

## Union Calendar No. 303

115TH CONGRESS  
1ST SESSION

# H. R. 4174

[Report No. 115–411]

To amend titles 5 and 44, United States Code, to require Federal evaluation activities, improve Federal data management, and for other purposes.

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### IN THE HOUSE OF REPRESENTATIVES

OCTOBER 31, 2017

Mr. RYAN of Wisconsin (for himself, Mr. FARENTHOLD, Mr. GOWDY, and Mr. KILMER) introduced the following bill; which was referred to the Committee on Oversight and Government Reform

NOVEMBER 15, 2017

Committed to the Committee of the Whole House on the State of the Union  
and ordered to be printed

# **A BILL**

To amend titles 5 and 44, United States Code, to require Federal evaluation activities, improve Federal data management, 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,*

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

4 (a) SHORT TITLE.—This Act may be cited as the  
 5 “Foundations for Evidence-Based Policymaking Act of  
 6 2017”.

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

Sec. 1. Short title; table of contents.

TITLE I—FEDERAL EVIDENCE-BUILDING ACTIVITIES

Sec. 101. Federal evidence-building activities.

TITLE II—OPEN GOVERNMENT DATA ACT

Sec. 201. Short title.

Sec. 202. OPEN Government Data.

TITLE III—CONFIDENTIAL INFORMATION PROTECTION AND  
 STATISTICAL EFFICIENCY

Sec. 301. Short title.

Sec. 302. Confidential information protection and statistical efficiency.

Sec. 303. Increasing access to data for evidence.

TITLE IV—GENERAL PROVISIONS

Sec. 401. Rule of construction.

Sec. 402. Effective date.

9 **TITLE I—FEDERAL EVIDENCE-**  
 10 **BUILDING ACTIVITIES**

11 **SEC. 101. FEDERAL EVIDENCE-BUILDING ACTIVITIES.**

12 (a) IN GENERAL.—Chapter 3 of part I of title 5,  
 13 United States Code, is amended—

14 (1) before section 301, by inserting the fol-  
 15 lowing:

1 “SUBCHAPTER I—GENERAL PROVISIONS”; and

2 (2) by adding at the end the following:

3 “SUBCHAPTER II—FEDERAL EVIDENCE-

4 BUILDING ACTIVITIES

5 **“§ 311. Definitions**

6 “In this subchapter:

7 “(1) AGENCY.—The term ‘agency’ means an  
8 agency referred to under section 901(b) of title 31.

9 “(2) DIRECTOR.—The term ‘Director’ means  
10 the Director of the Office of Management and Budg-  
11 et.

12 “(3) EVALUATION.—The term ‘evaluation’  
13 means an assessment using systematic data collec-  
14 tion and analysis of one or more programs, policies,  
15 and organizations intended to assess their effective-  
16 ness and efficiency.

17 “(4) EVIDENCE.—The term ‘evidence’ means  
18 evaluation, policy research and analysis, and infor-  
19 mation produced as a result of statistical activities  
20 conducted for a statistical purpose.

21 “(5) STATE.—The term ‘State’ means each of  
22 the several States, the District of Columbia, each  
23 territory or possession of the United States, and  
24 each federally recognized Indian Tribe.

1           “(6) STATISTICAL ACTIVITIES; STATISTICAL  
2       AGENCY OR UNIT; STATISTICAL PURPOSE.—The  
3       terms ‘statistical activities’, ‘statistical agency or  
4       unit’, and ‘statistical purpose’ have the meanings  
5       given those terms in section 3561 of title 44.

6   **“§ 312. Agency evidence-building plan**

7       “(a) REQUIREMENT.—Not later than the first Mon-  
8       day in February of each year, the head of each agency  
9       shall submit to the Director and Congress a systematic  
10      plan for identifying and addressing policy questions rel-  
11      evant to the programs, policies, and regulations of the  
12      agency. Such plan shall be made available on the public  
13      website of the agency and shall cover at least a 4-year  
14      period beginning with the first fiscal year following the  
15      fiscal year in which the plan is submitted and published  
16      and contain the following:

17           “(1) A list of policy-relevant questions for  
18           which the agency intends to develop evidence to sup-  
19           port policymaking.

20           “(2) A list of data the agency intends to collect,  
21           use, or acquire to facilitate the use of evidence in  
22           policymaking.

23           “(3) A list of methods and analytical ap-  
24           proaches that may be used to develop evidence to  
25           support policymaking.

1           “(4) A list of any challenges to developing evi-  
2           dence to support policymaking, including any statu-  
3           tory or other restrictions to accessing relevant data.

4           “(5) A description of the steps the agency will  
5           take to accomplish paragraphs (1) and (2).

6           “(6) Any other information as required by guid-  
7           ance issued by the Director.

8           “(b) CONSULTATION.—In developing the plan re-  
9           quired under subsection (a), the head of an agency shall  
10          consult with the following:

11           “(1) The public.

12           “(2) Any evaluation or analysis unit and per-  
13           sonnel of the agency.

14           “(3) Agency officials responsible for imple-  
15           menting privacy policy.

16           “(4) The Chief Data Officer of the agency.

17           “(5) The officials of the agency designated  
18           under section 315.

19           “(6) The Performance Improvement Officer of  
20           the agency.

21           “(7) Program administrators of the agency.

22           “(8) The committees of the House of Rep-  
23           resentatives and Senate with oversight jurisdiction  
24           over the agency.

1 **“§ 313. Governmentwide evidence-building coordina-**  
2 **tion**

3 “(a) UNIFIED EVIDENCE-BUILDING COORDINA-  
4 TION.—

5 “(1) IN GENERAL.—The Director shall consoli-  
6 date the plans submitted under section 312 in a uni-  
7 fied evidence-building plan. The Director shall notify  
8 agency heads of potentially overlapping or unneces-  
9 sary duplicative data acquisition plans and facilitate  
10 interagency evidence gathering and sharing. The  
11 head of the agency may incorporate the results of  
12 any interagency coordination by updating the plan  
13 required under section 312. The Director shall incor-  
14 porate any such agency update in the unified evi-  
15 dence-building plan.

16 “(2) CONSULTATION.—In developing the uni-  
17 fied evidence-building plan required under paragraph  
18 (1), the Director shall consult with the following:

19 “(A) The public.

20 “(B) The Interagency Council on Evalua-  
21 tion Policy established under subsection (b).

22 “(C) The Interagency Council on Statis-  
23 tical Policy established under section 3504(e)(8)  
24 of title 44.

25 “(D) Any other relevant interagency coun-  
26 cil.

1                   “(E) The head of each agency.

2           “(b) INTERAGENCY COUNCIL ON EVALUATION POL-  
3 ICY.—

4                   “(1) ESTABLISHMENT.—There is established an  
5 Interagency Council on Evaluation Policy (in this  
6 section referred to as the ‘Council’) to advise and as-  
7 sist the Director in supporting Governmentwide eval-  
8 uation activities and policies.

9                   “(2) PURPOSE AND FUNCTION.—The Council  
10 shall act as the principal interagency forum for co-  
11 ordinating cross-agency evaluation activities and im-  
12 proving agency practices related to program evalua-  
13 tion. The Council shall—

14                   “(A) advise and assist the Director in sup-  
15 porting Governmentwide evaluation activities  
16 and policies;

17                   “(B) foster capacity for program evalua-  
18 tion across agencies by collaborating on a set of  
19 Governmentwide human capital strategies that  
20 develop and maintain agencies’ capacity for pro-  
21 gram evaluation;

22                   “(C) advise on the development of depart-  
23 ment-wide evaluation policies and the system-  
24 atic plans for identifying and addressing pri-



1 ority policy questions described in agency evi-  
2 dence-building plans under section 312; and

3 “(D) serve as a forum in which members  
4 may engage in collective learning and sharing of  
5 information to strengthen and promote high-  
6 quality program evaluation practices across the  
7 Government.

8 “(3) MEMBERSHIP.—The members of the  
9 Council shall be the Chief Evaluation Officers ap-  
10 pointed or designated under section 314. The Direc-  
11 tor shall designate a Chair of the Council. Additional  
12 members may be designated by the Chair.

13 “(4) MEETINGS.—The Council shall meet not  
14 less than twice per fiscal year and may meet at the  
15 call of the Chair or a majority of the members of the  
16 Council.

17 “(5) SUPPORT.—The head of each agency with  
18 a Chief Evaluation Officer serving on the Council  
19 shall, as appropriate and to the extent permitted by  
20 law, provide support in operating the Council, upon  
21 the request of the Chair.

22 “(6) ANNUAL REPORT.—The Chair of the  
23 Council shall submit an annual report on the Coun-  
24 cil’s work under paragraph (2) to the Committee on  
25 Oversight and Government Reform of the House of

1 Representatives and the Committee on Homeland  
2 Security and Government Affairs of the Senate. The  
3 Director shall make such report publicly available  
4 online.

5 “(7) REPORT AND TERMINATION.—

6 “(A) EVALUATION OF COUNCIL.—Not later  
7 than four years after the date of the enactment  
8 of this subsection, the Comptroller General of  
9 the United States shall submit a report to Con-  
10 gress on whether the Council improved the use  
11 of evidence and program evaluation in the Fed-  
12 eral Government.

13 “(B) TERMINATION OF COUNCIL.—The  
14 Council shall terminate and this subsection  
15 shall be repealed upon the expiration of the  
16 two-year period that begins on the date the  
17 Comptroller General of the United States sub-  
18 mits the evaluation under subparagraph (A) to  
19 Congress.

20 **“§ 314. Chief Evaluation Officers**

21 “(a) ESTABLISHMENT.—The head of each agency  
22 shall appoint or designate an employee of the agency as  
23 the Chief Evaluation Officer of the agency.

24 “(b) QUALIFICATIONS.—The Chief Evaluation Offi-  
25 cer of an agency shall be appointed or designated without

1 regard to political affiliation and based on demonstrated  
2 expertise in evaluation methodology, practices, and appro-  
3 priate expertise to the disciplines of the agency.

4 “(c) LIMITATIONS.—The Chief Evaluation Officer of  
5 an agency may not simultaneously serve as any of the fol-  
6 lowing:

7 “(1) The Chief Financial Officer of any agency.

8 “(2) The Chief Information Officer of any  
9 agency.

10 “(3) The Chief Human Capital Officer of any  
11 agency.

12 “(4) The Chief Acquisition Officer of any agen-  
13 cy.

