

STATISTICAL EFFICIENCY ACT OF 1999

OCTOBER 25, 1999.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BURTON of Indiana, from the Committee on Government Reform, submitted the following

R E P O R T

[To accompany H.R. 2885]

[Including cost estimate of the Congressional Budget Office]

The Committee on Government Reform, to whom was referred the bill (H.R. 2885) to provide uniform safeguards for the confidentiality of information acquired for exclusively statistical purposes, and to improve the efficiency and quality of Federal statistics and Federal statistical programs by permitting limited sharing of records among designated agencies for statistical purposes under strong safeguards, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
I. Purpose .....	7
II.— Background and Need for the Legislation .....	7
III. Committee Actions .....	9
IV.— Committee Hearings and Written Testimony .....	9
V. Explanation of the Bill .....	10
VI.— Committee Oversight Findings .....	15
VII. Budget Analysis and Projections .....	15
VIII. Cost Estimate of the Congressional Budget Office .....	16
IX.— Statement of Constitutional Authority .....	17
X. Committee Recommendation .....	17
XI.— Congressional Accountability Act; P.L. 104-1 .....	17
XII. Unfunded Mandates Reform Act; P.L. 104-4, Section 423 .....	17
XIII. Federal Advisory Committee Act (5 U.S.C. App.) Section 5(b) .....	17
XIV. Changes in Existing Law .....	17

The amendment is as follows:  
Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Statistical Efficiency Act of 1999”.

**SEC. 2. DEFINITIONS.**

As used in this Act:

(1) The term “agency” means any entity that falls within the definition of the term “executive agency” as defined in section 102 of title 31, United States Code, or “agency”, as defined in section 3502 of title 44, United States Code.

(2) The term “agent” means a person who—

(A) is designated by a Statistical Data Center (as designated in section 3) to perform exclusively statistical activities authorized by law under the supervision or control of an officer or employee of that Statistical Data Center; and

(B) has agreed in writing to comply with all provisions of law that affect information acquired by that Statistical Data Center.

(3) The term “identifiable form” means any representation of information that permits information concerning individual subjects to be reasonably inferred by either direct or indirect means.

(4) The term “nonstatistical purpose” means any purpose that is not a statistical purpose, and includes any administrative, regulatory, law enforcement, adjudicatory, or other purpose that affects the rights, privileges, or benefits of a particular identifiable respondent.

(5) The term “respondent” means a person who, or organization that, is requested or required to supply information to an agency, is the subject of information requested or required to be supplied to an agency, or who provides that information to an agency.

(6) The term “statistical activities”—

(A) means the collection, compilation, processing, or analysis of data for the purpose of describing or making estimates concerning the whole, or relevant groups or components within, the economy, society, or natural environment; and

(B) includes the development of methods or resources that support those activities, such as measurement methods, models, statistical classifications, or sampling frames.

(7) The term “statistical purpose”—

(A) means the description, estimation, or analysis of the characteristics of groups without regard to the identities of individuals or organizations that comprise such groups; and

(B) includes the development, implementation, or maintenance of methods, technical or administrative procedures, or information resources that support such purposes.

**SEC. 3. DESIGNATION OF STATISTICAL DATA CENTERS.**

(a) IN GENERAL.—Each of the following is hereby designated as a Statistical Data Center:

(1) The Bureau of Economic Analysis in the Department of Commerce.

(2) The Bureau of the Census in the Department of Commerce.

(3) The Bureau of Labor Statistics in the Department of Labor.

(4) The National Agricultural Statistics Service in the Department of Agriculture.

(5) The National Center for Education Statistics in the Department of Education.

(6) The National Center for Health Statistics in the Department of Health and Human Services.

(7) The Energy Consumption Division of the Energy Information Administration in the Department of Energy.

(8) The Division of Science Resources Studies in the National Science Foundation.

(b) DESIGNATION.—In the case of a reorganization that eliminates, or substantially alters the mission or functions of, an agency or agency component listed in subsection (a), the Director of the Office of Management and Budget, after consultation with the head of the agency proposing the reorganization, may designate an agency or agency component that shall serve as a successor Statistical Data Center under the terms of this Act, if the Director determines that—

(1) the primary activities of the proposed Statistical Data Center are statistical activities specifically authorized by law;

(2) the proposed Statistical Data Center would participate in data sharing activities that significantly improve Federal statistical programs or products;

(3) the proposed Statistical Data Center has demonstrated its capability to protect the individual confidentiality of any shared data; and

(4) the laws that apply to the proposed Statistical Data Center are not inconsistent with this Act.

(c) NOTICE AND COMMENT.—The head of an agency seeking designation as a successor Statistical Data Center under this section shall, after consultation with the Director of the Office of Management and Budget, provide public notice and an opportunity to comment on the consequences of such designation and on those determinations upon which the designation is proposed to be based.

(d) PROHIBITION AGAINST INCREASE IN NUMBER OF CENTERS.—No action taken under this section shall increase the number of Statistical Data Centers authorized by this Act.

#### SEC. 4. STATISTICAL DATA CENTER RESPONSIBILITIES.

The Statistical Data Centers designated in section 3 shall—

(1) identify opportunities to eliminate duplication and otherwise reduce reporting burden and cost imposed on the public by sharing information for exclusively statistical purposes;

(2) enter into joint statistical projects to improve the quality and reduce the cost of statistical programs;

(3) safeguard the confidentiality of individually identifiable information acquired for statistical purposes by assuring its physical security and by controlling access to, and uses made of, such information; and

(4) respect the rights and privileges of the public by observing and promoting fair information practices.

#### SEC. 5. LIMITATIONS ON USE AND DISCLOSURE OF DATA AND INFORMATION BY STATISTICAL DATA CENTERS.

(a) USE OF STATISTICAL DATA OR INFORMATION.—Data or information acquired by a Statistical Data Center for exclusively statistical purposes shall be used by the Center only for statistical purposes.

(b) DISCLOSURE OF STATISTICAL DATA OR INFORMATION.—Data or information acquired for exclusively statistical purposes shall not be disclosed in identifiable form, for any purpose other than a statistical purpose, without the informed consent of the respondent.

(c) RULE FOR USE OF DATA OR INFORMATION FOR NONSTATISTICAL PURPOSES.—A Statistical Data Center shall clearly distinguish any data or information collected for nonstatistical purposes (as authorized by law) by the Statistical Data Center by a rule that provides that the respondent supplying the data or information is fully informed, before the data or information is collected, that the data or information will be used for nonstatistical purposes.

#### SEC. 6. DISCLOSURE OF DATA OR INFORMATION BY AGENCIES TO STATISTICAL DATA CENTERS.

(a) AGENCIES THAT MAY DISCLOSE DATA OR INFORMATION TO A STATISTICAL DATA CENTER.—Subject to subsection (b), any Federal agency may disclose data or information to one or more Statistical Data Centers for exclusively statistical purposes.

