEN GOVERNMENT PROCEDURES.—In ad-
22 dition to the rules in the Federal Advisory Com-
23 mittee Act (5 U.S.C. App.), in the interest of im-
24 proving transparency, the Advisory Committee shall
25 adhere to the following rules that supplement and

1 modify that Act (in accordance with section 4(a) of
2 that Act):

3 (A) Subcommittees shall have the same du-
4 ties and obligations as the full committee as de-
5 lined under sections 10 through 13 of the
6 Federal Advisory Committee Act (5 U.S.C.
7 App.). Subcommittees shall similarly be bound
8 by the terms of this section.

9 (B) All information made available on the
10 Internet shall be done so by state-of-the-art
11 methods that are compatible with widely used,
12 publically available programs and equipment.

13 (C) Information required to be made avail-
14 able on the Internet shall be done so in a timely
15 fashion.

16 (D) Notice of all meetings shall be avail-
17 able on the Web site of the Advisory Com-
18 mittee, with agendas available on the Internet
19 not later than 3 days prior to any meeting.

20 (E) All records available for public copying
21 under section 10 of the Federal Advisory Com-
22 mittee Act (5 U.S.C. App.) shall also be made
23 available on the Web site of the Advisory Com-
24 mittee.

1 (F) The Advisory Committee shall make
2 available on the Internet and to any person, at
3 no cost, transcripts of Advisory Committee pro-
4 ceedings.

5 (G) Videos recordings of proceedings shall
6 be made available on the Internet.

7 (H) Documents submitted to the Advisory
8 Committee shall be made publicly available un-
9 less the Advisory Committee determines that
10 those materials would disclose matters de-
11 scribed in section 552(b) of title 5, United
12 States Code.

13 (I) The Advisory Committee shall make
14 publicly available the names and brief biog-
15 raphies of its members.

16 (J) All members of the Advisory Com-
17 mittee shall file financial disclosure forms,
18 which shall be made available on the Advisory
19 Committee Web site after redactions to remove
20 personally identifiable information, such as so-
21 cial security numbers.

22 (K) All members of the Advisory Com-
23 mittee shall have to state and publicly disclose
24 conflicts of interest. These statements shall be
25 updated whenever new conflicts arise or on an

1 annual basis, whichever is more frequent, and
2 shall be published on the Internet.

3 (2) SUPPORT SERVICES.—The General Services
4 Administration shall be responsible for providing all
5 support services to the Advisory Committee, includ-
6 ing quarters and staff, and for requesting funds
7 from Congress on behalf of the Advisory Committee.

8 (3) COMMUNICATION WITH CONGRESS.—Noth-
9 ing in this section shall be construed to prevent the
10 Advisory Committee from communicating with Con-
11 gress directly regarding funding or other matters.

12 (4) DURATION.—The Advisory Committee is a
13 continuing body and is not subject to termination as
14 provided in section 14 of the Federal Advisory Com-
15 mittee Act (5 U.S.C. App.).

16 (5) APPLICATION OF FACCA.—Except as other-
17 wise provided in this section, the Federal Advisory
18 Committee Act (5 U.S.C. App.) shall apply to the
19 Advisory Committee.

20 (f) REPORTS.—The Advisory Committee shall issue
21 a report on its activities every 2 years, or as appropriate,
22 whichever is more frequent.

23 (g) AUTHORIZATION OF APPROPRIATIONS.—There is
24 authorized to be appropriated to the General Services Ad-

1 ministration such sums as may be necessary for the oper-
2 ations of the Advisory Committee.

3 **SEC. 7. EXECUTIVE BRANCH INTERNET PUBLICATION MAN-**
4 **DATE.**

5 (a) ONLINE PUBLICATION REQUIREMENTS.—

6 (1) FREE AVAILABILITY.—

7 (A) IN GENERAL.—Except as provided in
8 subparagraph (B), the Government shall make
9 public records available on the Internet at no
10 charge (including a charge for recovery of
11 costs) to the public.

12 (B) EXCEPTION.—Subparagraph (A) shall
13 not apply in the case of a charge imposed by
14 Federal law before the date of the enactment of
15 this Act.

16 (2) PERMANENCE.—Public records shall be per-
17 manently available on the Internet.

18 (3) CURRENT TECHNOLOGY.—

19 (A) IN GENERAL.—Current information
20 technology capabilities shall be applied to the
21 means by which records are made available on
22 the Internet, and the formats in which they are
23 available.