14 “(5) The Inspector General of any agency.

15 “(d) COORDINATION.—The Chief Evaluation Officer  
16 of an agency shall, to the extent practicable, coordinate  
17 activities with agency officials, including the following:

18 “(1) Agency officials responsible for imple-  
19 menting privacy policy regarding privacy and con-  
20 fidentiality issues.

21 “(2) The Chief Data Officer of the agency.

22 “(3) Agency officials designated under section  
23 315.

1           “(4) Any evaluation or analysis unit and per-  
2           sonnel of the agency on the needs for evaluation and  
3           analysis.

4           “(5) The Performance Improvement Officer of  
5           the agency.

6           “(6) Program administrators of the agency.

7           “(7) The Chief Evaluation Officers of other  
8           agencies.

9           “(e) FUNCTIONS.—The Chief Evaluation Officer of  
10          each agency shall—

11           “(1) continually assess the coverage, quality,  
12           methods, consistency, effectiveness, independence,  
13           and balance of the portfolio of evaluations, policy re-  
14           search, and ongoing evaluation activities of the agen-  
15           cy;

16           “(2) assess agency capacity to support the de-  
17           velopment and use of evaluation;

18           “(3) establish and implement an agency evalua-  
19           tion policy; and

20           “(4) coordinate, develop, and implement the  
21           plan required under section 312.

22          **“§ 315. Statistical expertise**

23           “(a) IN GENERAL.—The head of each agency shall  
24           designate the head of any statistical agency or unit within  
25           the agency, or in the case of an agency that does not have

1 a statistical agency or unit, any senior agency official with  
2 appropriate expertise, as a statistical official to advise on  
3 statistical policy, techniques, and procedures. Agency offi-  
4 cials engaged in statistical activities may consult with any  
5 such statistical official as necessary.

6 “(b) MEMBERSHIP ON INTERAGENCY COUNCIL FOR  
7 STATISTICAL POLICY.—Each statistical official designated  
8 under subsection (a) shall serve as a member of the Inter-  
9 agency Council for Statistical Policy established under sec-  
10 tion 3504(e)(8) of title 44.

11 **“§ 316. Advisory Committee on Data for Evidence**  
12 **Building**

13 “(a) ESTABLISHMENT.—The Director, or the head of  
14 an agency head designated by the Director, shall establish  
15 an Advisory Committee on Data for Evidence Building (in  
16 this section referred to as the ‘Advisory Committee’) to  
17 review, analyze, and make recommendations on how to ex-  
18 pand access to and use of Federal data for evidence build-  
19 ing.

20 “(b) MEMBERSHIP.—The members of the Advisory  
21 Committee shall consist of the Chief Statistician of the  
22 United States, who shall serve as the Chair of the Advi-  
23 sory Committee, and other members appointed by the Di-  
24 rector as follows:

1           “(1) One member who is an agency Chief Infor-  
2           mation Officer.

3           “(2) One member who is an agency Chief Pri-  
4           vacy Officer.

5           “(3) One member who is an agency Chief Per-  
6           formance Officer.

7           “(4) Three members who are agency Chief  
8           Data Officers.

9           “(5) Three members who are agency Chief  
10          Evaluation Officers.

11          “(6) Three members who are members of the  
12          Interagency Council for Statistical Policy established  
13          under section 3504(e)(8) of title 44.

14          “(7) At least 10 members who are representa-  
15          tives of State and local governments and nongovern-  
16          mental stakeholders with expertise in government  
17          data policy, privacy, technology, transparency policy,  
18          evaluation and research methodologies, and other  
19          relevant subjects, of whom—

20                 “(A) at least one shall have expertise in  
21                 transparency policy;

22                 “(B) at least one shall have expertise in  
23                 privacy policy;

24                 “(C) at least one shall have expertise in  
25                 statistical data use;

1           “(D) at least one shall have expertise in in-  
2           formation management;

3           “(E) at least one shall have expertise in in-  
4           formation technology;

5           “(F) at least one shall be from the re-  
6           search and evaluation community; and

7           “(G) if practicable, at least one shall be a  
8           former member of the Commission on Evidence-  
9           Based Policymaking.

10          “(c) TERM OF SERVICE.—

11           “(1) IN GENERAL.—Each member of the Advi-  
12          sory Committee (other than the Chair) shall serve  
13          for a term of two years.

14           “(2) VACANCY.—Any member appointed to fill  
15          a vacancy occurring before the expiration of the  
16          term for which the member’s predecessor was ap-  
17          pointed shall be appointed only for the remainder of  
18          that term. A vacancy in the Commission shall be  
19          filled in the manner in which the original appoint-  
20          ment was made.

21          “(d) COMPENSATION.—Members of the Advisory  
22          Committee shall serve without compensation.

23          “(e) DUTIES.—

1           “(1) FIRST YEAR.—During the first year of the  
2       Advisory Committee, the Advisory Committee  
3       shall—

4           “(A) assist the Director in carrying out the  
5       duties of the Director under part D of sub-  
6       chapter III of chapter 35 of title 44; and

7           “(B) evaluate and provide recommenda-  
8       tions to the Director on the establishment of a  
9       shared service to facilitate data sharing, enable  
10      data linkage, and develop privacy enhancing  
11      techniques, including—

12           “(i) the specific capabilities, needs,  
13      and necessary assets of such service, and  
14      the extent to which assets should be trans-  
15      ferred from existing agencies;

16           “(ii) any prospective location for such  
17      service;

18           “(iii) best practices for transparency  
19      and interagency coordination;

20           “(iv) best practices for monitoring  
21      and auditing of privacy, data linkage, and  
22      confidentiality of data accessed through  
23      such service; and



1                   “(v) necessary administrative and fi-  
 2                   nancial authorities to support the activities  
 3                   of such service.

4                   “(2) SECOND YEAR.—During the second and  
 5                   any subsequent year of the Advisory Committee, the  
 6                   Advisory Committee shall—

7                   “(A) if determined necessary by the Direc-  
 8                   tor, carry out the duties described in paragraph  
 9                   (1); and

10                  “(B) review the coordination of data shar-  
 11                  ing or availability for evidence building across  
 12                  all agencies.

13                  “(f) REPORTS.—For each year of the existence of the  
 14                  Advisory Committee, the Advisory Committee shall submit  
 15                  to the Director and make publicly available an annual re-  
 16                  port on the activities and findings of the Advisory Com-  
 17                  mittee.”.

18                  (b) TECHNICAL AND CONFORMING AMENDMENTS.—  
 19                  The table of sections for chapter 3 of part I of title 5,  
 20                  United States Code, is amended—

21                  (1) by inserting before the item relating to sec-  
 22                  tion 301 the following:

“SUBCHAPTER I—GENERAL PROVISIONS”;

23                  and

24                  (2) by adding at the end the following:

“SUBCHAPTER II—FEDERAL EVIDENCE-BUILDING ACTIVITIES

“Sec.

“311. Definitions.

“312. Agency evidence-building plan.

“313. Governmentwide evidence-building coordination.

“314. Chief Evaluation Officers.

“315. Statistical expertise.

“316. Advisory Committee on Data for Evidence Building.”.

1           (c) AGENCY STRATEGIC PLANS.—Section 306 of title  
2 5, United States Code, is amended—

3                 (1) in subsection (a)—

4                     (A) in paragraph (7), by striking “; and”  
5                     at the end and inserting a semicolon;

6                     (B) in paragraph (8), by—

7                         (i) striking the period at the end; and

8                         (ii) inserting after “to be conducted”

9                     the following: “, and citations to relevant  
10                     provisions of the plan required under sec-  
11                     tion 312; and”; and

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

13                     “(9) an assessment of the coverage, quality,  
14                     methods, effectiveness, and independence of the sta-  
15                     tistics, evaluation, research, and analysis efforts of  
16                     the agency, including—

17                         “(A) a list of the activities and operations  
18                     of the agency that are currently being evaluated  
19                     and analyzed;

20                         “(B) the extent to which the evaluations,  
21                     research, and analysis efforts and related activi-

1           ties of the agency support the needs of various  
2           divisions within the agency;

3           “(C) the extent to which the evaluation re-  
4           search and analysis efforts and related activities  
5           of the agency address an appropriate balance  
6           between needs related to organizational learn-  
7           ing, ongoing program management, perform-  
8           ance management, strategic management, inter-  
9           agency and private sector coordination, internal  
10          and external oversight, and accountability;

11          “(D) the extent to which the agency uses  
12          methods and combinations of methods that are  
13          appropriate to agency divisions and the cor-  
14          responding research questions being addressed,  
15          including an appropriate combination of forma-  
16          tive and summative evaluation research and  
17          analysis approaches;

18          “(E) the extent to which evaluation and re-  
19          search capacity is present within the agency to  
20          include personnel and agency processes for  
21          planning and implementing evaluation activities,  
22          disseminating best practices and findings, and  
23          incorporating employee views and feedback; and

24          “(F) the extent to which the agency has  
25          the capacity to assist agency staff and program

1 offices to develop the capacity to use evaluation  
 2 research and analysis approaches and data in  
 3 the day-to-day operations.”;

4 (2) by redesignating subsection (f) as sub-  
 5 section (g); and

6 (3) by inserting after subsection (e) the fol-  
 7 lowing new subsection:

8 “(f) Not later than two years after the date on which  
 9 each strategic plan required under subsection (a) is pub-  
 10 lished, the Comptroller General of the United States shall  
 11 submit to Congress a report that—

12 “(1) summarizes agency findings and highlights  
 13 trends in the assessment conducted pursuant to sub-  
 14 section (a)(9); and

15 “(2) if appropriate, recommends actions to fur-  
 16 ther improve agency capacity to use evaluation tech-  
 17 niques and data to support evaluation efforts.”.

## 18 **TITLE II—OPEN GOVERNMENT** 19 **DATA ACT**

### 20 **SEC. 201. SHORT TITLE.**

21 This title may be cited as the “‘Open, Public, Elec-  
 22 tronic, and Necessary Government Data Act’” or the  
 23 “OPEN Government Data Act”.