(b) LIMITATIONS ON DISCLOSURE.—Data or information may be disclosed by an agency to one or more Statistical Data Centers under subsection (a) only if—

(1) the data or information are to be used exclusively for statistical purposes by the Statistical Data Center or Centers;

(2) the disclosure of, and proposed use of, the data or information by the Statistical Data Center is not inconsistent with any provisions of law or Executive order that explicitly limit the statistical purposes for which such data or information may be used;

(3) the disclosure is not prohibited by law or Executive order in the interest of national security;

(4) the disclosure is made under the terms of a written agreement between the Statistical Data Center or Centers and the agency supplying the data or information that specifies—

(A) the data or information to be disclosed;

(B) the purposes for which the data or information are to be used; and

(C) appropriate security procedures to safeguard the confidentiality of the data or information; and

(5) the data or information is not disclosed by that Center in identifiable form (except in a case in which the data or information was collected directly by a party to the agreement referred to in subsection (b)(4), and the agreement specifies that the data or information may be so disclosed to another party to the agreement for exclusively statistical purposes).

(c) NOTICE.—Whenever a written agreement authorized under subsection (b)(4) concerns data that respondents were required by law to report and the agreement contains terms that could not reasonably have been anticipated by respondents who provided the data that will be disclosed, or upon the initiative of any party to such an agreement, or whenever ordered by the Director of the Office of Management and Budget, the terms of such agreement shall be described in a public notice issued by the agency that intends to disclose the data. Such notice shall allow a minimum of 60 days for public comment before such agreement shall take effect. The Director shall be fully apprised of any issues raised by the public and may suspend the effect of such an agreement to permit modifications responsive to public comments.

(d) APPLICABILITY OF OTHER LAWS.—(1) The disclosure of data or information by an agency to a Statistical Data Center under this section shall in no way alter the responsibility of that agency under other statutes (including the Freedom of Information Act and the Privacy Act) with respect to the disclosure or withholding of such information by that agency.

(2) If data or information obtained by an agency is disclosed to another agency pursuant to this section, all provisions of law (including penalties) that relate to the unlawful disclosure of the data or information apply to the officers, employees, or agents of the agency to which the data or information is disclosed to the same extent and in the same manner as the provisions apply to the officers and employees of the agency which originally obtained the information.

(3) The officers, employees, and agents of the agency to which the data or information is disclosed, in addition, shall be subject to the same provisions of law, including penalties, relating to the unlawful disclosure of information that would apply to officers and employees of that agency, if the information had been collected directly by that agency.

#### SEC. 7. COORDINATION AND OVERSIGHT BY OFFICE OF MANAGEMENT AND BUDGET.

(a) IN GENERAL.—The Director of the Office of Management and Budget shall coordinate and oversee the confidentiality and disclosure policies established by this Act.

(b) REPORT OF DISCLOSURE AGREEMENTS.—(1) The head of a Statistical Data Center shall report to the Office of Management and Budget—

(A) each disclosure agreement entered into pursuant to section 6(b)(4);

(B) the results of any review of information security undertaken at the request of the Office of Management and Budget; and

(C) the results of any similar review undertaken on the initiative of the Statistical Data Center or an agency disclosing data or information to a Statistical Data Center.

(2) The Director of the Office of Management and Budget shall include a summary of all reports submitted to the Director under this subsection and any actions taken by the Director to advance the purposes of this Act in the annual report to the Congress on statistical programs submitted in accordance with section 3504(e)(2) of title 44, United States Code.

(c) REVIEW AND APPROVAL OF RULES.—The Director of the Office of Management and Budget shall review and approve any rules proposed pursuant to this Act for consistency with this Act and chapter 35 of title 44, United States Code.

#### SEC. 8. IMPLEMENTING REGULATIONS.

(a) IN GENERAL.—Subject to subsections (b) and (c), the Director of the Office of Management and Budget, or the head of a Statistical Data Center or of an agency providing information to a Center, may promulgate such rules as may be necessary to implement this Act.

(b) CONSISTENCY.—The Director of the Office of Management and Budget shall promulgate rules or provide such other guidance as may be needed to ensure consistent interpretation of this Act by the affected agencies.

(c) AGENCY RULES.—Rules governing disclosures of information authorized by this Act shall be promulgated by the agency that originally collected the information, subject to the review and approval required under this Act.

#### SEC. 9. EFFECT ON OTHER LAWS.

(a) TITLE 44 U.S.C.—This Act, including the amendments made by this Act, does not diminish the authority under section 3510 of title 44, United States Code, of the Director of the Office of Management and Budget to direct, and of an agency to make, disclosures that are not inconsistent with any applicable law.

(b) EXEMPTION FROM FREEDOM OF INFORMATION ACT.—Data or information acquired for exclusively statistical purposes as provided in section 5 is exempt from mandatory disclosure under section 552 of title 5, United States Code, pursuant to section 552(b)(3) of such title.

(c) PREEMPTION OF STATE LAW.—Nothing in this Act shall preempt applicable State law regarding the confidentiality of data collected by the States.

**SEC. 10. CONFORMING AND PROPOSED CHANGES IN LAW.**

(a) DEPARTMENT OF COMMERCE.—(1) Section 1 of the Act of January 27, 1938 (15 U.S.C 176a) is amended by striking “The” and inserting “Except as provided in the Statistical Efficiency Act of 1999, the”.

(2)(A) Chapter 10 of title 13, United States Code, is amended by adding after section 401 the following:

**“§ 402. Exchange of census information with Statistical Data Centers**

“The Bureau of the Census is authorized to provide data collected under this title to Statistical Data Centers named in the Statistical Efficiency Act of 1999, or their successors designated under the terms of that Act.”

(B) The table of sections for chapter 10 of title 13, United States Code, is amended by adding after the item relating to section 401 the following:

“402. Exchange of census information with Statistical Data Centers.”.

(b) DEPARTMENT OF ENERGY.—(1) Section 205 of the Department of Energy Organization Act (Public Law 95–91; 42 U.S.C. 7135) is amended by adding after subsection (l) the following new subsection:

“(m)(1)(A) The Administrator shall designate an organizational unit to conduct statistical activities pertaining to energy end use consumption information. Using procedures authorized by the Statistical Efficiency Act of 1999, the Administrator shall ensure the security, integrity, and confidentiality of the information that has been submitted in identifiable form and supplied exclusively for statistical purposes either directly to the Energy Information Administration or by other Government agencies.

“(B) To carry out this section, the Administrator shall establish procedures for the disclosure of these data to Statistical Data Centers for statistical purposes only consistent with chapter 35 of title 44, United States Code (commonly referred to as the ‘Paperwork Reduction Act’), and the Statistical Efficiency Act of 1999.

“(2)(A) A person may not publish, cause to be published, or otherwise communicate, statistical information designated in paragraph (1) in a manner that identifies any respondent.