24 (B) PUBLIC ACCESSIBILITY.—Public
25 records shall be made accessible through pro-

1 grams and equipment that are readily available
2 to the general public.

3 (4) SEARCHABLE LIST.—

4 (A) IN GENERAL.—Each agency shall pub-
5 lish on the Internet a comprehensive, search-
6 able, machine processable list of all records it
7 makes publicly available.

8 (B) REQUIREMENTS.—With respect to the
9 records described in subparagraph (A), the list
10 shall include, at a minimum—

11 (i) where the records can be found;

12 (ii) whether the records are available
13 to the public at no cost or for a fee (and
14 the amount of the fee, if applicable); and

15 (iii) brief descriptions of the records.

16 (b) RULEMAKING AUTHORITY.—

17 (1) IN GENERAL.—Nothing in the grant of au-
18 thority in this subsection shall be construed to limit
19 the obligation of the Government to make records
20 publicly available as required by law.

21 (2) EXECUTIVE AGENCIES.—

22 (A) RESPONSIBILITIES OF THE DIRECTOR
23 OF OMB.—

24 (i) IN GENERAL.—The Director of the
25 Office of Management and Budget shall

1 delegate to the E-Government Adminis-
2 trator the authority to administer all func-
3 tions under this section, except that any
4 such delegation shall not relieve the Direc-
5 tor of responsibility for the administration
6 of such functions.

7 (ii) STAFFING.—The Director of the
8 Office of Management and Budget shall
9 ensure that the E-Government Adminis-
10 trator has adequate staff and resources to
11 properly fulfill all the functions of the Ad-
12 ministrator under this Act.

13 (B) RULEMAKING.—

14 (i) IN GENERAL.—The E-Government
15 Administrator, after consulting with the
16 Office of Information and Regulatory Pol-
17 icy, shall promulgate such regulations as
18 are necessary to ensure that all public
19 records held by executive agencies are
20 available on the Internet in the formats
21 and by the means the E-Government Ad-
22 ministrator designates.

23 (ii) CONSIDERATION OF GUIDE-
24 LINES.—In promulgating the regulations
25 required under clause (i), the E-Govern-

1 ment Administrator shall consider the
2 guidelines issued by the Advisory Com-
3 mittee.

4 (C) RULEMAKING REQUIREMENTS.—In the
5 regulations promulgated under subparagraph
6 (B), the E-Government Administrator shall in-
7 clude—

8 (i) rules on how executive agencies
9 shall publish records on the Internet, in-
10 cluding the format and timeframe; and

11 (ii) procedures through which execu-
12 tive agencies may object to placing public
13 records on the Internet, in accordance with
14 the exceptions under paragraph (4), and a
15 method by which the objections can be re-
16 viewed.

17 (D) ADDITIONAL AVAILABILITY OF
18 RECORDS.—

19 (i) IN GENERAL.—The regulations
20 promulgated under subparagraph (B) shall
21 not preclude executive agencies from mak-
22 ing additional records available on the
23 Internet beyond those required by the reg-
24 ulations, or in additional formats beyond
25 those required by the regulations, or on a

1 more rapid timeframe than required by the
2 regulations.

3 (ii) DESIGNATION OF RESPONSIBILITY.—Each head of an executive agency
4 shall designate a person within the agency
5 responsible for Internet publication of public records.
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8 (3) INDEPENDENT REGULATORY AGENCIES.—

9 (A) RULEMAKING.—

10 (i) IN GENERAL.—A CIO or an official designated by the head of an independent regulatory agency shall promulgate such regulations as are necessary to ensure that public records are available on the Internet in the formats and by the means the CIO designates.
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17 (ii) CONSIDERATION OF GUIDELINES.—In promulgating the regulations required under clause (i), the CIO or other official shall consider the guidelines issued by the Advisory Committee, as well as regulations promulgated by the E-Government Administrator under paragraph (1).
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24 (B) ADDITIONAL AVAILABILITY OF
25 RECORDS.—The regulations promulgated under

1 subparagraph (A) shall not preclude the heads
2 of offices within an independent regulatory
3 agency from making additional records available
4 on the Internet beyond those required by the
5 regulations, or in additional formats beyond
6 those required by the regulations, or on a more
7 rapid timeframe than required by the regula-
8 tions.