1 **SEC. 202. OPEN GOVERNMENT DATA.**

2 (a) DEFINITIONS.—Section 3502 of title 44, United  
3 States Code, is amended—

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

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

8 (3) by adding at the end the following new  
9 paragraphs:

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

13 “(16) the term ‘data asset’ means a collection  
14 of data elements or data sets that may be grouped  
15 together;

16 “(17) the term ‘machine-readable’, when used  
17 with respect to data, means data in a format that  
18 can be easily processed by a computer without  
19 human intervention while ensuring no semantic  
20 meaning is lost;

21 “(18) the term ‘metadata’ means structural or  
22 descriptive information about data such as content,  
23 format, source, rights, accuracy, provenance, fre-  
24 quency, periodicity, granularity, publisher or respon-  
25 sible party, contact information, method of collec-  
26 tion, and other descriptions;

1 “(19) the term ‘open Government data asset’  
2 means a public data asset that is—

3 “(A) machine-readable;

4 “(B) available (or could be made available)  
5 in an open format;

6 “(C) not encumbered by restrictions that  
7 would impede the use or reuse of such asset;  
8 and

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

12 “(20) the term ‘open license’ means a legal  
13 guarantee that a data asset is made available—

14 “(A) at no cost to the public; and

15 “(B) with no restrictions on copying, pub-  
16 lishing, distributing, transmitting, citing, or  
17 adapting such asset;

18 “(21) the term ‘public data asset’ means a data  
19 asset maintained by the Federal Government that  
20 has been, or may be, released to the public, includ-  
21 ing any data asset subject to disclosure under sec-  
22 tion 552 of title 5; and

23 “(22) the term ‘statistical laws’ means sub-  
24 chapter III of this chapter and other laws pertaining

1 to the protection of information collected for statis-  
2 tical purposes as designated by the Director.”.

3 (b) GUIDANCE TO MAKE DATA OPEN BY DE-  
4 FAULT.—Section 3504(b) of title 44, United States Code,  
5 is amended—

6 (1) in paragraph (4), by striking “; and” and  
7 inserting a semicolon;

8 (2) in paragraph (5), by striking the period at  
9 the end and inserting “; and”; and

10 (3) by adding at the end the following new  
11 paragraph:

12 “(6) issue guidance for agencies to implement  
13 section 3506(b)(6) in a manner that takes into ac-  
14 count—

15 “(A) risks and restrictions related to the  
16 disclosure of personally identifiable information,  
17 including the risk that an individual data asset  
18 in isolation does not pose a privacy or confiden-  
19 tiality risk but when combined with other avail-  
20 able information may pose such a risk;

21 “(B) security considerations, including the  
22 risk that information in an individual data asset  
23 in isolation does not pose a security risk but  
24 when combined with other available information  
25 may pose such a risk;

“(C) the cost and benefits to the public of converting a data asset into a machine-readable format that is accessible and useful to the public;

“(D) whether a data asset—

“(i) is protected by intellectual property rights;

“(ii) contains confidential business information, that could be withheld under section 552(b)(4) of title 5; or

“(iii) is otherwise restricted by contract or other binding, written agreement;

“(E) the requirement that a data asset be disclosed, if it would otherwise be made available under section 552 of title 5 (commonly known as the Freedom of Information Act); and

“(F) any other considerations that the Director determines to be relevant.”.

(c) FEDERAL AGENCY RESPONSIBILITIES TO MAKE DATA OPEN BY DEFAULT.—

(1) AMENDMENTS.—Section 3506 of title 44, United States Code, is amended—

(A) in subsection (b)—

(i) by amending paragraph (2) to read as follows:



1 “(2) in accordance with guidance by the Direc-  
2 tor, develop and maintain a strategic information re-  
3 sources management plan that—

4 “(A) describes how information resources  
5 management activities help accomplish agency  
6 missions;

7 “(B) includes an open data plan that—

8 “(i) requires the agency to develop  
9 processes and procedures that—

10 “(I) require data collection mech-  
11 anisms created on or after the date of  
12 the enactment of the OPEN Govern-  
13 ment Data Act to be available in an  
14 open format; and

15 “(II) facilitate collaboration with  
16 non-Government entities (including  
17 businesses), researchers, and the pub-  
18 lic for the purpose of understanding  
19 how data users value and use govern-  
20 ment data;

21 “(ii) identifies and implements meth-  
22 ods for collecting and analyzing digital in-  
23 formation on data asset usage by users  
24 within and outside of the agency, including  
25 designating a point of contact within the

1 agency to assist the public and to respond  
2 to quality issues, usability issues, rec-  
3 ommendations for improvements, and com-  
4 plaints about adherence to open data re-  
5 quirements within a reasonable period of  
6 time;

7 “(iii) develops and implements a proc-  
8 ess to evaluate and improve the timeliness,  
9 completeness, consistency, accuracy, use-  
10 fulness, and availability of open Govern-  
11 ment data assets;

12 “(iv) includes requirements for meet-  
13 ing the goals of the agency open data plan,  
14 including the acquisition of technology,  
15 provision of training for employees, and  
16 the implementation of procurement stand-  
17 ards, in accordance with existing law, regu-  
18 lation, and policy, that allow for the acqui-  
19 sition of innovative solutions from public  
20 and private sectors; and

21 “(v) requires the agency to comply  
22 with requirements under section 3511, in-  
23 cluding any standards established by the  
24 Director under such section, when dis-

1 closing a data asset pursuant to such sec-  
2 tion; and

3 “(C) is updated annually and made pub-  
4 licly available on the website of the agency not  
5 later than five days after each such update;”;

6 (ii) in paragraph (4), by striking “;  
7 and” and inserting a semicolon;

8 (iii) in paragraph (5), by striking the  
9 period at the end and inserting “; and”;  
10 and

11 (iv) by adding at the end the following  
12 new paragraph:

13 “(6) in accordance with guidance by the Direc-  
14 tor—

15 “(A) make each data asset of the agency  
16 available in an open format and under an open  
17 license;

18 “(B) make each public data asset of the  
19 agency available as an open Government data  
20 asset; and

21 “(C) make each open Government data  
22 asset created by or for the agency available  
23 under an open license.”; and

24 (B) in subsection (d)—

1 (i) in paragraph (3), by striking  
2 “and” at the end;

3 (ii) in paragraph (4), by striking the  
4 period at the end and inserting a semi-  
5 colon; and

6 (iii) by adding at the end the fol-  
7 lowing new paragraphs:

8 “(5) ensure that any public data asset of the  
9 agency is machine-readable; and

10 “(6) engage the public in using public data as-  
11 sets of the agency and encourage collaboration by—

12 “(A) publishing on the website of the agen-  
13 cy, on a regular basis (not less than annually),  
14 information on the usage of such assets by non-  
15 Government users;

16 “(B) providing the public with the oppor-  
17 tunity to request specific data assets to be  
18 prioritized for disclosure and to provide sugges-  
19 tions for the development of agency criteria  
20 with respect to prioritizing data assets for dis-  
21 closure;

22 “(C) assisting the public in expanding the  
23 use of public data assets; and

24 “(D) hosting challenges, competitions,  
25 events, or other initiatives designed to create

1 additional value from public data assets of the  
2 agency.”.

3 (2) USE OF OPEN DATA ASSETS.—Not later  
4 than 1 year after the date of the enactment of this  
5 Act, the head of each agency shall ensure that any  
6 activities by the agency or any new contract entered  
7 into by the agency meet the requirements of section  
8 3506 of title 44, United States Code, as amended by  
9 this subsection.

10 (3) EFFECTIVE DATE.—The amendments made  
11 by this subsection shall take effect on the date that  
12 is 1 year after the date of the enactment of this Act  
13 and shall apply with respect to any contract entered  
14 into by an agency on or after such effective date.

15 (d) DATA INVENTORY AND FEDERAL DATA CATA-  
16 LOGUE.—

17 (1) AMENDMENT.—Section 3511 of title 44,  
18 United States Code, is amended to read to read as  
19 follows:

20 **“§ 3511. Data inventory and Federal data catalogue**

21 **“(a) COMPREHENSIVE DATA INVENTORY.—**

22 **“(1) IN GENERAL.—**In consultation with the  
23 Director and in accordance with the guidance estab-  
24 lished under paragraph (2), the head of each agency  
25 shall develop and maintain a comprehensive data in-

1        ventory that accounts for all data assets created by,  
2        collected by, under the control or direction of, or  
3        maintained by the agency. The head of each agency  
4        shall ensure that such inventory provides a clear and  
5        comprehensive understanding of the data assets in  
6        the possession of the agency.

7            “(2) GUIDANCE.—The Director shall establish  
8        guidance for agencies to develop and maintain com-  
9        prehensive data inventories under paragraph (1).  
10       Such guidance shall include the following:

11            “(A) A requirement for the head of an  
12        agency to include in the comprehensive data in-  
13        ventory metadata on each data asset of the  
14        agency, including the following:

15            “(i) A description of the data asset,  
16        including all variable names and defini-  
17        tions.

18            “(ii) The name or title of the data  
19        asset.

20            “(iii) An indication of whether the  
21        agency—

22            “(I) has determined if the data  
23        asset is an open Government data  
24        asset, available by request under sec-  
25        tion 552 of title 5, or a public data

1           asset eligible for disclosure under sub-  
2           section (b); or

3                   “(II) as of the date of such indi-  
4           cation, has not made such determina-  
5           tion.

6                   “(iv) Any determination made under  
7           section 3582, if available.

8                   “(v) A description of the method by  
9           which the public may access or request ac-  
10          cess to the data asset.

11                   “(vi) The date on which the data  
12          asset was most recently updated.

13                   “(vii) Each agency responsible for  
14          maintaining the data asset.

15                   “(viii) The owner of the data asset.

16                   “(ix) Any restrictions on the use of  
17          the data asset.

18                   “(x) The location of the data asset.

19                   “(xi) Any other metadata necessary to  
20          make the comprehensive data inventory  
21          useful to the agency and the public, or oth-  
22          erwise determined useful by the Director.

23                   “(B) A requirement for the head of an  
24          agency to exclude from the comprehensive data  
25          inventory any data asset contained on a na-

1           tional security system, as defined in section  
2           11103 of title 40.

3           “(C) Criteria for the head of an agency to  
4           use in determining which information, if any, in  
5           the comprehensive data inventory shall not be  
6           made publicly available, which shall include, at  
7           a minimum, a requirement to ensure all infor-  
8           mation in the inventory that would be subject  
9           to disclosure under section 552 of title 5 is  
10          made publicly available.