“(B) A person may not use statistical information designated in paragraph (1) for a nonstatistical purpose.

“(C) The identity of a respondent who supplies, or is the subject of, information collected for statistical purposes—

“(i) may not be disclosed through any process, including disclosure through legal process, unless the respondent consents in writing;

“(ii) may not be disclosed to the public, unless information has been transformed into a statistical or aggregate form that does not allow the identification of the respondent who supplied the information or who is the subject of that information; and

“(iii) may not, without the written consent of the respondent, be admitted as evidence or used for any purpose in an action, suit, or other judicial or administrative proceeding.

“(D) Any person who violates subparagraphs (A), (B), or (C), upon conviction, shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both.

“(E) For purposes of this subsection:

“(i) The term ‘person’ has the meaning given the term in section 1 of title 1, United States Code, but also includes a local, State, or Federal entity or officer or employee of a local, State, or Federal entity.

“(ii) The terms ‘statistical activities’, ‘identifiable form’, ‘statistical purpose’, ‘nonstatistical purpose’, and ‘respondent’ have the meaning given those terms in section 2 of the Statistical Efficiency Act of 1999.

“(3) Statistical information designated in paragraph (1) is exempt from disclosure under sections 205(f) and 407 of this Act and sections 12, 20, and 59 of the Federal Energy Administration Act of 1974, or any other law which requires disclosure of that information.”

(2) Section 205(f) of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by inserting “, excluding information designated solely for statistical purposes under subsection (m)(1),” after “analysis”.

(3) Section 407(a) of the Department of Energy Organization Act (42 U.S.C. 7177(a)) is amended by inserting “, excluding information designated solely for statistical purposes under section 205(m)(1),” after “information”.

(4) The Federal Energy Administration Act of 1974 (Public Law 93-275) is amended—

(A) in section 12 (15 U.S.C. 771), by adding after subsection (f) the following new subsection:

“(g) This section does not apply to information designated solely for statistical purposes under section 205(m)(1) of the Department of Energy Organization Act (Public Law 95-91).”;

(B) in section 20(a)(3) (15 U.S.C. 779(a)(3)), by inserting “, excluding information designated solely for statistical purposes under section 205(m)(1) of the Department of Energy Organization Act (42 U.S.C. 7135)” after “information”; and

(C) in the first sentence of section 59 (15 U.S.C. 790h), by inserting “, excluding information designated solely for statistical purposes under section 205(m)(1) of the Department of Energy Organization Act (42 U.S.C. 7135)” after “information”.

(c) DEPARTMENT OF HEALTH AND HUMAN SERVICES.—Section 306 of the Public Health Service Act (42 U.S.C. 242k) is amended by adding at the end the following new subsection:

“(o) SHARING OF IDENTIFYING INFORMATION FOR STATISTICAL PURPOSES.—

“(1) IN GENERAL.—The Director may, subject to the provisions of paragraph (2), designate as an agent of the Center (within the meaning of section 2 of the Statistical Efficiency Act of 1999) an individual—

“(A) who is not otherwise an employee, official, or agent of the Center; and

“(B) who enters into a written agreement with the Director specifying terms and conditions for sharing of statistical information.

“(2) EFFECT OF DESIGNATION.—An individual designated as an agent of the Center pursuant to paragraph (1) shall be subject to all restrictions on the use and disclosure of statistical information obtained by the individual under the agreement specified in paragraph (1)(B), and to all civil and criminal penalties applicable to violations of such restrictions, including penalties under section 1905 of title 18, United States Code, that would apply to the individual if an employee of the Center.”.

(d) DEPARTMENT OF LABOR.—The Commissioner of Labor Statistics is authorized to designate agents, as defined in section 2.

(e) NATIONAL SCIENCE FOUNDATION.—Section 14 of the National Science Foundation Act of 1950 (42 U.S.C. 1873) is amended—

(1) by amending subsection (i) to read as follows:

“(i) Information supplied to the Foundation or its contractor in survey forms, questionnaires, or similar instruments for purposes of section 3(a)(5) or (6) by an individual, by an industrial or commercial organization, or by an educational or academic institution that has received a pledge of confidentiality from the Foundation, may not be disclosed to the public unless the information has been transformed into statistical or abstract formats that do not allow the identification of the supplier. Such information shall be used in identifiable form only for statistical purposes as defined in the Statistical Efficiency Act of 1999. The names of individuals and organizations supplying such information may not be disclosed to the public.”;

(2) by adding the following new subsection after subsection (i):

“(j) In support of functions authorized by section 3(a)(5) or (6), the Foundation may designate, at its discretion, authorized persons, including employees of Federal, State, or local agencies (including local educational agencies) and employees of private organizations who may have access, for exclusively statistical purposes as defined in the Statistical Efficiency Act of 1999, to identifiable information collected pursuant to section 3(a)(5) or (6). No such person may—

“(1) publish information collected under section 3(a)(5) or (6) in such a manner that either an individual, an industrial or commercial organization, or an educational or academic institution that has received a pledge of confidentiality from the Foundation, can be specifically identified;

“(2) permit anyone other than individuals authorized by the Foundation to examine in identifiable form data relating to an individual, to an industrial or commercial organization, or to an educational or academic institution that has received a pledge of confidentiality from the Foundation; or

“(3) knowingly and willfully request or obtain any confidential information described in subsection (i) from the Foundation under false pretenses.

Any person who violates these restrictions shall be fined not more than \$10,000, or imprisoned not more than five years, or both.”.

(f) DISCLOSURE PENALTIES.—Section 1905 of title 18, United States Code, is amended by inserting “, or agent of a Statistical Data Center as defined in the Sta-

tistical Efficiency Act of 1999” after “thereof” in the first two places such term appears.

(g) PROPOSED CHANGES IN LAW.—Not later than the date that is 90 days after the date of the enactment of this Act, the President shall submit to Congress a description of any additional conforming changes in law necessary to carry out the provisions of this Act.

## I. PURPOSE

H.R. 2885, the “Statistical Efficiency Act of 1999,” would provide uniform standards for safeguarding the confidentiality of information acquired for exclusively statistical purposes, and permit limited sharing of records among designated agencies for statistical purposes.

## II. BACKGROUND AND NEED FOR LEGISLATION

The collection of Federal statistics began in 1787 when the framers of the Constitution created a decennial census of the population in Article I of the Constitution. Seeing the census as an opportunity to collect additional information, some members in Congress proposed using the first census to gather information on manufacturing. As subsequent census legislation worked its way through Congress in the early 19th century, legislators sought to use the information to inform the country about the state of the nation. By the middle of the 19th century the Government was accumulating statistics on agriculture, economics and labor. During the first half of the 20th century, a number of Federal statistical agencies were created by statute and administrative action.