9 (C) STAFFING.—The head of the inde-
10 pendent regulatory agency shall ensure that the
11 CIO or the official designated by the head of
12 the independent regulatory agency has adequate
13 staff and resources to properly fulfill all of the
14 functions of the CIO under this Act.

15 (4) EXCEPTIONS.—

16 (A) IN GENERAL.—The regulations pro-
17 mulgated under this subsection may contain ex-
18 ceptions, in accordance with this paragraph, to
19 the requirement that all public records be made
20 available on the Internet.

21 (B) SCOPE OF EXCEPTIONS.—The excep-
22 tions may be no broader than the exceptions
23 recognized under section 552 of title 5, United
24 States Code.

1 (C) ADDITIONAL EXCEPTIONS BY RE-
2 QUEST.—In addition to the exceptions provided
3 under subparagraph (B), the regulations shall
4 provide for the E-Government Administrator or,
5 in the case of an independent regulatory agen-
6 cy, the CIO or official designated by the head
7 of the agency, to grant narrow case-by-case ex-
8 ceptions to the Internet publication requirement
9 if an agency requests an exception and the
10 agency demonstrates that—

11 (i) there is clear and convincing evi-
12 dence that the record should not be made
13 available on the Internet; and

14 (ii) on balance, the harm caused by
15 disclosure significantly outweighs the inter-
16 est of the public in having the record avail-
17 able on the Internet.

18 (D) AVAILABILITY OF SEGREGABLE POR-
19 TIONS.—

20 (i) IN GENERAL.—If the E-Govern-
21 ment Administrator, CIO, or official des-
22 ignated by the head of an independent reg-
23 ulatory agency approves a request for an
24 exception with respect to a public record
25 under this paragraph, any reasonably seg-

1 regable portion of the public record shall
2 be made available on the Internet in a
3 timely fashion after redaction of the por-
4 tions that are subject to the exception.

5 (ii) PUBLICATION OF AMOUNT OF RE-
6 DACTED INFORMATION.—The amount of
7 information redacted shall be indicated on
8 the portion of the record that is made
9 available on the Internet, unless including
10 that indication would significantly harm
11 the interest protected by the exception,
12 and, if technically feasible, the amount of
13 the information redacted shall be indicated
14 at the place in the record where such
15 redactions are made.

16 (E) DISCLOSURE OF WITHHELD
17 RECORDS.—The E-Government Administrator,
18 CIO, or official designated by the head of an
19 independent regulatory agency shall—

20 (i) maintain a list of records not made
21 available on the Internet by reason of an
22 exception under this section; and

23 (ii) publish the list on the Internet,
24 excluding any records the identification of

1 which would significantly harm the interest
2 protected by the exception.

3 (5) PUBLICATION.—Regulations promulgated
4 under this subsection shall be published—

5 (A) in the Federal Register; and

6 (B) on the relevant agency Web site.

7 (6) APPLICABILITY.—Regulations promulgated
8 under this subsection shall apply only to public
9 records generated, updated, or released after the
10 date of the enactment of this Act.

11 (7) EFFECTIVE DATE.—Regulations promul-
12 gated under this subsection shall take effect not ear-
13 lier than 3 years after the date of the enactment of
14 this Act.

15 (c) REPORTS TO CONGRESS.—

16 (1) IN GENERAL.—Not less than once every 4
17 years, the E-Government Administrator and each
18 CIO shall—

19 (A) review the exceptions provided under
20 subsection (b)(4) to making public records
21 available on the Internet; and

22 (B) if warranted, make recommendations
23 to the President and to Congress regarding
24 whether Federal law should be changed.

1 (2) PUBLICATION.—The reports required under
2 paragraph (1) shall be made publicly available, in-
3 cluding being published on the Internet.

4 (d) INSPECTOR GENERAL REVIEWS.—

5 (1) IN GENERAL.—Not less than once every 4
6 years, the Inspector General of each agency shall
7 conduct periodic reviews regarding compliance by
8 the agency with Internet publication requirements.

9 (2) PUBLICATION.—The reviews required under
10 paragraph (1) shall be published on the Internet.

11 (e) ENFORCEMENT OF PUBLIC ACCESS BY PRIVATE
12 INDIVIDUALS OR ORGANIZATIONS.—

13 (1) REQUESTS.—

14 (A) IN GENERAL.—Private individuals or
15 organizations may request that an agency place
16 public records on the Internet, including the
17 comprehensive searchable list of publicly avail-
18 able records referred to in section 7(a)(4), in
19 accordance with Federal regulations.