11          “(D) A requirement for the head of each  
12          agency, in accordance with a procedure estab-  
13          lished by the Director, to submit for inclusion  
14          in the Federal data catalogue maintained under  
15          subsection (c) the data inventory developed pur-  
16          suant to subparagraph (C), including any real-  
17          time updates to such inventory and data assets,  
18          or any electronic hyperlink providing access to  
19          such data assets, made available in accordance  
20          with subparagraph (E), listed on such inven-  
21          tory.

22          “(E) Criteria for the head of an agency to  
23          use in determining whether a particular data  
24          asset should not be made publicly available in  
25          a manner that takes into account—



1 “(i) risks and restrictions related to  
2 the disclosure of personally identifiable in-  
3 formation, including the risk that an indi-  
4 vidual data asset in isolation does not pose  
5 a privacy or confidentiality risk but when  
6 combined with other available information  
7 may pose such a risk;

8 “(ii) security considerations, including  
9 the risk that information in an individual  
10 data asset in isolation does not pose a se-  
11 curity risk but when combined with other  
12 available information may pose such a risk;

13 “(iii) the cost and benefits to the pub-  
14 lic of converting the data into a manner  
15 that could be understood and used by the  
16 public;

17 “(iv) whether the data asset—

18 “(I) is protected by intellectual  
19 property rights;

20 “(II) contains confidential busi-  
21 ness information, that could be with-  
22 held under section 552(b)(4) of title  
23 5; or

24 “(III) is restricted by contract or  
25 other binding, written agreement;

1 “(v) the expectation that all data as-  
2 sets that would otherwise be made avail-  
3 able under section 552 of title 5 be dis-  
4 closed; and

5 “(vi) any other considerations that the  
6 Director determines to be relevant.

7 “(3) REGULAR UPDATES REQUIRED.—With re-  
8 spect to each data asset created or identified by an  
9 agency, the head of the agency shall update the com-  
10 prehensive data inventory of the agency not later  
11 than 90 days after the date of such creation or iden-  
12 tification.

13 “(b) PUBLIC DATA ASSETS.—The head of each agen-  
14 cy shall submit public data assets, or links to public data  
15 assets available online, as open Government data assets  
16 for inclusion in the Federal data catalogue in accordance  
17 with the guidance established in subsection (a)(2).

18 “(c) FEDERAL DATA CATALOGUE.—

19 “(1) IN GENERAL.—The Administrator of Gen-  
20 eral Services shall maintain a single public interface  
21 online as a point of entry dedicated to sharing agen-  
22 cy data assets with the public which shall be known  
23 as the ‘Federal data catalogue’. The Administrator  
24 and the Director shall ensure that agencies can sub-  
25 mit public data assets or links to public data assets

1 to be published and made publicly available on the  
2 interface.

3 “(2) REPOSITORY.—The Director shall collabo-  
4 rate with the Office of Government Information  
5 Services and the Administrator of General Services  
6 to develop and maintain an online repository of  
7 tools, best practices, and schema standards to facili-  
8 tate the adoption of open data practices across the  
9 Federal Government, which shall—

10 “(A) include any definitions, regulations,  
11 policies, checklists, and case studies related to  
12 open data policy;

13 “(B) facilitate collaboration and the adop-  
14 tion of best practices across the Federal Gov-  
15 ernment relating to the adoption of open data  
16 practices; and

17 “(C) be made available on the Federal  
18 data catalogue developed under paragraph (1).

19 “(3) ACCESS TO OTHER DATA ASSETS.—The  
20 Director shall ensure the Federal data catalogue  
21 maintained under paragraph (1) provides informa-  
22 tion on how the public can access data assets in-  
23 cluded in the public data inventory that are not yet  
24 available on the Federal data catalogue, including

1 information regarding the application process estab-  
 2 lished under section 3583 of title 44.

3 “(d) DELEGATION.—The Director shall delegate to  
 4 the Administrator of the Office of Information and Regu-  
 5 latory Affairs and the Administrator of the Office of Elec-  
 6 tronic Government the authority to jointly issue guidance  
 7 required under this section.

8 “(e) USE OF EXISTING RESOURCES.—To the extent  
 9 practicable, the head of each agency shall use existing pro-  
 10 cedures and systems to carry out agency requirements  
 11 under this section.”.

12 (2) TECHNICAL AND CONFORMING AMEND-  
 13 MENTS.—

14 (A) TABLE OF SECTIONS.—The item relat-  
 15 ing to section 3511 of the table of sections at  
 16 the beginning of chapter 35 of title 44, United  
 17 States Code, is amended to read as follows:

“3511. Data inventory and Federal data catalogue.”.

18 (B) CROSS-REFERENCE.—Section  
 19 3504(b)(2)(A) of title 44, United States Code,  
 20 is amended by striking “the use of the Govern-  
 21 ment Information Locator Service” and insert-  
 22 ing “the use of the comprehensive data inven-  
 23 tory and Federal data catalogue described  
 24 under section 3511”.

25 (e) CHIEF DATA OFFICERS.—

1 (1) AMENDMENT.—Section 3520 of title 44,  
2 United States Code, is amended to read as follows:

3 **“§ 3520. Chief Data Officers**

4 “(a) ESTABLISHMENT.—The head of each agency  
5 shall designate a career appointee (as defined in section  
6 3132 of title 5) in the agency as the Chief Data Officer.

7 “(b) QUALIFICATIONS.—The Chief Data Officer of  
8 an agency shall be designated on the basis of dem-  
9 onstrated training and experience in data management,  
10 collection, analysis, protection, use, and dissemination, in-  
11 cluding with respect to any statistical and related tech-  
12 niques to protect and de-identify confidential data.

13 “(c) LIMITATIONS.—The Chief Data Officer of an  
14 agency may not simultaneously serve as any of the fol-  
15 lowing:

16 “(1) The Chief Financial Officer of any agency.

17 “(2) The Chief Human Capital Officer of any  
18 agency.

19 “(3) The Chief Acquisition Officer of any agen-  
20 cy.

21 “(4) The Inspector General of any agency.

22 “(5) The Performance Improvement Officer of  
23 any agency.

24 “(d) FUNCTIONS.—The Chief Data Officer of an  
25 agency shall—

1           “(1) be responsible for lifecycle data manage-  
2           ment;

3           “(2) coordinate with any official in the agency  
4           responsible for using, protecting, disseminating, and  
5           generating data to ensure that the data needs of the  
6           agency are met;

7           “(3) manage data assets of the agency, includ-  
8           ing the standardization of data format, sharing of  
9           data assets, and publication of data assets in accord-  
10          ance with applicable law;

11          “(4) in carrying out the requirement under  
12          paragraphs (3) and (5), consult with any statistical  
13          official of the agency (as designated under section  
14          315 of title 5);

15          “(5) carry out the requirements of the agency  
16          under subsections (b) through (d), (f), and (i) of  
17          section 3506, section 3507, and section 3511;

18          “(6) ensure that agency data conforms with  
19          data management best practices;

20          “(7) engage agency employees, the public, and  
21          contractors in using public data assets and encour-  
22          age collaborative approaches on improving data use;

23          “(8) support the Performance Improvement Of-  
24          ficer of the agency in identifying and using data to

1 carry out the functions described in section  
2 1124(a)(2) of title 31;

3 “(9) support the Chief Evaluation Officer of the  
4 agency in obtaining data to carry out the functions  
5 described in section 314 of title 5;

6 “(10) review the impact of the infrastructure of  
7 the agency on data asset accessibility and coordinate  
8 with the Chief Information Officer of the agency to  
9 improve such infrastructure to reduce barriers that  
10 inhibit data asset accessibility;

11 “(11) ensure that, to the extent practicable, the  
12 agency maximizes the use of data in the agency, in-  
13 cluding for the production of evidence (as defined in  
14 section 3561), cybersecurity, and the improvement of  
15 agency operations;

16 “(12) identify points of contact for roles and re-  
17 sponsibilities related to open data use and implemen-  
18 tation (as required by the Director);

19 “(13) serve as the agency liaison to other agen-  
20 cies and the Office of Management and Budget on  
21 the best way to use existing agency data for statis-  
22 tical purposes (as defined in section 3561); and

23 “(14) comply with any regulation and guidance  
24 issued under subchapter III, including the acquisi-

1       tion and maintenance of any required certification  
2       and training.

3       “(e) DELEGATION OF RESPONSIBILITIES.—

4               “(1) IN GENERAL.—To the extent necessary to  
5       comply with statistical laws, the Chief Data Officer  
6       of an agency shall delegate any responsibility under  
7       subsection (d) to the head of a statistical agency or  
8       unit (as defined in section 3561) within the agency.

9               “(2) CONSULTATION.—To the extent permis-  
10       sible under law, the individual to whom a responsi-  
11       bility has been delegated under paragraph (1) shall  
12       consult with the Chief Data Officer of the agency in  
13       carrying out such responsibility.

14               “(3) DEFERENCE.—The Chief Data Officer of  
15       the agency shall defer to the individual to whom a  
16       responsibility has been delegated under paragraph  
17       (1) regarding the necessary delegation of such re-  
18       sponsibility with respect to any data acquired, main-  
19       tained, or disseminated by the agency under applica-  
20       ble statistical law.

21       “(f) REPORTS.—The Chief Data Officer of an agency  
22       shall submit to the Committee on Homeland Security and  
23       Governmental Affairs of the Senate and the Committee  
24       on Oversight and Government Reform of the House of  
25       Representatives an annual report on the compliance of the



1 agency with the requirements of this subchapter, including  
 2 information on each requirement that the agency could not  
 3 carry out and, if applicable, what the agency needs to  
 4 carry out such requirement.”.

5 (2) TECHNICAL AND CONFORMING AMEND-  
 6 MENT.—The item relating to section 3520 of the  
 7 table of sections at the beginning of chapter 35 of  
 8 title 44, United States Code, is amended to read as  
 9 follows:

“3520. Chief Data Officers.”.

10 (f) CHIEF DATA OFFICER COUNCIL.—

11 (1) AMENDMENT.—Subchapter I of chapter 35  
 12 of title 44, United States Code, is amended by in-  
 13 serting before section 3521 the following new sec-  
 14 tion:

15 **“§ 3520A. Chief Data Officer Council**

16 “(a) ESTABLISHMENT.—There is established in the  
 17 Office of Management and Budget a Chief Data Officer  
 18 Council (in this section referred to as the ‘Council’).