Today Federal statistical activities are dispersed throughout the Government. The Office of Management and Budget has identified 70 Federal departments and agencies that comprise the Federal statistical system. Of the 70 agencies, 11 are considered principal statistical agencies because they collect, produce, and disseminate statistical information as their primary mission.<sup>1</sup> Most of the other agencies that produce and disseminate statistical data do so as an ancillary part of their mission. Together, the principal statistical agencies spend approximately \$1.6 billion annually on statistical activities. Of these agencies, three—the Bureau of the Census and the Bureau of Economic Analysis in the Department of Commerce and the Bureau of Labor Statistics in the Department of Labor—account for about \$1.1 billion of this total.

Federal statistical agencies operate under a number of laws, policies, or regulations that govern the collection, use, and confidentiality of statistical information. Some of these laws, policies, and regulations apply only to a specific agency, prohibiting it from sharing this data with other agencies. For example, the Bureau of the Census and the Bureau of Labor Statistics each compile and main-

<sup>1</sup>The 11 principal statistical agencies in the Federal government are the Bureau of the Census and the Bureau of Economic Analysis in the Department of Commerce; the Bureau of Labor Statistics in the Department of Labor; the National Center for Health Statistics in the Department of Health and Human Services; the Energy Information Administration in the Department of Energy; the National Agricultural Statistics Service and the Economic Research Service in the Department of Agriculture; the Statistics of Income Division in the Internal Revenue Service, Department of the Treasury; Bureau of Justice Statistics, in the Department of Justice; the Bureau of Transportation Statistics, in the Department of Transportation; and the National Center for Education Statistics, in the Department of Education.

tain their own lists of businesses, in large part because they cannot share this information.

This inability to share statistical data is one of the most significant issues facing the statistical system. It affects the quality of Government statistical data, the efficiency of the system, and increases the burden placed on those who provide information to statistical agencies. One important opportunity created by this bill would be to improve the efficiency of statistical surveys in the Federal Government. H.R. 2885 would make it possible for statistical agencies to share access to the Census Bureau master address file for drawing samples for surveys. This access would improve the efficiency of those surveys, reduce the cost to agencies, and reduce the burden on the public.

H.R. 2885 addresses these concerns. In addition, the bill would enhance the confidentiality protections for those who provide statistical data. Data or information collected or acquired by a designated Statistical Data Center for statistical purposes could only be used for statistical purposes. In addition, information acquired for statistical purposes could not be disclosed in identifiable form, for a purpose other than a statistical purpose, unless the person or entity supplying the information consents to the disclosure of such information in identifiable form. Disclosure of information to a Statistical Data Center must not be inconsistent with any law and must be made under the terms of a written agreement that identifies the data to be disclosed, the purpose for the disclosure, and the procedures to be used to safeguard the confidentiality of the information.

The bill establishes uniform privacy protections to those agencies with weaker or, in some cases non-existent, privacy provisions. Additionally, any designated Statistical Data Center receiving statistical information from another agency would be required to comply with the agency providing the data's disclosure laws or policies. An agent of a Statistical Data Center would also be subject to criminal penalties for the unauthorized disclosure of statistical data or information.

Representative Stephen Horn (R-CA) introduced H.R. 2885 on September 21, 1999, with six co-sponsors.<sup>2</sup> The legislation has the support of the Administration, the United States General Accounting Office, the Paperwork Reduction Commission, the Boskin Commission, the National Performance Review, and the National Academy of Sciences' Committee on National Statistics.

A number of legislative proposals to improve the efficiency of the Federal statistical system arose in the 104th and 105th Congresses in both the House of Representatives and the Senate. In the 105th Congress, Senators Sam Brownback (R-KS) and Daniel Patrick Moynihan (D-NY) introduced S. 1404, the "Federal Statistical System Act of 1997," and Representative Stephen Horn (R-CA) introduced H.R. 4620, the "Statistical Consolidation Act of 1998." Title I of each bill would have established a Federal Commission on Statistical Policy with the initial mandate of considering an organizational consolidation of key Federal statistical agencies. Title II of

<sup>2</sup>H.R. 2885 was co-sponsored by Rep. Henry Waxman (D-CA), Rep. Greg Walden (R-OR), Rep. Jim Turner (D-TX), Rep. Judy Biggert (R-IL), Rep. Tom Davis (R-VA) and Rep. Carolyn Maloney (D-NY).



each bill addressed the problem of data sharing among Federal agencies.

### III. COMMITTEE ACTIONS

Representative Stephen Horn (R-CA) introduced H.R. 2885 on September 21, 1999. The bill was referred to the Committee on Government Reform and was subsequently referred to the Subcommittee on Government Management, Information, and Technology. On September 22, 1999, the Subcommittee on Government Management, Information, and Technology met in open session, a quorum being present, and reported the bill as amended by voice vote to the Committee on Government Reform. The full committee met on September 30, 1999 and favorably reported the bill, as amended, by voice vote to the House of Representatives.

The amendment in the nature of a substitute offered by Government Management subcommittee Chairman Stephen Horn amended section 5(b) of the bill to prohibit disclosure of any data or information acquired for statistical purposes in an identifiable form for any purpose other than a statistical purpose without the informed consent of the respondent. The amendment offered by Representative Horn at the full committee markup also reflected the changed name of the Energy Consumption Division of the Department of Energy.

### IV. COMMITTEE HEARINGS AND WRITTEN TESTIMONY

Although there were no committee hearings held in the 106th Congress on H.R. 2885, the Subcommittee on Government Management, Information, and Technology has held three hearings since the 104th Congress on proposals to improve the efficiency of the Federal statistical system. In the 104th Congress, the subcommittee held a hearing on March 22, 1996, on H.R. 2521, the "Statistical Consolidation Act of 1995." In the 105th Congress, the subcommittee held a hearing on July 29, 1997, entitled, "Oversight of Statistical Proposals," and another hearing on March 26, 1998, on the "Statistical Consolidation Act of 1998," and S. 1404, the "Federal Statistical System Act of 1997." The legislative proposals considered by the subcommittee during the hearings held in the 105th Congress each contained a provision almost identical to the language in H.R. 2885, the "Statistical Efficiency Act of 1999."

*March 26, 1998 hearing on the "Statistical Consolidation Act of 1998" and S. 1404 the "Federal Statistical System Act of 1997"*

At the March 26, 1998 hearing, the subcommittee received testimony from Senator Daniel Patrick Moynihan; Mr. L. Nye Stevens, Director of Federal Management and Workforce Issues, General Accounting Office; Mr. Charles A. Waite, former Associate Director, Bureau of the Census; Dr. Howard J. Silver, Executive Director of the Consortium of Social Science Associations; and Dr. Joel Popkin, former Associate Director, Bureau of Labor Statistics.