20 (B) RESPONSE REQUIRED WITHIN 30
21 DAYS.—An agency has 30 days to respond to a
22 request made under subparagraph (A) in writ-
23 ing or to place the record on the Internet.

24 (C) DENIAL OF REQUEST.—If an agency
25 denies the request in whole or in part, the pri-

1 vate individual or organization may file a com-
2 plaint in Federal court.

3 (2) JURISDICTION.—

4 (A) IN GENERAL.—On complaint filed
5 under paragraph (1)(C), the district court of
6 the United States in the district in which the
7 complainant resides, or has his principal place
8 of business, or in which the agency records are
9 situated, or in the District of Columbia, has ju-
10 risdiction to—

11 (i) enjoin the agency from refusing to
12 publish agency records on the Internet, or
13 refusing to publish it in an appropriate
14 format; and

15 (ii) order the Internet online publica-
16 tion of any agency records improperly
17 withheld.

18 (B) DE NOVO REVIEW.—In a case brought
19 under paragraph (1)(C), the court shall deter-
20 mine the matter de novo, and may examine the
21 contents of such agency records in camera to
22 determine whether such records or any part
23 thereof shall be withheld under any of the ex-
24 ceptions provided under subsection (b)(4), and

1 the burden is on the agency to sustain its ac-
2 tion.

3 (C) FILING DEADLINE.—Notwithstanding
4 any other provision of law, the defendant shall
5 serve an answer or otherwise plead to any com-
6 plaint made under this subsection within 30
7 days after service upon the defendant of the
8 pleading in which such complaint is made, un-
9 less the court otherwise directs for good cause
10 shown.

11 (3) ATTORNEY FEES.—In any case brought
12 under this subsection in which the complainant has
13 substantially prevailed, the court may assess against
14 the United States—

15 (A) reasonable attorney fees; and

16 (B) other litigation costs reasonably in-
17 curred.

18 (4) SPECIAL COUNSEL.—

19 (A) IN GENERAL.—A Special Counsel shall
20 promptly initiate a proceeding to determine
21 whether disciplinary action is warranted against
22 the officer or employee who was primarily re-
23 sponsible for the withholding if a court—

24 (i) orders the production of any agen-
25 cy records improperly withheld from the

1 complainant and assesses against the
2 United States reasonable attorney fees,
3 litigation costs, and interest under this
4 subsection; and

5 (ii) issues a written finding that the
6 circumstances surrounding the withholding
7 raise questions whether agency personnel
8 acted arbitrarily or capriciously with re-
9 spect to the withholding.

10 (B) FINDINGS AND RECOMMENDATIONS.—

11 A Special Counsel, after investigation and con-
12 sideration of the evidence submitted under sub-
13 paragraph (A), shall—

14 (i) submit findings and recommenda-
15 tions based on the evidence to the adminis-
16 trative authority of the agency concerned;
17 and

18 (ii) send copies of the findings and
19 recommendations to the officer or em-
20 ployee or his representative described in
21 subparagraph (A).

22 (C) CORRECTIVE ACTION.—The adminis-
23 trative authority described in subparagraph (B)
24 shall take the corrective action that the Special
25 Counsel recommends.

1 (5) CONTEMPT.—In the event of noncompliance
2 with the order of the court issued under this sub-
3 section, the district court may punish for contempt
4 the responsible employee, and in the case of a uni-
5 formed service, the responsible member.

6 **SEC. 8. LEGISLATIVE AND JUDICIAL INFORMATION.**

7 It is the sense of Congress that judicial and legislative
8 agencies (within the meaning of section 3701 of title 31,
9 United States Code) should adopt or adapt the rec-
10 ommendations of the Advisory Committee for their own
11 use. In addition, judicial and legislative agencies are en-
12 couraged to consider the guidelines issued by the Advisory
13 Committee and the regulations promulgated by the E-Gov-
14 ernment Administrator.

15 **SEC. 9. GOVERNMENT PRINTING OFFICE.**

16 It is the sense of Congress that the Government
17 Printing Office should make all of its publications perma-
18 nently available on the Internet in a multiplicity of for-
19 mats that best meet the needs of the public. In doing so,
20 the Government Printing Office is strongly encouraged to
21 consider the recommendations of the Advisory Committee
22 and the E-Government Administrator.

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