19 “(b) PURPOSE AND FUNCTIONS.—The Council  
 20 shall—

21 “(1) establish Governmentwide best practices  
 22 for the use, protection, dissemination, and genera-  
 23 tion of data;

24 “(2) promote and encourage data sharing  
 25 agreements between agencies;

1           “(3) identify ways in which agencies can im-  
2           prove upon the production of evidence for use in pol-  
3           icymaking;

4           “(4) consult with the public and engage with  
5           private users of Government data and other stake-  
6           holders on how to improve access to data assets of  
7           the Federal Government; and

8           “(5) identify and evaluate new technology solu-  
9           tions for improving the collection and use of data.

10          “(c) MEMBERSHIP.—

11           “(1) IN GENERAL.—The Chief Data Officer of  
12           each agency shall serve as a member of the Council.

13           “(2) CHAIR.—The Director shall select the  
14           Chair of the Council from among the members of  
15           the Council.

16           “(3) ADDITIONAL MEMBERS.—The Adminis-  
17           trator of the Office of Electronic Government shall  
18           serve as a member of the Council.

19           “(4) EX OFFICIO MEMBER.—The Director shall  
20           appoint a representative for all Chief Information  
21           Officers and Chief Evaluation Officers, and such  
22           representative shall serve as an ex officio member of  
23           the Council.

24          “(d) REPORTS.—The Council shall submit to the Di-  
25          rector, the Committee on Homeland Security and Govern-

1 mental Affairs of the Senate, and the Committee on Over-  
 2 sight and Government Reform of the House of Represent-  
 3 atives a biennial report on the work of the Council.

4 “(e) EVALUATION AND TERMINATION.—

5 “(1) GAO EVALUATION OF COUNCIL.—Not  
 6 later than 4 years after date of the enactment of  
 7 this section, the Comptroller General shall submit to  
 8 Congress a report on whether the additional duties  
 9 of the Council improved the use of evidence and pro-  
 10 gram evaluation in the Federal Government.

11 “(2) TERMINATION OF COUNCIL.—The Council  
 12 shall terminate and this section shall be repealed  
 13 upon the expiration of the two-year period that be-  
 14 gins on the date the Comptroller General submits  
 15 the evaluation under paragraph (1) to Congress.”.

16 (2) TECHNICAL AND CONFORMING AMEND-  
 17 MENT.—The table of sections at the beginning of  
 18 chapter 35 of title 44, United States Code, is  
 19 amended by inserting before the item relating to sec-  
 20 tion 3521 the following new item:

“3520A. Chief Data Officer Council.”.

21 (g) REPORTS.—

22 (1) GAO REPORT.—Not later than three years  
 23 after the date of the enactment of this Act, the  
 24 Comptroller General of the United States shall sub-  
 25 mit to the Committee on Homeland Security and

1       Governmental Affairs of the Senate and the Com-  
2       mittee on Oversight and Government Reform of the  
3       House of Representatives a report that identifies, to  
4       the extent practicable—

5               (A) the value of information made avail-  
6               able to the public as a result of this Act and  
7               the amendments made by this Act;

8               (B) whether the public availability of any  
9               information that has not yet been made so  
10              available would be valuable to the public; and

11              (C) the completeness of each comprehen-  
12              sive data inventory developed under section  
13              3511 of title 44, United States Code.

14              (2) BIENNIAL OMB REPORT.—Not later than  
15              one year after date of the enactment of this Act, and  
16              biennially thereafter, the Director of the Office of  
17              Management and Budget shall electronically publish  
18              a report on agency performance and compliance with  
19              this Act and the amendments made by this Act.

1 **TITLE III—CONFIDENTIAL IN-**  
 2 **FORMATION PROTECTION**  
 3 **AND STATISTICAL EFFI-**  
 4 **CIENCY**

5 **SEC. 301. SHORT TITLE.**

6 This title may be cited as the “Confidential Informa-  
 7 tion Protection and Statistical Efficiency Act of 2017”.

8 **SEC. 302. CONFIDENTIAL INFORMATION PROTECTION AND**  
 9 **STATISTICAL EFFICIENCY.**

10 (a) IN GENERAL.—Chapter 35 of title 44, United  
 11 States Code, is amended by adding at the end the fol-  
 12 lowing new subchapter:

13 “SUBCHAPTER III—CONFIDENTIAL INFORMA-  
 14 TION PROTECTION AND STATISTICAL EFFI-  
 15 CIENCY

16 **“PART A—GENERAL**

17 **“§ 3561. Definitions**

18 “In this subchapter:

19 “(1) AGENCY.—The term ‘agency’ means any  
 20 entity that falls within the definition of the term ‘ex-  
 21 ecutive agency’, as defined in section 102 of title 31,  
 22 or ‘agency’, as defined in section 3502.

23 “(2) AGENT.—The term ‘agent’ means an indi-  
 24 vidual—

1           “(A)(i) who is an employee of a private or-  
2           ganization or a researcher affiliated with an in-  
3           stitution of higher learning (including a person  
4           granted special sworn status by the Bureau of  
5           the Census under section 23(c) of title 13), and  
6           with whom a contract or other agreement is ex-  
7           ecuted, on a temporary basis, by an executive  
8           agency to perform exclusively statistical activi-  
9           ties under the control and supervision of an of-  
10          ficer or employee of that agency;

11           “(ii) who is working under the author-  
12          ity of a government entity with which a  
13          contract or other agreement is executed by  
14          an executive agency to perform exclusively  
15          statistical activities under the control of an  
16          officer or employee of that agency;

17           “(iii) who is a self-employed re-  
18          searcher, a consultant, a contractor, or an  
19          employee of a contractor, and with whom  
20          a contract or other agreement is executed  
21          by an executive agency to perform a statis-  
22          tical activity under the control of an officer  
23          or employee of that agency; or

24           “(iv) who is a contractor or an em-  
25          ployee of a contractor, and who is engaged

1 by the agency to design or maintain the  
2 systems for handling or storage of data re-  
3 ceived under this subchapter; and

4 “(B) who agrees in writing to comply with  
5 all provisions of law that affect information ac-  
6 quired by that agency.

7 “(3) BUSINESS DATA.—The term ‘business  
8 data’ means operating and financial data and infor-  
9 mation about businesses, tax-exempt organizations,  
10 and government entities.

11 “(4) DATA ASSET.—The term ‘data asset’ has  
12 the meaning given that term in section 3502.

13 “(5) DIRECTOR.—The term ‘Director’ means  
14 the Director of the Office of Management and Budg-  
15 et.

16 “(6) EVIDENCE.—The term ‘evidence’ means  
17 information produced as a result of statistical activi-  
18 ties conducted for a statistical purpose.

19 “(7) IDENTIFIABLE FORM.—The term ‘identifi-  
20 able form’ means any representation of information  
21 that permits the identity of the respondent to whom  
22 the information applies to be reasonably inferred by  
23 either direct or indirect means.

24 “(8) NONSTATISTICAL PURPOSE.—The term  
25 ‘nonstatistical purpose’—

1           “(A) means the use of data in identifiable  
2           form for any purpose that is not a statistical  
3           purpose, including any administrative, regu-  
4           latory, law enforcement, adjudicatory, or other  
5           purpose that affects the rights, privileges, or  
6           benefits of a particular identifiable respondent;  
7           and

8           “(B) includes the disclosure under section  
9           552 of title 5 of data that are acquired for ex-  
10          clusively statistical purposes under a pledge of  
11          confidentiality.

12          “(9) RESPONDENT.—The term ‘respondent’  
13          means a person who, or organization that, is re-  
14          quested or required to supply information to an  
15          agency, is the subject of information requested or re-  
16          quired to be supplied to an agency, or provides that  
17          information to an agency.

18          “(10) STATISTICAL ACTIVITIES.—The term  
19          ‘statistical activities’—

20               “(A) means the collection, compilation,  
21               processing, or analysis of data for the purpose  
22               of describing or making estimates concerning  
23               the whole, or relevant groups or components  
24               within, the economy, society, or the natural en-  
25               vironment; and



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

5           “(11) STATISTICAL AGENCY OR UNIT.—The  
 6           term ‘statistical agency or unit’ means an agency or  
 7           organizational unit of the executive branch whose ac-  
 8           tivities are predominantly the collection, compilation,  
 9           processing, or analysis of information for statistical  
 10          purposes, as designated by the Director under sec-  
 11          tion 3562.

12          “(12) STATISTICAL PURPOSE.—The term ‘sta-  
 13          tistical purpose’—

14               “(A) means the description, estimation, or  
 15               analysis of the characteristics of groups, with-  
 16               out identifying the individuals or organizations  
 17               that comprise such groups; and

18               “(B) includes the development, implemen-  
 19               tation, or maintenance of methods, technical or  
 20               administrative procedures, or information re-  
 21               sources that support the purposes described in  
 22               subparagraph (A).

23   **“§ 3562. Coordination and oversight of policies**

24          “(a) IN GENERAL.—The Director shall coordinate  
 25          and oversee the confidentiality and disclosure policies es-

1 tablished by this subchapter. The Director may promul-  
2 gate rules or provide other guidance to ensure consistent  
3 interpretation of this subchapter by the affected agencies.  
4 The Director shall develop a process by which the Director  
5 designates agencies or organizational units as statistical  
6 agencies and units. The Director shall promulgate guid-  
7 ance to implement such process, which shall include spe-  
8 cific criteria for such designation and methods by which  
9 the Director will ensure transparency in the process.

10 “(b) AGENCY RULES.—Subject to subsection (c),  
11 agencies may promulgate rules to implement this sub-  
12 chapter. Rules governing disclosures of information that  
13 are authorized by this subchapter shall be promulgated by  
14 the agency that originally collected the information.

15 “(c) REVIEW AND APPROVAL OF RULES.—The Di-  
16 rector shall review any rules proposed by an agency pursu-  
17 ant to this subchapter for consistency with the provisions  
18 of this chapter and such rules shall be subject to the ap-  
19 proval of the Director.

20 “(d) REPORTS.—

21 “(1) The head of each agency shall provide to  
22 the Director such reports and other information as  
23 the Director requests.

24 “(2) Each Designated Statistical Agency (as  
25 defined in section 3576(e)) shall report annually to

1 the Director, the Committee on Oversight and Gov-  
2 ernment Reform of the House of Representatives,  
3 and the Committee on Homeland Security and Gov-  
4 ernmental Affairs of the Senate on the actions it has  
5 taken to implement section 3576. The report shall  
6 include copies of each written agreement entered  
7 into pursuant to section 3576(c)(1) for the applica-  
8 ble year.