*July 29, 1997 hearing on "Oversight of Statistical Proposals"*

On July 29, 1997, the subcommittee held a hearing entitled "Oversight of Statistical Proposals." At this hearing, the sub-

committee considered three proposals designed to encourage greater cooperation and coordination between the Federal Government's statistical agencies. The first proposal was to consolidate the Bureau of Economic Analysis, the Census Bureau and the Bureau of Labor Statistics into a single entity. The second proposal called for the creation of a commission charged with recommending a strategy to maintain a modern and efficient statistical infrastructure. The third proposal was to authorize statistical agencies to share statistical information under uniform confidentiality safeguards. At this hearing, the subcommittee received testimony from The Honorable Sally Katzen, Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget; Dr. Edward Sondik, Director of the National Center for Health Statistics, Center for Disease Control and Prevention; Mr. Jay Hakes, member of the Interagency Council on Statistical Policy; Dr. Everett M. Ehrlich, former Under Secretary for Economic Affairs, Department of Commerce; Mr. Mark Wilson, Heritage Foundation; and Ms. Mary Susan Vickers, Director of Labor Market Information and Research for the Interstate Conference of Employment Security Agencies.

*March 22, 1996, hearing on H.R. 2521, the "Statistical Consolidation Act of 1995"*

At the March 22, 1996, hearing, the Government Management subcommittee considered H.R. 2521, the "Statistical Consolidation Act of 1995." That bill would have consolidated the three primary statistical agencies of the Federal Government—the Bureau of the Census, the Bureau of Statistics, and the Bureau of Economic Analysis—into a new Federal Statistical Service. Witnesses at this hearing included the Honorable Janet Norwood, former Commissioner of the Bureau of Labor Statistics; Dr. James T. Bonnen, professor, Michigan State University; the Honorable Everett M. Ehrlich, Under Secretary for Economic Affairs, Department of Commerce; the Honorable Katharine G. Abraham, Commissioner, Bureau of Labor Statistics; the Honorable Martha Farnsworth Riche, Director, Bureau of the Census; Dr. Maurine A. Haver, National Association of Business Economists; Dr. John L. Knapp, President, Council of Professional Associations on Federal Statistics; and Dr. Lynne Billard, professor, University of Georgia.

## V. EXPLANATION OF THE BILL

### *Section 1—Short title*

The title of the legislation is the "Statistical Efficiency Act of 1999."

### *Section 2—Definitions*

This section establishes definitions for the terms used in the bill that determine the scope of the confidentiality protections.

"Agency" means all executive agencies under 31 U.S.C. 102, as well as those subject to the specific statistical and paperwork policies of 44 U.S.C. 3502. The term includes various national laboratories to the extent they are engaged in non-classified research (classified information is specifically excluded from the exchanges authorized by the Act in section 205(b)). These laboratories have

become repositories for important research on the environment, energy consumption, and other areas, and such information is intended to be covered by the Act.

“Agent” means a person designated by a Statistical Data Center to perform exclusively statistical activities under the supervision or control of an officer of that Statistical Data Center, and who has agreed in writing to comply with all provisions of law that affect information acquired by that Statistical Data Center. The term “agent” defined in this bill includes Federal employees and persons who are not employees of the Federal Government. Agents, whether Federal employees or not, are subject to all provisions of this bill.

“Identifiable form” means any representation of information that permits information concerning an individual respondent to be inferred by either direct or indirect means.

“Nonstatistical purpose” means any purpose that is not a statistical purpose including any administrative, regulatory, law enforcement, adjudicatory, or other purpose that affects the rights, privileges, or benefits of a particular identifiable respondent.

“Respondent” means a person, corporation, or organization which is requested or required to supply information to a statistical agency, who is the subject of information requested or required to be supplied to a statistical agency, or who provides that information to a statistical agency.

“Statistical activities” means (1) the collection, compilation, processing, or analysis of data for the purpose of describing or making estimates concerning the whole of, or relevant groups or components within, the economy, society, or the natural environment; and (2) includes the development of methods or resources that support those activities, such as measurement methods, models, statistical classifications, or sampling frames.

“Statistical purpose” means (1) the description, estimation, or analysis of the characteristics of groups without regard to the identities of respondents that comprise such groups; and (2) include the development, implementation, or maintenance of methods, technical or administrative procedures, or information resources that support such purposes.

### *Section 3—Designation of Statistical Data Centers*

Subsection (a) establishes eight selected agencies whose purposes are predominantly statistical/analytical as Statistical Data Centers. These agencies include the Bureau of Economic Analysis in the Department of Commerce; the Bureau of the Census in the Department of Commerce; the Bureau of Labor Statistics in the Department of Labor; the National Agricultural Statistics Service in the Department of Agriculture; the National Center for Education Statistics in the Department of Education; the National Center for Health Statistics in the Department of Health and Human Services; the Energy Consumption Division of the Energy Information Administration in the Department of Energy; and the Division of Science Resources Studies in the National Science Foundation.

Subsection (b) provides authority for dealing with any future reorganization affecting a Statistical Data Center originally designated under subsection (a). In the case of a reorganization that

eliminates, or substantially alters the mission or functions of one of the eight original Statistical Data Centers, the Director of the Office of Management and Budget, after consultation with the head of the agency proposing the reorganization, may designate an agency or agency component that shall serve as a successor Statistical Data Center under the terms of this Act. Prior to making the designation, the Director must determine that the primary activities of the proposed successor are statistical activities specifically authorized by law; that the proposed successor Center would participate in data sharing activities that would significantly improve the Federal statistical system; that the proposed Center has proven its ability to protect the confidentiality of shared data; and that existing laws applicable to the proposed Center are consistent with the requirement of this Act.

Subsection (c) provides that after consultation with the Director of the Office of Management and Budget, the head of an agency seeking designation as a successor Statistical Data Center is required to provide public notice and an opportunity for comment on the consequences of such designation and on those determinations upon which the designation is to be based.

Subsection (d) provides that no action taken under this section shall increase the number of Statistical Data Centers authorized by the act.

#### *Section 4—Statistical Data Center responsibilities*

This section assigns general responsibilities to the agencies designated as Statistical Data Centers. The Statistical Data Centers are required to identify ways to eliminate duplication and reduce the reporting burden on and cost to the public by sharing information for statistical purposes; to enter into joint projects to improve the quality and reduce the costs of statistical programs; and to ensure the confidentiality of individually identifiable information; and to respect the rights and privileges of the public by observing and promoting “fair information practices,” a set of policies elaborated and endorsed in reports of both the Privacy Protection Study Commission and the Commission on Federal Paperwork.

#### *Section 5—Limitations on use and disclosure of data and information by Statistical Data Centers*

This provision defines the extent to which statistical data or information may be used as well as the disclosure limitations.

Subsection (a) provides that a Statistical Data Center use data or information acquired exclusively for statistical purposes only for statistical purposes.

Subsection (b) provides that data or information acquired for exclusively statistical purposes shall not be disclosed in identifiable form for any other purpose without the informed consent of the respondent.