9 “(3) The Director shall include a summary of  
10 reports submitted to the Director under this sub-  
11 section and actions taken by the Director to advance  
12 the purposes of this subchapter in the annual report  
13 to Congress on statistical programs prepared under  
14 section 3504(e)(2).

15 **“§ 3563. Federal statistical agencies**

16 “(a) RESPONSIBILITIES.—

17 “(1) IN GENERAL.—Each statistical agency or  
18 unit shall—

19 “(A) produce and disseminate relevant and  
20 timely statistical information;

21 “(B) conduct credible and accurate statis-  
22 tical activities;

23 “(C) conduct objective statistical activities;  
24 and

1           “(D) protect the trust of information pro-  
2           viders by ensuring the confidentiality and exclu-  
3           sive statistical use of their responses

4           “(2) POLICIES, BEST PRACTICES, AND PROCE-  
5           DURES.—Each statistical agency or unit shall adopt  
6           policies, best practices, and appropriate procedures  
7           to implement the responsibilities described in para-  
8           graph (1).

9           “(b) SUPPORT FROM OTHER AGENCIES.—The head  
10          of each agency shall enable, support, and facilitate statis-  
11          tical agencies or units in carrying out the responsibilities  
12          described in subsection (a)(1).

13          “(c) REGULATIONS.—The Director shall prescribe  
14          regulations to carry out this section.

15          “(d) DEFINITIONS.—In this section:

16               “(1) ACCURATE.—The term ‘accurate’, when  
17               used with respect to statistical activities, means sta-  
18               tistics that consistently match the events and trends  
19               being measured.

20               “(2) CONFIDENTIALITY.—The term ‘confiden-  
21               tiality’ means a quality or condition accorded to in-  
22               formation as an obligation not to disclose that infor-  
23               mation to an unauthorized party.

1           “(3) OBJECTIVE.—The term ‘objective’, when  
2           used with respect to statistical activities, means ac-  
3           curate, clear, complete, and unbiased.

4           “(4) RELEVANT.—The term ‘relevant’, when  
5           used with respect to statistical information, means  
6           processes, activities, and things that matter to pol-  
7           icymakers and public and private sector data users.

8   **“§ 3564. Effect on other laws**

9           “(a) TITLE 44, UNITED STATES CODE.—This sub-  
10          chapter does not diminish the authority under section  
11          3510 of the Director to direct, and of an agency to make,  
12          disclosures that are not inconsistent with any applicable  
13          law.

14          “(b) TITLE 13 AND TITLE 44, UNITED STATES  
15          CODE.—This subchapter does not diminish the authority  
16          of the Bureau of the Census to provide information in ac-  
17          cordance with sections 8, 16, 301, and 401 of title 13 and  
18          section 2108 of this title.

19          “(c) TITLE 13, UNITED STATES CODE.—This sub-  
20          chapter shall not be construed as authorizing the dislo-  
21          sure for nonstatistical purposes of demographic data or  
22          information collected by the Bureau of the Census pursu-  
23          ant to section 9 of title 13.

24          “(d) VARIOUS ENERGY STATUTES.—Data or infor-  
25          mation acquired by the Energy Information Administra-

1 tion under a pledge of confidentiality and designated by  
2 the Energy Information Administration to be used for ex-  
3 clusively statistical purposes shall not be disclosed in iden-  
4 tifiable form for nonstatistical purposes under—

5 “(1) section 12, 20, or 59 of the Federal En-  
6 ergy Administration Act of 1974 (15 U.S.C. 771,  
7 779, 790h);

8 “(2) section 11 of the Energy Supply and Envi-  
9 ronmental Coordination Act of 1974 (15 U.S.C.  
10 796); or

11 “(3) section 205 or 407 of the Department of  
12 Energy Organization Act (42 U.S.C. 7135, 7177).

13 “(e) SECTION 201 OF CONGRESSIONAL BUDGET ACT  
14 OF 1974.—This subchapter shall not be construed to limit  
15 any authorities of the Congressional Budget Office to  
16 work (consistent with laws governing the confidentiality  
17 of information the disclosure of which would be a violation  
18 of law) with databases of Designated Statistical Agencies  
19 (as defined in section 3576(e)), either separately or, for  
20 data that may be shared pursuant to section 3576(c) or  
21 other authority, jointly in order to improve the general  
22 utility of these databases for the statistical purpose of ana-  
23 lyzing pension and health care financing issues.

1       “(f) PREEMPTION OF STATE LAW.—Nothing in this  
2 subchapter shall preempt applicable State law regarding  
3 the confidentiality of data collected by the States.

4       “(g) STATUTES REGARDING FALSE STATEMENTS.—  
5 Notwithstanding section 3572, information collected by an  
6 agency for exclusively statistical purposes under a pledge  
7 of confidentiality may be provided by the collecting agency  
8 to a law enforcement agency for the prosecution of submis-  
9 sions to the collecting agency of false statistical informa-  
10 tion under statutes that authorize criminal penalties (such  
11 as section 221 of title 13) or civil penalties for the provi-  
12 sion of false statistical information, unless such disclosure  
13 or use would otherwise be prohibited under Federal law.

14       “(h) CONSTRUCTION.—Nothing in this subchapter  
15 shall be construed as restricting or diminishing any con-  
16 fidentiality protections or penalties for unauthorized dis-  
17 closure that otherwise apply to data or information col-  
18 lected for statistical purposes or nonstatistical purposes,  
19 including, but not limited to, section 6103 of the Internal  
20 Revenue Code of 1986.

21       “(i) AUTHORITY OF CONGRESS.—Nothing in this  
22 subchapter shall be construed to affect the authority of  
23 the Congress, including its committees, members, or  
24 agents, to obtain data or information for a statistical pur-

1 pose, including for oversight of an agency’s statistical ac-  
2 tivities.

3       **“PART B—CONFIDENTIAL INFORMATION**  
4                                   **PROTECTION**

5   **“§ 3571. Findings**

6       “The Congress finds the following:

7               “(1) Individuals, businesses, and other organi-  
8       zations have varying degrees of legal protection  
9       when providing information to the agencies for  
10      strictly statistical purposes.

11              “(2) Pledges of confidentiality by agencies pro-  
12      vide assurances to the public that information about  
13      individuals or organizations or provided by individ-  
14      uals or organizations for exclusively statistical pur-  
15      poses will be held in confidence and will not be used  
16      against such individuals or organizations in any  
17      agency action.

18              “(3) Protecting the confidentiality interests of  
19      individuals or organizations who provide information  
20      under a pledge of confidentiality for Federal statis-  
21      tical programs serves both the interests of the public  
22      and the needs of society.

23              “(4) Declining trust of the public in the protec-  
24      tion of information provided under a pledge of con-



1        confidentiality to the agencies adversely affects both the  
2        accuracy and completeness of statistical analyses.

3            “(5) Ensuring that information provided under  
4        a pledge of confidentiality for statistical purposes re-  
5        ceives protection is essential in continuing public co-  
6        operation in statistical programs.

7    **“§ 3572. Confidential information protection**

8            “(a) PURPOSES.—The purposes of this section are  
9        the following:

10           “(1) To ensure that information supplied by in-  
11        dividuals or organizations to an agency for statistical  
12        purposes under a pledge of confidentiality is used ex-  
13        clusively for statistical purposes.

14           “(2) To ensure that individuals or organizations  
15        who supply information under a pledge of confiden-  
16        tiality to agencies for statistical purposes will neither  
17        have that information disclosed in identifiable form  
18        to anyone not authorized by this subchapter nor  
19        have that information used for any purpose other  
20        than a statistical purpose.

21           “(3) To safeguard the confidentiality of individ-  
22        ually identifiable information acquired under a  
23        pledge of confidentiality for statistical purposes by  
24        controlling access to, and uses made of, such infor-  
25        mation.

1       “(b) USE OF STATISTICAL DATA OR INFORMA-  
2 TION.—Data or information acquired by an agency under  
3 a pledge of confidentiality and for exclusively statistical  
4 purposes shall be used by officers, employees, or agents  
5 of the agency exclusively for statistical purposes and pro-  
6 tected in accordance with such pledge.

7       “(c) DISCLOSURE OF STATISTICAL DATA OR INFOR-  
8 MATION.—

9               “(1) Data or information acquired by an agency  
10       under a pledge of confidentiality for exclusively sta-  
11       tistical purposes shall not be disclosed by an agency  
12       in identifiable form, for any use other than an exclu-  
13       sively statistical purpose, except with the informed  
14       consent of the respondent.

15              “(2) A disclosure pursuant to paragraph (1) is  
16       authorized only when the head of the agency ap-  
17       proves such disclosure and the disclosure is not pro-  
18       hibited by any other law.

19              “(3) This section does not restrict or diminish  
20       any confidentiality protections in law that otherwise  
21       apply to data or information acquired by an agency  
22       under a pledge of confidentiality for exclusively sta-  
23       tistical purposes.

24       “(d) RULE FOR USE OF DATA OR INFORMATION FOR  
25 NONSTATISTICAL PURPOSES.—A statistical agency or

1 unit shall clearly distinguish any data or information it  
2 collects for nonstatistical purposes (as authorized by law)  
3 and provide notice to the public, before the data or infor-  
4 mation is collected, that the data or information could be  
5 used for nonstatistical purposes.

6 “(e) DESIGNATION OF AGENTS.—A statistical agency  
7 or unit may designate agents, by contract or by entering  
8 into a special agreement containing the provisions re-  
9 quired under section 3561(2) for treatment as an agent  
10 under that section, who may perform exclusively statistical  
11 activities, subject to the limitations and penalties de-  
12 scribed in this subchapter.

13 “(f) FINES AND PENALTIES.—Whoever, being an of-  
14 ficer, employee, or agent of an agency acquiring informa-  
15 tion for exclusively statistical purposes, having taken and  
16 subscribed the oath of office, or having sworn to observe  
17 the limitations imposed by this section, comes into posses-  
18 sion of such information by reason of his or her being an  
19 officer, employee, or agent and, knowing that the disclo-  
20 sure of the specific information is prohibited under the  
21 provisions of this subchapter, willfully discloses the infor-  
22 mation in any manner to a person or agency not entitled  
23 to receive it, shall be guilty of a class E felony and impris-  
24 oned for not more than five years, or fined not more than  
25 \$250,000, or both.

1           **“PART C—STATISTICAL EFFICIENCY**

2   **“§ 3575. Findings**

3           “The Congress finds the following:

4               “(1) Federal statistics are an important source  
5           of information for public and private decision-mak-  
6           ers such as policymakers, consumers, businesses, in-  
7           vestors, and workers.

8               “(2) Federal statistical agencies should continu-  
9           ously seek to improve their efficiency. Statutory con-  
10          straints limit the ability of these agencies to share  
11          data and thus to achieve higher efficiency for Fed-  
12          eral statistical programs.

13              “(3) The quality of Federal statistics depends  
14          on the willingness of businesses to respond to statis-  
15          tical surveys. Reducing reporting burdens will in-  
16          crease response rates, and therefore lead to more ac-  
17          curate characterizations of the economy.

18              “(4) Enhanced sharing of business data among  
19          the Bureau of the Census, the Bureau of Economic  
20          Analysis, and the Bureau of Labor Statistics for ex-  
21          clusively statistical purposes will improve their abil-  
22          ity to track more accurately the large and rapidly  
23          changing nature of United States business. In par-  
24          ticular, the statistical agencies will be able to better  
25          ensure that businesses are consistently classified in  
26          appropriate industries, resolve data anomalies,

1 produce statistical samples that are consistently ad-  
2 justed for the entry and exit of new businesses in a  
3 timely manner, and correct faulty reporting errors  
4 quickly and efficiently.

5 “(5) Congress enacted the International Invest-  
6 ment and Trade in Services Survey Act (Public Law  
7 94–472), which allowed the Bureau of the Census,  
8 the Bureau of Economic Analysis, and the Bureau  
9 of Labor Statistics to share data on foreign-owned  
10 companies. The Act not only expanded detailed in-  
11 dustry coverage from 135 industries to over 800 in-  
12 dustries with no increase in the data collected from  
13 respondents but also demonstrated how data sharing  
14 can result in the creation of valuable data products.

15 “(6) With part B of this subchapter, the shar-  
16 ing of business data among the Bureau of the Cen-  
17 sus, the Bureau of Economic Analysis, and the Bu-  
18 reau of Labor Statistics continues to ensure the  
19 highest level of confidentiality for respondents to  
20 statistical surveys.

21 **“§ 3576. Designated Statistical Agencies**

22 “(a) PURPOSES.—The purposes of this section are  
23 the following:

24 “(1) To authorize the sharing of business data  
25 among the Bureau of the Census, the Bureau of

1 Economic Analysis, and the Bureau of Labor Statis-  
2 tics for exclusively statistical purposes.

3 “(2) To reduce the paperwork burdens imposed  
4 on businesses that provide requested information to  
5 the Federal Government.

6 “(3) To improve the comparability and accu-  
7 racy of Federal economic statistics by allowing the  
8 Bureau of the Census, the Bureau of Economic  
9 Analysis, and the Bureau of Labor Statistics to up-  
10 date sample frames, develop consistent classifica-  
11 tions of establishments and companies into indus-  
12 tries, improve coverage, and reconcile significant dif-  
13 ferences in data produced by the three agencies.

14 “(4) To increase understanding of the United  
15 States economy, especially for key industry and re-  
16 gional statistics, to develop more accurate measures  
17 of the impact of technology on productivity growth,  
18 and to enhance the reliability of the Nation’s most  
19 important economic indicators, such as the National  
20 Income and Product Accounts.

21 “(b) RESPONSIBILITIES OF DESIGNATED STATIS-  
22 TICAL AGENCIES.—The head of each of the Designated  
23 Statistical Agencies shall—

24 “(1) identify opportunities to eliminate duplica-  
25 tion and otherwise reduce reporting burden and cost

1 imposed on the public in providing information for  
2 statistical purposes;

3 “(2) enter into joint statistical projects to im-  
4 prove the quality and reduce the cost of statistical  
5 programs; and

6 “(3) protect the confidentiality of individually  
7 identifiable information acquired for statistical pur-  
8 poses by adhering to safeguard principles, includ-  
9 ing—

10 “(A) emphasizing to their officers, employ-  
11 ees, and agents the importance of protecting  
12 the confidentiality of information in cases where  
13 the identity of individual respondents can rea-  
14 sonably be inferred by either direct or indirect  
15 means;

16 “(B) training their officers, employees, and  
17 agents in their legal obligations to protect the  
18 confidentiality of individually identifiable infor-  
19 mation and in the procedures that must be fol-  
20 lowed to provide access to such information;

21 “(C) implementing appropriate measures  
22 to assure the physical and electronic security of  
23 confidential data;

24 “(D) establishing a system of records that  
25 identifies individuals accessing confidential data

1 and the project for which the data were re-  
2 quired; and

3 “(E) being prepared to document their  
4 compliance with safeguard principles to other  
5 agencies authorized by law to monitor such  
6 compliance.

7 “(c) SHARING OF BUSINESS DATA AMONG DES-  
8 IGNATED STATISTICAL AGENCIES.—

9 “(1) IN GENERAL.—A Designated Statistical  
10 Agency may provide business data in an identifiable  
11 form to another Designated Statistical Agency under  
12 the terms of a written agreement among the agen-  
13 cies sharing the business data that specifies—

14 “(A) the business data to be shared;

15 “(B) the statistical purposes for which the  
16 business data are to be used;

17 “(C) the officers, employees, and agents  
18 authorized to examine the business data to be  
19 shared; and

20 “(D) appropriate security procedures to  
21 safeguard the confidentiality of the business  
22 data.

23 “(2) RESPONSIBILITIES OF AGENCIES UNDER  
24 OTHER LAWS.—The provision of business data by an  
25 agency to a Designated Statistical Agency under this



1 section shall in no way alter the responsibility of the  
2 agency providing the data under other statutes (in-  
3 cluding sections 552 and 552b of title 5) with re-  
4 spect to the provision or withholding of such infor-  
5 mation by the agency providing the data.

6 “(3) RESPONSIBILITIES OF OFFICERS, EMPLOY-  
7 EES, AND AGENTS.—Examination of business data  
8 in identifiable form shall be limited to the officers,  
9 employees, and agents authorized to examine the in-  
10 dividual reports in accordance with written agree-  
11 ments pursuant to this section. Officers, employees,  
12 and agents of a Designated Statistical Agency who  
13 receive data pursuant to this section shall be subject  
14 to all provisions of law, including penalties, that re-  
15 late—

16 “(A) to the unlawful provision of the busi-  
17 ness data that would apply to the officers, em-  
18 ployees, and agents of the agency that originally  
19 obtained the information; and

20 “(B) to the unlawful disclosure of the busi-  
21 ness data that would apply to officers, employ-  
22 ees, and agents of the agency that originally ob-  
23 tained the information.

24 “(4) NOTICE.—Whenever a written agreement  
25 concerns data that respondents were required by law

1 to report and the respondents were not informed  
2 that the data could be shared among the Designated  
3 Statistical Agencies, for exclusively statistical pur-  
4 poses, the terms of such agreement shall be de-  
5 scribed in a public notice issued by the agency that  
6 intends to provide the data. Such notice shall allow  
7 a minimum of 60 days for public comment.

8 “(d) LIMITATIONS ON USE OF BUSINESS DATA PRO-  
9 VIDED BY DESIGNATED STATISTICAL AGENCIES.—

10 “(1) GENERAL USE.—Business data provided  
11 by a Designated Statistical Agency pursuant to this  
12 section shall be used exclusively for statistical pur-  
13 poses.

14 “(2) PUBLICATION.—Publication of business  
15 data acquired by a Designated Statistical Agency  
16 shall occur in a manner whereby the data furnished  
17 by any particular respondent are not in identifiable  
18 form.

19 “(e) DESIGNATED STATISTICAL AGENCY DE-  
20 FINED.—In this section, the term ‘Designated Statistical  
21 Agency’ means each of the following:

22 “(1) The Census Bureau of the Department of  
23 Commerce.

24 “(2) The Bureau of Economic Analysis of the  
25 Department of Commerce.

1           “(3) The Bureau of Labor Statistics of the De-  
2           partment of Labor.”.

3           (b) CLERICAL AMENDMENT.—The table of sections  
4           at the beginning of chapter 35 of title 44, United States  
5           Code, as amended by section 202(g), is further amended  
6           by adding at the end the following:

“SUBCHAPTER III—CONFIDENTIAL INFORMATION PROTECTION AND  
STATISTICAL EFFICIENCY

“PART A—GENERAL

“3561. Definitions.  
“3562. Coordination and oversight of policies.  
“3563. Federal statistical agencies.  
“3564. Effect on other laws.

“PART B—CONFIDENTIAL INFORMATION PROTECTION

“3571. Findings.  
“3572. Confidential information protection.

“PART C—STATISTICAL EFFICIENCY

“3575. Findings.  
“3576. Designated Statistical Agencies.”.

7           (c) CONFORMING AMENDMENTS.—

8           (1) REPEAL OF CONFIDENTIAL INFORMATION  
9           PROTECTION AND STATISTICAL EFFICIENCY ACT OF  
10          2002.—Title V of the E–Government Act of 2002  
11          (Public Law 107–347; 44 U.S.C. 3501 note) is re-  
12          pealed (and by conforming the table of contents ac-  
13          cordingly).

14          (2) TITLE 13, UNITED STATES CODE.—Section  
15          402 of title 13, United States Code, is amended by  
16          striking “the Confidential Information Protection

1 and Statistical Efficiency Act of 2002” and inserting  
2 “section 3576(e) of title 44”.

3 (3) TITLE 49, UNITED STATES CODE.—Title  
4 49, United States Code, is amended as follows:

5 (A) In section 6302(d)(4), strike “the Con-  
6 fidential Information” and all that follows  
7 through the period and insert “section 3572 of  
8 title 44.”.

9 (B) In section 6314(d)(2), strike “the Con-  
10 fidential Information” and all that follows  
11 through the period and insert “section 3572 of  
12 title 44.”.

13 (4) ACT OF JANUARY 27, 1938.—The first sec-  
14 tion of the Act of January 27, 1938, entitled “An  
15 Act to make confidential certain information fur-  
16 nished to the Bureau of Foreign and Domestic Com-  
17 merce, and for other purposes” (52 Stat. 8, chapter  
18 11; 15 U.S.C. 176a), is amended by striking “the  
19 Confidential Information Protection and Statistical  
20 Efficiency Act of 2002” and inserting “subchapter  
21 III of chapter 35 of title 44, United States Code”.