Subsection (c) provides that a Statistical Data Center shall clearly identify any data or information collected for nonstatistical purposes (as authorized by law) by the Statistical Data Center, with a rule providing that the respondent supplying the data or information is fully informed, before the data or information is collected, that the data or information will be used for nonstatistical purpose.

*Section 6—Disclosure of data or information by agencies to Statistical Data Centers*

Subsection (a) provides that subject to the limitations in subsection (b), any agency may disclose data or information to a Statistical Data Center for exclusively statistical purposes.

Subsection (b) provides the limitations on disclosure of data or information to a Statistical Data Center. This subsection lists five conditions that must be met when an agency discloses information to a Statistical Data Center. The five conditions are:

(1) The data or information is to be used exclusively for statistical purposes by the Statistical Data Center.

(2) The disclosure of and the proposed use of the information by the Statistical Data Center is not inconsistent with any provisions of law or Executive order that explicitly limits the statistical purpose for which the information may be used.

(3) Disclosure is not prohibited by law in the interests of national security.

(4) Disclosure is made under the terms of a written agreement, between the agency and the Statistical Data Center, that specifies the data or information to be disclosed, the purposes for which the data or information are to be used, and procedures to safeguard the confidentiality of the information.

(5) The information is not to be disclosed by an agency to a Statistical Data Center in identifiable form, unless the disclosure is made to another party to the agreement referred to in subsection (b)(4), exclusively for statistical purposes.

Subsection (c) provides that upon the initiative of any party to the agreement under subsection (b)(4) or upon the order of the Director of the Office of Management and Budget, the agency disclosing data shall issue a public notice that provides at least a 60-day period for comment on the terms of the agreement. This notice and comment requirement also applies whenever the written agreement under (b)(4) concerns data that respondents were required by law to report and the agreement contains terms that could not reasonably have been anticipated by respondents who provided the data that will be disclosed.

Subsection (d) ensures that the disclosure of data or information by an agency to a Statistical Data Center under this Act does not affect the responsibility of the agency providing the information under other laws, including the Freedom of Information Act and the Privacy Act, with respect to the data or information disclosed. This subsection also provides that all provisions of law relating to the unlawful disclosure of information apply to the officers, employees, or agents of the Statistical Data Center to which the information is disclosed, to the same extent as the provisions apply to the officers, employees, or agents of the agency which originally obtained the information. Moreover, officers, employees and agents of the agency receiving the information are subject to all provisions of law relating to the unlawful disclosure of information by the receiving agency, to the same extent as if the receiving agency originally obtained the information. In addition, this subsection applies the laws relating to unlawful disclosure of information gathered directly by the agency to which the disclosure was made to the information disclosed to that agency. Thus the unlawful disclosure laws

of both the agency sharing the data and the agency receiving the data shall apply to the officers, employees or agents of the agency receiving the shared data.

*Section 7—Coordination and oversight by the Office of Management and Budget*

Subsection (a) provides that the Director of the Office of Management and Budget shall coordinate and oversee the disclosure and confidentiality policies under this Act.

Subsection (b) provides that Statistical Data Centers shall report to the Office of Management and Budget each written disclosure agreement required by this bill and the results of any review of information security by the Office of Management and Budget, a Statistical Data Center, or an agency disclosing data or information. The Office of Management and Budget shall include a summary of all reports and any action taken by the Office of Management and Budget to advance the purposes of this title, in its annual report to Congress on statistical programs.

Subsection (c) provides that the Director of the Office of Management and Budget shall review and approve any rules proposed pursuant to this title and the Paperwork Reduction Act.

*Section 8—Implementing regulations*

This Section authorizes rule making by the Office of Management and Budget, a Statistical Data Center or an agency supplying information to implement this Act. The Office of Management and Budget is required to adopt rules or otherwise provide guidance to ensure the consistent interpretation of this Act. Agencies that originally collect information that is subsequently disclosed under this Act are required to adopt regulations governing such disclosure.

*Section 9—Effect on other laws*

Subsection (a) provides that the authority granted by this Act does not diminish the authority available pursuant to 44 U.S.C. 3510. Under that section of the Code, the Director of the Office of Management and Budget may direct an agency to make available to another agency, or an agency may on its own make available to another agency, information obtained pursuant to an information collection request, if the disclosure is not inconsistent with any applicable law. This title does not diminish the authority of the Office of Management and Budget to direct, and agencies to make disclosures that are not inconsistent with any applicable law.

Subsection (b) provides that information acquired exclusively for statistical purposes by Statistical Data Centers (as provided in section 5) is exempt from mandatory disclosure under the Freedom of Information Act.

Subsection (c) provides that nothing in this Act shall preempt applicable State law regarding the confidentiality of data collected by the States.

*Section 10—Conforming amendments; proposed changes in law*

Subsection (a) pertains to the Department of Commerce. A provision prohibiting disclosure of confidential information by the Bureau of Foreign and Domestic Commerce is amended to permit dis-

closure pursuant to this Act. A new provision is added to title 13 of the United States Code to permit the exchange of information between the Census Bureau and Statistical Data Centers.

Subsection (b) pertains to the Department of Energy. The provision establishing the Energy Information Administration and its duties is amended to require the Administrator of the Energy Information Administration to designate a unit to conduct statistical activities pertaining to energy end use consumption information. Such activities are to be conducted under procedures and policies in accordance with the confidentiality and disclosure provisions of this Act.

Subsection (c) regards the Department of Health and Human Services. The provision establishing the National Center for Health Statistics and its duties is amended by adding a new subsection authorizing its Director to designate agents as defined in section 201(2) of this Act.

Subsection (d) pertains to the Department of Labor. The Commissioner of Labor Statistics is authorized to designate agents as defined in section 201(2) of this Act.

Subsection (e) regards the National Science Foundation. The provision concerning the disclosure of information by the National Science Foundation is amended to permit the use of information in identifiable form only for statistical purposes as defined in this Act. Also, a new provision is added to permit the Foundation to designate authorized persons who may have access to identifiable information for exclusively statistical purposes as defined in this Act. Such persons are subject to restrictions concerning the confidentiality and disclosure of identifiable information and are subject to criminal penalties for violations of such restrictions.

Subsection (f) pertains to disclosure penalties. The provision of the Federal criminal code penalizing disclosure by Federal officers or employees of confidential information not otherwise authorized by law is amended to cover agents of Statistical Data Centers as defined in this Act.

Subsection (g) regards proposed changes in law. Not later than 90 days after the enactment of this Act, the President shall submit to Congress a description of any additional changes in Federal law necessary to carry out the provisions of this Act.

## VI. COMMITTEE OVERSIGHT FINDINGS

Pursuant to rule XIII, clause 3(c)(1), of the Rules of the House of Representatives, the results and findings for those oversight activities are incorporated in the recommendations found in the bill and in this report.

## VII. BUDGET ANALYSIS AND PROJECTIONS

Clause 3(c)(2) of rule XIII, of the Rules of the House of Representatives, is inapplicable because the bill does not provide new budget authority, new spending authority, new credit authority, or an increase or decrease in revenues or tax expenditures.

## VIII. COST ESTIMATE OF THE CONGRESSIONAL BUDGET OFFICE

U.S. CONGRESS,  
 CONGRESSIONAL BUDGET OFFICE,  
 Washington, DC, October 22, 1999.

Hon. DAN BURTON,  
 Chairman, Committee on Government Reform,  
 House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2885, the Statistical Efficiency Act of 1999.

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

Sincerely,

BARRY B. ANDERSON  
 (For Dan L. Crippen, Director).

Enclosure.

*H.R. 2885—Statistical Efficiency Act of 1999*

H.R. 2885 would designate eight bureaus and offices as statistical data centers: the Bureau of Economic Analysis, the Bureau of the Census, the Bureau of Labor Statistics (BLS), the National Agricultural Statistics Service, the National Center for Education Statistics, the National Center for Health Statistics, the Energy Consumption Division in the Department of Energy, and the Division of Science Resources Studies in the National Science Foundation. Together, these agencies received appropriations of about \$2.1 billion in 1999. Subject to certain confidentiality procedures, the bill would allow the centers to share statistical data, eliminate duplicate reporting requirements, and enter into joint projects to improve the quality and lower the cost of statistical programs. In addition, the bill would allow other federal agencies to share data with the eight centers for purely statistical purposes. In general, under current law, an agency that collects data is not allowed to share the information with another agency.

H.R. 2885 could lower the government's cost to collect statistical data if it results in the eight centers pooling resources and eliminating duplicate efforts. Although it is uncertain how much agencies would share resources and data under H.R. 2885, based on information from the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB), CBO estimates that implementing the bill would reduce information collection costs by about \$2 million a year. Any such savings would depend on the amounts provided to these agencies in appropriations acts. In addition, by allowing agencies to share and compare data, the bill also could improve the quality of federal statistics, but CBO has no basis for estimating the budgetary impact of such improvements. Finally, subject to the availability of appropriated funds, CBO estimates that the bill would cost OMB less than \$500,000 annually to write regulations and oversee the bill's implementation.

Enacting H.R. 2885 could result in the collection of additional criminal fines, which affect both governmental receipts and direct spending; therefore, pay-as-you-go procedures would apply. CBO estimates that neither the receipts nor the spending would exceed



\$500,000 in any one year. H.R. 2885 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact is John R. Righter. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### IX. STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to rule XIII, clause 3(d)(1), the Committee finds that clauses 1 and 18 of Article I, Section 8 of the U.S. Constitution grant Congress the power to enact this law.

#### X. COMMITTEE RECOMMENDATION

On September 30, 1999, a quorum being present, the Committee on Government Reform ordered the bill favorably reported by voice vote to the House for consideration.

#### XI. CONGRESSIONAL ACCOUNTABILITY ACT; PUBLIC LAW 104-1

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(B)(3) of the Congressional Accountability Act (P.L. 104-1).

#### XII. UNFUNDED MANDATES REFORM ACT; PUBLIC LAW 104-4, SECTION 423

The Committee finds that the legislation does not impose any Federal mandates within the meaning of section 423 of the Unfunded Mandates Reform Act (P.L. 104-4).

#### XIII. FEDERAL ADVISORY COMMITTEE ACT (5 U.S.C. APP.) SECTION 5(B)

The Committee finds that the legislation does not establish or authorize establishment of an advisory committee within the definition of 5 U.S.C. App., section 5(b).

#### XIV. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

#### **SECTION 1 OF THE ACT OF JANUARY 27, 1938**

AN ACT To make confidential certain information furnished to the Bureau of Foreign and Domestic Commerce, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That any statistical information furnished in confidence to the Bureau of Foreign and Domestic Commerce by individuals, corporations, and firms shall be held to be confidential, and shall be used only for the sta-

tistical purposes for which it is supplied. **[The]** *Except as provided in the Statistical Efficiency Act of 1999, the Director of the Bureau of Foreign and Domestic Commerce shall not permit anyone other than the sworn employees of the Bureau to examine such individual reports, nor shall he permit any statistics of domestic commerce to be published in such manner as to reveal the identity of the individual, corporation, or firm furnishing such data.*

---

**TITLE 13, UNITED STATES CODE**

\* \* \* \* \*

**CHAPTER 10—EXCHANGE OF CENSUS INFORMATION**

Sec.  
 401. Exchange of census information with Bureau of Economic Analysis.  
 402. *Exchange of census information with Statistical Data Centers.*

\* \* \* \* \*

**§ 402. Exchange of census information with Statistical Data Centers**

*The Bureau of the Census is authorized to provide data collected under this title to Statistical Data Centers named in the Statistical Efficiency Act of 1999, or their successors designated under the terms of that Act.*

---

**DEPARTMENT OF ENERGY ORGANIZATION ACT**

\* \* \* \* \*

**TITLE II—ESTABLISHMENT OF THE DEPARTMENT**

\* \* \* \* \*

**ENERGY INFORMATION ADMINISTRATION**

**SEC. 205. (a)(1)** \* \* \*

\* \* \* \* \*

(f) The Administrator shall, upon request, promptly provide any information or analysis, *excluding information designated solely for statistical purposes under subsection (m)(1)*, in his possession pursuant to this section to any other administration, commission, or office within the Department which such administration, commission, or office determines relates to the functions of such administration, commission, or office.

\* \* \* \* \*

*(m)(1)(A) The Administrator shall designate an organizational unit to conduct statistical activities pertaining to energy end use consumption information. Using procedures authorized by the Statistical Efficiency Act of 1999, the Administrator shall ensure the security, integrity, and confidentiality of the information that has been submitted in identifiable form and supplied exclusively for statistical purposes either directly to the Energy Information Administration or by other Government agencies.*

(B) To carry out this section, the Administrator shall establish procedures for the disclosure of these data to Statistical Data Centers for statistical purposes only consistent with chapter 35 of title 44, United States Code (commonly referred to as the “Paperwork Reduction Act”), and the Statistical Efficiency Act of 1999.

(2)(A) A person may not publish, cause to be published, or otherwise communicate, statistical information designated in paragraph (1) in a manner that identifies any respondent.

(B) A person may not use statistical information designated in paragraph (1) for a nonstatistical purpose.

(C) The identity of a respondent who supplies, or is the subject of, information collected for statistical purposes—

(i) may not be disclosed through any process, including disclosure through legal process, unless the respondent consents in writing;

(ii) may not be disclosed to the public, unless information has been transformed into a statistical or aggregate form that does not allow the identification of the respondent who supplied the information or who is the subject of that information; and

(iii) may not, without the written consent of the respondent, be admitted as evidence or used for any purpose in an action, suit, or other judicial or administrative proceeding.

(D) Any person who violates subparagraphs (A), (B), or (C), upon conviction, shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both.

(E) For purposes of this subsection:

(i) The term “person” has the meaning given the term in section 1 of title 1, United States Code, but also includes a local, State, or Federal entity or officer or employee of a local, State, or Federal entity.

(ii) The terms “statistical activities”, “identifiable form”, “statistical purpose”, “nonstatistical purpose”, and “respondent” have the meaning given those terms in section 2 of the Statistical Efficiency Act of 1999.

(3) Statistical information designated in paragraph (1) is exempt from disclosure under sections 205(f) and 407 of this Act and sections 12, 20, and 59 of the Federal Energy Administration Act of 1974, or any other law which requires disclosure of that information.

\* \* \* \* \*

TITLE IV—FEDERAL ENERGY REGULATORY COMMISSION

\* \* \* \* \*

ACCESS TO INFORMATION

SEC. 407. (a) The Secretary, each officer of the Department, and each Federal agency shall provide to the Commission, upon request, such existing information, *excluding information designated solely for statistical purposes under section 205(m)(1)*, in the possession of the Department or other Federal agency as the Commission

determines is necessary to carry out its responsibilities under this Act.

\* \* \* \* \*

**FEDERAL ENERGY ADMINISTRATION ACT OF 1974**

\* \* \* \* \*

**PART A—FEDERAL ENERGY ADMINISTRATION**

\* \* \* \* \*

**ACCESS TO INFORMATION BY THE COMPTROLLER GENERAL**

SEC. 12. (a) \* \* \*

\* \* \* \* \*

*(g) This section does not apply to information designated solely for statistical purposes under section 205(m)(1) of the Department of Energy Organization Act (Public Law 95-91).*

\* \* \* \* \*

**COORDINATION WITH, AND TECHNICAL ASSISTANCE TO, STATE GOVERNMENTS**

SEC. 20. (a) The Administrator shall—

(1) \* \* \*

\* \* \* \* \*

(3) provide, in accordance with the provisions of this Act, upon request, to State governments all relevant information, *excluding information designated solely for statistical purposes under section 205(m)(1) of the Department of Energy Organization Act (42 U.S.C. 7135)* he possesses concerning the status and impact of energy shortages, the extent and location of available supplies and shortages of crude oil, petroleum products, natural gas, and coal, within the distribution area serving that particular State government; and

\* \* \* \* \*

**PART B—OFFICE OF ENERGY INFORMATION AND ANALYSIS**

\* \* \* \* \*

**CONGRESSIONAL ACCESS TO INFORMATION IN POSSESSION OF THE OFFICE**

SEC. 59. The Director shall promptly provide upon request any energy information, *excluding information designated solely for statistical purposes under section 205(m)(1) of the Department of Energy Organization Act (42 U.S.C 7135)* in the possession of the Office to any duly established committee of the Congress. Such information shall be deemed the property of such committee and may not be disclosed except in accordance with the rules of such committee and the Rules of the House of Representatives or the Senate and as permitted by law.

\_\_\_\_\_

**SECTION 306 OF THE PUBLIC HEALTH SERVICE ACT**

NATIONAL CENTER FOR HEALTH STATISTICS

SEC. 306. (a) \* \* \*

\* \* \* \* \*

(o) *SHARING OF IDENTIFYING INFORMATION FOR STATISTICAL PURPOSES.*—

(1) *IN GENERAL.*—*The Director may, subject to the provisions of paragraph (2), designate as an agent of the Center (within the meaning of section 2 of the Statistical Efficiency Act of 1999) an individual—*

*(A) who is not otherwise an employee, official, or agent of the Center; and*

*(B) who enters into a written agreement with the Director specifying terms and conditions for sharing of statistical information.*

(2) *EFFECT OF DESIGNATION.*—*An individual designated as an agent of the Center pursuant to paragraph (1) shall be subject to all restrictions on the use and disclosure of statistical information obtained by the individual under the agreement specified in paragraph (1)(B), and to all civil and criminal penalties applicable to violations of such restrictions, including penalties under section 1905 of title 18, United States Code, that would apply to the individual if an employee of the Center.*

**SECTION 14 OF THE NATIONAL SCIENCE FOUNDATION ACT OF 1950**

\* \* \* \* \*

MISCELLANEOUS PROVISIONS

SEC. 14. (a)(1) \* \* \*

\* \* \* \* \*

**[(i) Information supplied to the Foundation or a contractor of the Foundation by an industrial or commercial organization in survey forms, questionnaires, or similar instruments for the purposes of subsection (a)(5) or (a)(6) of section 3 may not be disclosed to the public unless such information has been transformed into statistical or aggregate formats that do not allow the identification of the supplier. The names of organizations supplying such information may not be disclosed to the public.]**

*(i) Information supplied to the Foundation or its contractor in survey forms, questionnaires, or similar instruments for purposes of section 3(a)(5) or (6) by an individual, by an industrial or commercial organization, or by an educational or academic institution that has received a pledge of confidentiality from the Foundation, may not be disclosed to the public unless the information has been transformed into statistical or abstract formats that do not allow the identification of the supplier. Such information shall be used in identifiable form only for statistical purposes as defined in the Statistical Efficiency Act of 1999. The names of individuals and organi-*

*zations supplying such information may not be disclosed to the public.*

*(j) In support of functions authorized by section 3(a)(5) or (6), the Foundation may designate, at its discretion, authorized persons, including employees of Federal, State, or local agencies (including local educational agencies) and employees of private organizations who may have access, for exclusively statistical purposes as defined in the Statistical Efficiency Act of 1999, to identifiable information collected pursuant to section 3(a)(5) or (6). No such person may—*

*(1) publish information collected under section 3(a)(5) or (6) in such a manner that either an individual, an industrial or commercial organization, or an educational or academic institution that has received a pledge of confidentiality from the Foundation, can be specifically identified;*

*(2) permit anyone other than individuals authorized by the Foundation to examine in identifiable form data relating to an individual, to an industrial or commercial organization, or to an educational or academic institution that has received a pledge of confidentiality from the Foundation; or*

*(3) knowingly and willfully request or obtain any confidential information described in subsection (i) from the Foundation under false pretenses.*

*Any person who violates these restrictions shall be fined not more than \$10,000, or imprisoned not more than five years, or both.*

---

## **SECTION 1905 OF TITLE 18, UNITED STATES CODE**

### **§ 1905. Disclosure of confidential information generally**

Whoever, being an officer or employee of the United States or of any department or agency thereof, *or agent of a Statistical Data Center as defined in the Statistical Efficiency Act of 1999*, any person acting on behalf of the Office of Federal Housing Enterprise Oversight, or agent of the Department of Justice as defined in the Antitrust Civil Process Act (15 U.S.C. 1311–1314), publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, *or agent of a Statistical Data Center as defined in the Statistical Efficiency Act of 1999*, which information concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association; or permits any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; shall be fined under this title, or imprisoned not more than one year, or both; and shall be removed from office or employment.