22 (5) FIXING AMERICA’S SURFACE TRANSPOR-  
23 TATION ACT.—Section 7308(e)(2) of the Fixing  
24 America’s Surface Transportation Act (Public Law  
25 114–94; 49 U.S.C. 20155 note) is amended by strik-

1 ing “the Confidential Information Protection and  
2 Statistical Efficiency Act of 2002 (44 U.S.C. 3501  
3 note)” and inserting “section 3572 of title 44,  
4 United States Code”.

5 (d) TRANSITIONAL AND SAVINGS PROVISIONS.—

6 (1) CUTOFF DATE.—This title replaces certain  
7 provisions of law enacted on December 17, 2002. If  
8 a law enacted after that date amends or repeals a  
9 provision replaced by this title, that law is deemed  
10 to amend or repeal, as the case may be, the cor-  
11 responding provision enacted by this title. If a law  
12 enacted after that date is otherwise inconsistent with  
13 this title, it supersedes this title to the extent of the  
14 inconsistency.

15 (2) ORIGINAL DATE OF ENACTMENT UN-  
16 CHANGED.—For purposes of determining whether  
17 one provision of law supersedes another based on en-  
18 actment later in time, the date of the enactment of  
19 a provision enacted by this title is deemed to be the  
20 date of the enactment of the provision it replaced.

21 (3) REFERENCES TO PROVISIONS REPLACED.—  
22 A reference to a provision of law replaced by this  
23 title, including a reference in a regulation, order, or  
24 other law, is deemed to refer to the corresponding  
25 provision enacted by this title.

1           (4) REGULATIONS, ORDERS, AND OTHER AD-  
 2       MINISTRATIVE ACTIONS.—A regulation, order, or  
 3       other administrative action in effect under a provi-  
 4       sion of law replaced by this title continues in effect  
 5       under the corresponding provision enacted by this  
 6       title.

7           (5) ACTIONS TAKEN AND OFFENSES COM-  
 8       MITTED.—An action taken or an offense committed  
 9       under a provision of law replaced by this title is  
 10      deemed to have been taken or committed under the  
 11      corresponding provision enacted by this title.

12 **SEC. 303. INCREASING ACCESS TO DATA FOR EVIDENCE.**

13       (a) IN GENERAL.—Subchapter III of chapter 35 of  
 14      title 44, United States Code, as added by section 302, is  
 15      amended by adding at the end the following new part:

16       **“PART D—ACCESS TO DATA FOR EVIDENCE**

17       **“§ 3581. Presumption of accessibility for statistical**  
 18       **agencies and units**

19       “(a) ACCESSIBILITY OF DATA ASSETS.—The head of  
 20      an agency shall, to the extent practicable, make any data  
 21      asset maintained by the agency available, upon request,  
 22      to any statistical agency or unit for purposes of developing  
 23      evidence.

24       “(b) LIMITATIONS.—Subsection (a) does not apply to  
 25      any data asset that is subject to a statute that—

1           “(1) prohibits the sharing or intended use of  
2           such asset in a manner as to leave no discretion on  
3           the issue; or

4           “(2) if enacted after the date of the enactment  
5           of this section, specifically cites to this paragraph.

6           “(c) REGULATIONS.—The Director shall prescribe  
7           regulations for agencies to carry out this section. Such  
8           regulations shall—

9           “(1) require the timely provision of data assets  
10          under subsection (a);

11          “(2) provide a list of statutes that exempt agen-  
12          cies from the requirement under subsection (a) pur-  
13          suant to subsection (b)(1); and

14          “(3) require a transparent process for statis-  
15          tical agencies and units to request data assets from  
16          agencies and for agencies to respond to such re-  
17          quests.

18   **“§ 3582. Expanding secure access to CIPSEA data as-**  
19               **sets**

20          “(a) STATISTICAL AGENCY RESPONSIBILITIES.—To  
21          the extent practicable, each statistical agency or unit shall  
22          expand access to data assets of such agency or unit ac-  
23          quired or accessed under this subchapter to develop evi-  
24          dence while protecting such assets from inappropriate ac-

1 cess and use, in accordance with the regulations promul-  
2 gated under subsection (b).

3 “(b) REGULATIONS FOR ACCESSIBILITY OF NON-  
4 PUBLIC DATA ASSETS.—The Director shall promulgate  
5 regulations, in accordance with applicable law, for statis-  
6 tical agencies and units to carry out the requirement  
7 under subsection (a). Such regulations shall include the  
8 following:

9 “(1) Standards for each statistical agency or  
10 unit to assess each data asset owned or accessed by  
11 the statistical agency or unit for purposes of catego-  
12 rizing the sensitivity level of each such asset and  
13 identifying the corresponding level of accessibility to  
14 each such asset. Such standards shall include—

15 “(A) common sensitivity levels and cor-  
16 responding levels of accessibility that may be  
17 assigned to a data asset, including a requisite  
18 minimum and maximum number of sensitivity  
19 levels for each statistical agency or unit to use;

20 “(B) criteria for determining the sensi-  
21 tivity level and corresponding level of accessi-  
22 bility of each data asset; and

23 “(C) criteria for determining whether a  
24 less sensitive and more accessible version of a  
25 data asset can be produced.



1           “(2) Standards for each statistical agency or  
2           unit to improve access to a data asset pursuant to  
3           paragraph (1) or (3) by removing or obscuring infor-  
4           mation in such a manner that the identity of the  
5           data subject is less likely to be reasonably inferred  
6           by either direct or indirect means.

7           “(3) A requirement for each statistical agency  
8           or unit to conduct a comprehensive risk assessment  
9           of any data asset acquired or accessed under this  
10          subchapter prior to any public release of such asset,  
11          including standards for such comprehensive risk as-  
12          sessment and criteria for making a determination of  
13          whether to release the data.

14          “(4) Requirements for each statistical agency or  
15          unit to make any process or assessment established,  
16          produced, or conducted pursuant to this section  
17          transparent and easy to understand, including the  
18          following:

19                 “(A) A requirement to make information  
20                 on the assessment of the sensitivity level of  
21                 each data asset conducted pursuant to para-  
22                 graph (1) available on the Federal data cata-  
23                 logue established under section 3511(c)(1).

24                 “(B) A requirement to make any com-  
25                 prehensive risk assessment, and associated de-

1 terminations, conducted under paragraph (3)  
2 available on the Federal data catalogue estab-  
3 lished under section 3511(c)(1).

4 “(C) A requirement to make any standard  
5 or policy established by the statistical agency or  
6 unit to carry out this section and any assess-  
7 ment conducted under this section easily acces-  
8 sible on the public website of such agency or  
9 unit.

10 “(c) RESPONSIBILITIES OF THE DIRECTOR.—The  
11 Director shall—

12 “(1) make public all standards and policies es-  
13 tablished under this section; and

14 “(2) ensure that statistical agencies and units  
15 have the ability to make information public on the  
16 Federal data catalogue established under section  
17 3511(c)(1), in accordance with requirements estab-  
18 lished pursuant to subsection (b).

19 **“§ 3583. Application to access data assets for devel-**  
20 **oping evidence**

21 “(a) STANDARD APPLICATION PROCESS.—The Di-  
22 rector shall establish a process through which agencies,  
23 the Congressional Budget Office, State, local, and Tribal  
24 governments, researchers, and other individuals, as appro-  
25 priate, may apply to access the data assets accessed or

1 acquired under this subchapter by a statistical agency or  
2 unit for purposes of developing evidence. The process shall  
3 include the following:

4           “(1) Sufficient detail to ensure that each statis-  
5 tical agency or unit establishes an identical process.

6           “(2) A common application form.

7           “(3) Criteria for statistical agencies and units  
8 to determine whether to grant an applicant access to  
9 a data asset.

10           “(4) Timeframes for prompt determinations by  
11 each statistical agency or unit.

12           “(5) An appeals process for adverse decisions  
13 and noncompliance with the process established  
14 under this subsection.

15           “(6) Standards for transparency, including re-  
16 quirements to make the following information pub-  
17 licly available:

18                   “(A) Each application received.

19                   “(B) The status of each application.

20                   “(C) The determination made for each ap-  
21 plication.

22                   “(D) Any other information, as appro-  
23 priate, to ensure full transparency of the proc-  
24 ess established under this subsection.

1       “(b) CONSULTATION.—In establishing the process re-  
 2       quired under subsection (a), the Director shall consult  
 3       with stakeholders, including the public, agencies, State  
 4       and local governments, and representatives of non-govern-  
 5       mental researchers.

6       “(c) IMPLEMENTATION.—The head of each statistical  
 7       agency or unit shall implement the process established  
 8       under subsection (a).”.

9       (b) CLERICAL AMENDMENT.—The table of sections  
 10      at the beginning of chapter 35 of title 44, United States  
 11      Code, as amended by sections 202(g) and 302(b), is fur-  
 12      ther amended by adding at the end the following:

“PART D—ACCESS TO DATA FOR EVIDENCE

“3581. Presumption of accessibility for statistical agencies and units.

“3582. Expanding secure access to nonpublic data assets.

“3583. Application to access data assets for developing evidence.”.

13      (c) DEADLINE FOR GUIDANCE AND IMPLEMENTA-  
 14      TION.—Not later than 1 year after the date of the enact-  
 15      ment of this Act, the Director of the Office of Manage-  
 16      ment and Budget shall promulgate any regulation or guid-  
 17      ance required by subchapter III of title 44, United States  
 18      Code, as amended by this section, with a requirement to  
 19      implement such regulation or guidance not later than 1  
 20      year after the date on which such regulation or guidance  
 21      issues.

## **TITLE IV—GENERAL PROVISIONS**

### **SEC. 401. RULE OF CONSTRUCTION.**

Nothing in this Act, or the amendments made by this Act, may be construed—

(1) to require the disclosure of information or records that are exempt from disclosure under section 552 of title 5, United States Code (commonly known as the “Freedom of Information Act”); or

(2) to create or expand an exemption from disclosure under such section.

### **SEC. 402. EFFECTIVE DATE.**

Except as otherwise provided, this Act, and the amendments made by this Act, shall take effect on the date that is 180 days after the date of the enactment of this Act.

Union Calendar No. 303

115<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**H. R. 4174**

[Report No. 115-411]

**A BILL**

To amend titles 5 and 44, United States Code, to require Federal evaluation activities, improve Federal data management, and for other purposes.

NOVEMBER 15, 2017

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed