

115TH CONGRESS
1ST SESSION

S. 2046

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

IN THE SENATE OF THE UNITED STATES

OCTOBER 31, 2017

Mrs. MURRAY (for herself and Mr. SCHATZ) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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.

1 **TITLE I—FEDERAL EVIDENCE-**
2 **BUILDING ACTIVITIES**

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

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

6 (1) before section 301, by inserting the fol-
7 lowing:

8 “SUBCHAPTER I—GENERAL PROVISIONS”; AND

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

10 “SUBCHAPTER II—FEDERAL EVIDENCE-
11 BUILDING ACTIVITIES

12 **“§ 311. Definitions**

13 “In this subchapter:

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

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

4 “(3) EVALUATION.—The term ‘evaluation’
5 means an assessment using systematic data collec-
6 tion and analysis of one or more programs, policies,
7 and organizations intended to assess their effective-
8 ness and efficiency.

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

13 “(5) STATE.—The term ‘State’ means each of
14 the several States, the District of Columbia, each
15 territory or possession of the United States, and
16 each federally recognized Indian Tribe.

17 “(6) STATISTICAL ACTIVITIES; STATISTICAL
18 AGENCY OR UNIT; STATISTICAL PURPOSE.—The
19 terms ‘statistical activities’, ‘statistical agency or
20 unit’, and ‘statistical purpose’ have the meanings
21 given those terms in section 3561 of title 44.

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

23 “(a) REQUIREMENT.—Not later than the first Mon-
24 day in February of each year, the head of each agency
25 shall submit to the Director and Congress a systematic

1 plan for identifying and addressing policy questions rel-
2 evant to the programs, policies, and regulations of the
3 agency. Such plan shall be made available on the public
4 website of the agency and shall cover at least a 4-year
5 period beginning with the first fiscal year following the
6 fiscal year in which the plan is submitted and published
7 and contain the following:

8 “(1) A list of policy-relevant questions for
9 which the agency intends to develop evidence to sup-
10 port policymaking.

11 “(2) A list of data the agency intends to collect,
12 use, or acquire to facilitate the use of evidence in
13 policymaking.

14 “(3) A list of methods and analytical ap-
15 proaches that may be used to develop evidence to
16 support policymaking.

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

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

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

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

4 “(1) The public.

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

7 “(3) Agency officials responsible for imple-
 8 menting privacy policy.

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

10 “(5) The officials of the agency designated
 11 under section 315.

12 “(6) The Performance Improvement Officer of
 13 the agency.

14 “(7) Program administrators of the agency.

15 “(8) The committees of the House of Rep-
 16 resentatives and Senate with oversight jurisdiction
 17 over the agency.

18 **“§ 313. Governmentwide evidence-building coordina-**
 19 **tion**

20 “(a) UNIFIED EVIDENCE-BUILDING COORDINA-
 21 TION.—

22 “(1) IN GENERAL.—The Director shall consoli-
 23 date the plans submitted under section 312 in a uni-
 24 fied evidence-building plan. The Director shall notify
 25 agency heads of potentially overlapping or unneces-

1 sary duplicative data acquisition plans and facilitate
 2 interagency evidence gathering and sharing. The
 3 head of the agency may incorporate the results of
 4 any interagency coordination by updating the plan
 5 required under section 312. The Director shall incor-
 6 porate any such agency update in the unified evi-
 7 dence-building plan.

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

11 “(A) The public.

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

14 “(C) The Interagency Council on Statis-
 15 tical Policy established under section 3504(e)(8)
 16 of title 44.

17 “(D) Any other relevant interagency coun-
 18 cil.

19 “(E) The head of each agency.

20 “(b) INTERAGENCY COUNCIL ON EVALUATION POL-
 21 ICY.—

22 “(1) ESTABLISHMENT.—There is established an
 23 Interagency Council on Evaluation Policy (in this
 24 section referred to as the ‘Council’) to advise and as-

1 sist the Director in supporting Governmentwide eval-
2 uation activities and policies.

3 “(2) PURPOSE AND FUNCTION.—The Council
4 shall act as the principal interagency forum for co-
5 ordinating cross-agency evaluation activities and im-
6 proving agency practices related to program evalua-
7 tion. The Council shall—

8 “(A) advise and assist the Director in sup-
9 porting Governmentwide evaluation activities
10 and policies;

11 “(B) foster capacity for program evalua-
12 tion across agencies by collaborating on a set of
13 Governmentwide human capital strategies that
14 develop and maintain agencies’ capacity for pro-
15 gram evaluation;

16 “(C) advise on the development of depart-
17 ment-wide evaluation policies and the system-
18 atic plans for identifying and addressing pri-
19 ority policy questions described in agency evi-
20 dence-building plans under section 312; and

21 “(D) serve as a forum in which members
22 may engage in collective learning and sharing of
23 information to strengthen and promote high-
24 quality program evaluation practices across the
25 Government.

1 “(3) MEMBERSHIP.—The members of the
2 Council shall be the Chief Evaluation Officers ap-
3 pointed or designated under section 314. The Direc-
4 tor shall designate a Chair of the Council. Additional
5 members may be designated by the Chair.

6 “(4) MEETINGS.—The Council shall meet not
7 less than twice per fiscal year and may meet at the
8 call of the Chair or a majority of the members of the
9 Council.

10 “(5) SUPPORT.—The head of each agency with
11 a Chief Evaluation Officer serving on the Council
12 shall, as appropriate and to the extent permitted by
13 law, provide support in operating the Council, upon
14 the request of the Chair.

15 “(6) ANNUAL REPORT.—The Chair of the
16 Council shall submit an annual report on the Coun-
17 cil’s work under paragraph (2) to the Committee on
18 Oversight and Government Reform of the House of
19 Representatives and the Committee on Homeland
20 Security and Government Affairs of the Senate. The
21 Director shall make such report publicly available
22 online.

23 “(7) REPORT AND TERMINATION.—

24 “(A) EVALUATION OF COUNCIL.—Not later
25 than four years after the date of the enactment

1 of this subsection, the Comptroller General of
2 the United States shall submit a report to Con-
3 gress on whether the Council improved the use
4 of evidence and program evaluation in the Fed-
5 eral Government.

6 “(B) TERMINATION OF COUNCIL.—The
7 Council shall terminate and this subsection
8 shall be repealed upon the expiration of the
9 two-year period that begins on the date the
10 Comptroller General of the United States sub-
11 mits the evaluation under subparagraph (A) to
12 Congress.

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

14 “(a) ESTABLISHMENT.—The head of each agency
15 shall appoint or designate an employee of the agency as
16 the Chief Evaluation Officer of the agency.

17 “(b) QUALIFICATIONS.—The Chief Evaluation Offi-
18 cer of an agency shall be appointed or designated without
19 regard to political affiliation and based on demonstrated
20 expertise in evaluation methodology, practices, and appro-
21 priate expertise to the disciplines of the agency.

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

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

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

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

5 “(4) The Chief Acquisition Officer of any agen-
6 cy.

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

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

11 “(1) Agency officials responsible for imple-
12 menting privacy policy regarding privacy and con-
13 fidentiality issues.

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

15 “(3) Agency officials designated under section
16 315.

17 “(4) Any evaluation or analysis unit and per-
18 sonnel of the agency on the needs for evaluation and
19 analysis.

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

22 “(6) Program administrators of the agency.

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

1 “(e) FUNCTIONS.—The Chief Evaluation Officer of
2 each agency shall—

3 “(1) continually assess the coverage, quality,
4 methods, consistency, effectiveness, independence,
5 and balance of the portfolio of evaluations, policy re-
6 search, and ongoing evaluation activities of the agen-
7 cy;

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

10 “(3) establish and implement an agency evalua-
11 tion policy; and

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

14 **“§ 315. Statistical expertise**

15 “(a) IN GENERAL.—The head of each agency shall
16 designate the head of any statistical agency or unit within
17 the agency, or in the case of an agency that does not have
18 a statistical agency or unit, any senior agency official with
19 appropriate expertise, as a statistical official to advise on
20 statistical policy, techniques, and procedures. Agency offi-
21 cials engaged in statistical activities may consult with any
22 such statistical official as necessary.

23 “(b) MEMBERSHIP ON INTERAGENCY COUNCIL FOR
24 STATISTICAL POLICY.—Each statistical official designated
25 under subsection (a) shall serve as a member of the Inter-

1 agency Council for Statistical Policy established under sec-
2 tion 3504(e)(8) of title 44.

3 **“§ 316. Advisory Committee on Data for Evidence**
4 **Building**

5 “(a) ESTABLISHMENT.—The Director, or the head of
6 an agency head designated by the Director, shall establish
7 an Advisory Committee on Data for Evidence Building (in
8 this section referred to as the ‘Advisory Committee’) to
9 review, analyze, and make recommendations on how to ex-
10 pand access to and use of Federal data for evidence build-
11 ing.

12 “(b) MEMBERSHIP.—The members of the Advisory
13 Committee shall consist of the Chief Statistician of the
14 United States, who shall serve as the Chair of the Advi-
15 sory Committee, and other members appointed by the Di-
16 rector as follows:

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

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

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

23 “(4) Three members who are agency Chief
24 Data Officers.

1 “(5) Three members who are agency Chief
2 Evaluation Officers.

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

6 “(7) At least 10 members who are representa-
7 tives of State and local governments and nongovern-
8 mental stakeholders with expertise in government
9 data policy, privacy, technology, transparency policy,
10 evaluation and research methodologies, and other
11 relevant subjects, of whom—

12 “(A) at least one shall have expertise in
13 transparency policy;

14 “(B) at least one shall have expertise in
15 privacy policy;

16 “(C) at least one shall have expertise in
17 statistical data use;

18 “(D) at least one shall have expertise in in-
19 formation management;

20 “(E) at least one shall have expertise in in-
21 formation technology;

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

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

4 “(c) TERM OF SERVICE.—

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

8 “(2) VACANCY.—Any member appointed to fill
9 a vacancy occurring before the expiration of the
10 term for which the member’s predecessor was ap-
11 pointed shall be appointed only for the remainder of
12 that term. A vacancy in the Commission shall be
13 filled in the manner in which the original appoint-
14 ment was made.

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

17 “(e) DUTIES.—

18 “(1) FIRST YEAR.—During the first year of the
19 Advisory Committee, the Advisory Committee
20 shall—

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

24 “(B) evaluate and provide recommenda-
25 tions to the Director on the establishment of a

1 shared service to facilitate data sharing, enable
2 data linkage, and develop privacy enhancing
3 techniques, including—

4 “(i) the specific capabilities, needs,
5 and necessary assets of such service, and
6 the extent to which assets should be trans-
7 ferred from existing agencies;

8 “(ii) any prospective location for such
9 service;

10 “(iii) best practices for transparency
11 and interagency coordination;

12 “(iv) best practices for monitoring
13 and auditing of privacy, data linkage, and
14 confidentiality of data accessed through
15 such service; and

16 “(v) necessary administrative and fi-
17 nancial authorities to support the activities
18 of such service.

19 “(2) SECOND YEAR.—During the second and
20 any subsequent year of the Advisory Committee, the
21 Advisory Committee shall—

22 “(A) if determined necessary by the Direc-
23 tor, carry out the duties described in paragraph
24 (1); and

1 “(B) review the coordination of data shar-
 2 ing or availability for evidence building across
 3 all agencies.

4 “(f) REPORTS.—For each year of the existence of the
 5 Advisory Committee, the Advisory Committee shall submit
 6 to the Director and make publicly available an annual re-
 7 port on the activities and findings of the Advisory Com-
 8 mittee.”.

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

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

 “SUBCHAPTER I—GENERAL PROVISIONS”;

14 and

15 (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.”.

16 (c) AGENCY STRATEGIC PLANS.—Section 306 of title
 17 5, United States Code, is amended—

18 (1) in subsection (a)—

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

1 (B) in paragraph (8), by—

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

3 (ii) inserting after “to be conducted”

4 the following: “, and citations to relevant

5 provisions of the plan required under sec-

6 tion 312; and”; and

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

8 “(9) an assessment of the coverage, quality,

9 methods, effectiveness, and independence of the sta-

10 tistics, evaluation, research, and analysis efforts of

11 the agency, including—

12 “(A) a list of the activities and operations

13 of the agency that are currently being evaluated

14 and analyzed;

15 “(B) the extent to which the evaluations,

16 research, and analysis efforts and related activi-

17 ties of the agency support the needs of various

18 divisions within the agency;

19 “(C) the extent to which the evaluation re-

20 search and analysis efforts and related activities

21 of the agency address an appropriate balance

22 between needs related to organizational learn-

23 ing, ongoing program management, perform-

24 ance management, strategic management, inter-

1 agency and private sector coordination, internal
2 and external oversight, and accountability;

3 “(D) the extent to which the agency uses
4 methods and combinations of methods that are
5 appropriate to agency divisions and the cor-
6 responding research questions being addressed,
7 including an appropriate combination of forma-
8 tive and summative evaluation research and
9 analysis approaches;

10 “(E) the extent to which evaluation and re-
11 search capacity is present within the agency to
12 include personnel and agency processes for
13 planning and implementing evaluation activities,
14 disseminating best practices and findings, and
15 incorporating employee views and feedback; and

16 “(F) the extent to which the agency has
17 the capacity to assist agency staff and program
18 offices to develop the capacity to use evaluation
19 research and analysis approaches and data in
20 the day-to-day operations.”;

21 (2) by redesignating subsection (f) as sub-
22 section (g); and

23 (3) by inserting after subsection (e) the fol-
24 lowing new subsection:

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

5 “(1) summarizes agency findings and highlights
 6 trends in the assessment conducted pursuant to sub-
 7 section (a)(9); and

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

11 **TITLE II—OPEN GOVERNMENT** 12 **DATA ACT**

13 **SEC. 201. SHORT TITLE.**

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

17 **SEC. 202. OPEN GOVERNMENT DATA.**

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

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

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

24 (3) by adding at the end the following new
 25 paragraphs:

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

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

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

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

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

20 “(A) machine-readable;

21 “(B) available (or could be made available)
 22 in an open format;

23 “(C) not encumbered by restrictions that
 24 would impede the use or reuse of such asset;
 25 and

1 “(D) based on an underlying open stand-
 2 ard that is maintained by a standards organiza-
 3 tion;

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

6 “(A) at no cost to the public; and

7 “(B) with no restrictions on copying, pub-
 8 lishing, distributing, transmitting, citing, or
 9 adapting such asset;

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

15 “(22) the term ‘statistical laws’ means sub-
 16 chapter III of this chapter and other laws pertaining
 17 to the protection of information collected for statis-
 18 tical purposes as designated by the Director.”.

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

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

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

1 (3) by adding at the end the following new
2 paragraph:

3 “(6) issue guidance for agencies to implement
4 section 3506(b)(6) in a manner that takes into ac-
5 count—

6 “(A) risks and restrictions related to the
7 disclosure of personally identifiable information,
8 including the risk that an individual data asset
9 in isolation does not pose a privacy or confiden-
10 tiality risk but when combined with other avail-
11 able information may pose such a risk;

12 “(B) security considerations, including the
13 risk that information in an individual data asset
14 in isolation does not pose a security risk but
15 when combined with other available information
16 may pose such a risk;

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

21 “(D) whether a data asset—

22 “(i) is protected by intellectual prop-
23 erty rights;

1 “(ii) contains confidential business in-
 2 formation, that could be withheld under
 3 section 552(b)(4) of title 5; or

4 “(iii) is otherwise restricted by con-
 5 tract or other binding, written agreement;

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

10 “(F) any other considerations that the Di-
 11 rector determines to be relevant.”.

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

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

16 (A) in subsection (b)—

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

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

22 “(A) describes how information resources
 23 management activities help accomplish agency
 24 missions;

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

1 “(i) requires the agency to develop
2 processes and procedures that—

3 “(I) require data collection mech-
4 anisms created on or after the date of
5 the enactment of the OPEN Govern-
6 ment Data Act to be available in an
7 open format; and

8 “(II) facilitate collaboration with
9 non-Government entities (including
10 businesses), researchers, and the pub-
11 lic for the purpose of understanding
12 how data users value and use govern-
13 ment data;

14 “(ii) identifies and implements meth-
15 ods for collecting and analyzing digital in-
16 formation on data asset usage by users
17 within and outside of the agency, including
18 designating a point of contact within the
19 agency to assist the public and to respond
20 to quality issues, usability issues, rec-
21 ommendations for improvements, and com-
22 plaints about adherence to open data re-
23 quirements within a reasonable period of
24 time;

1 “(iii) develops and implements a proc-
2 ess to evaluate and improve the timeliness,
3 completeness, consistency, accuracy, use-
4 fulness, and availability of open Govern-
5 ment data assets;

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

15 “(v) requires the agency to comply
16 with requirements under section 3511, in-
17 cluding any standards established by the
18 Director under such section, when dis-
19 closing a data asset pursuant to such sec-
20 tion; and

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

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

1 (iii) in paragraph (5), by striking the
 2 period at the end and inserting “; and”;
 3 and

4 (iv) by adding at the end the following
 5 new paragraph:

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

8 “(A) make each data asset of the agency
 9 available in an open format and under an open
 10 license;

11 “(B) make each public data asset of the
 12 agency available as an open Government data
 13 asset; and

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

17 (B) in subsection (d)—

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

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

23 (iii) by adding at the end the fol-
 24 lowing new paragraphs:

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

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

5 “(A) publishing on the website of the agen-
6 cy, on a regular basis (not less than annually),
7 information on the usage of such assets by non-
8 Government users;

9 “(B) providing the public with the oppor-
10 tunity to request specific data assets to be
11 prioritized for disclosure and to provide sugges-
12 tions for the development of agency criteria
13 with respect to prioritizing data assets for dis-
14 closure;

15 “(C) assisting the public in expanding the
16 use of public data assets; and

17 “(D) hosting challenges, competitions,
18 events, or other initiatives designed to create
19 additional value from public data assets of the
20 agency.”.

21 (2) USE OF OPEN DATA ASSETS.—Not later
22 than 1 year after the date of the enactment of this
23 Act, the head of each agency shall ensure that any
24 activities by the agency or any new contract entered
25 into by the agency meet the requirements of section

1 3506 of title 44, United States Code, as amended by
2 this subsection.

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

8 (d) DATA INVENTORY AND FEDERAL DATA CATA-
9 LOGUE.—

10 (1) AMENDMENT.—Section 3511 of title 44,
11 United States Code, is amended to read to read as
12 follows:

13 **“§ 3511. Data inventory and Federal data catalogue**

14 “(a) COMPREHENSIVE DATA INVENTORY.—

15 “(1) IN GENERAL.—In consultation with the
16 Director and in accordance with the guidance estab-
17 lished under paragraph (2), the head of each agency
18 shall develop and maintain a comprehensive data in-
19 ventory that accounts for all data assets created by,
20 collected by, under the control or direction of, or
21 maintained by the agency. The head of each agency
22 shall ensure that such inventory provides a clear and
23 comprehensive understanding of the data assets in
24 the possession of the agency.

1 “(2) GUIDANCE.—The Director shall establish
2 guidance for agencies to develop and maintain com-
3 prehensive data inventories under paragraph (1).

4 Such guidance shall include the following:

5 “(A) A requirement for the head of an
6 agency to include in the comprehensive data in-
7 ventory metadata on each data asset of the
8 agency, including the following:

9 “(i) A description of the data asset,
10 including all variable names and defini-
11 tions.

12 “(ii) The name or title of the data
13 asset.

14 “(iii) An indication of whether the
15 agency—

16 “(I) has determined if the data
17 asset is an open Government data
18 asset, available by request under sec-
19 tion 552 of title 5, or a public data
20 asset eligible for disclosure under sub-
21 section (b); or

22 “(II) as of the date of such indi-
23 cation, has not made such determina-
24 tion.

1 “(iv) Any determination made under
2 section 3582, if available.

3 “(v) A description of the method by
4 which the public may access or request ac-
5 cess to the data asset.

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

8 “(vii) Each agency responsible for
9 maintaining the data asset.

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

11 “(ix) Any restrictions on the use of
12 the data asset.

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

14 “(xi) Any other metadata necessary to
15 make the comprehensive data inventory
16 useful to the agency and the public, or oth-
17 erwise determined useful by the Director.

18 “(B) A requirement for the head of an
19 agency to exclude from the comprehensive data
20 inventory any data asset contained on a na-
21 tional security system, as defined in section
22 11103 of title 40.

23 “(C) Criteria for the head of an agency to
24 use in determining which information, if any, in
25 the comprehensive data inventory shall not be

1 made publicly available, which shall include, at
2 a minimum, a requirement to ensure all infor-
3 mation in the inventory that would be subject
4 to disclosure under section 552 of title 5 is
5 made publicly available.

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

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

21 “(i) risks and restrictions related to
22 the disclosure of personally identifiable in-
23 formation, including the risk that an indi-
24 vidual data asset in isolation does not pose
25 a privacy or confidentiality risk but when

1 combined with other available information
2 may pose such a risk;

3 “(ii) security considerations, including
4 the risk that information in an individual
5 data asset in isolation does not pose a se-
6 curity risk but when combined with other
7 available information may pose such a risk;

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

12 “(iv) whether the data asset—

13 “(I) is protected by intellectual
14 property rights;

15 “(II) contains confidential busi-
16 ness information, that could be with-
17 held under section 552(b)(4) of title
18 5; or

19 “(III) is restricted by contract or
20 other binding, written agreement;

21 “(v) the expectation that all data as-
22 sets that would otherwise be made avail-
23 able under section 552 of title 5 be dis-
24 closed; and

1 “(vi) any other considerations that the
2 Director determines to be relevant.

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

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

14 “(c) FEDERAL DATA CATALOGUE.—

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

24 “(2) REPOSITORY.—The Director shall collabo-
25 rate with the Office of Government Information

1 Services and the Administrator of General Services
 2 to develop and maintain an online repository of
 3 tools, best practices, and schema standards to facili-
 4 tate the adoption of open data practices across the
 5 Federal Government, which shall—

6 “(A) include any definitions, regulations,
 7 policies, checklists, and case studies related to
 8 open data policy;

9 “(B) facilitate collaboration and the adop-
 10 tion of best practices across the Federal Gov-
 11 ernment relating to the adoption of open data
 12 practices; and

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

15 “(3) ACCESS TO OTHER DATA ASSETS.—The
 16 Director shall ensure the Federal data catalogue
 17 maintained under paragraph (1) provides informa-
 18 tion on how the public can access data assets in-
 19 cluded in the public data inventory that are not yet
 20 available on the Federal data catalogue, including
 21 information regarding the application process estab-
 22 lished under section 3583 of title 44.

23 “(d) DELEGATION.—The Director shall delegate to
 24 the Administrator of the Office of Information and Regu-
 25 latory Affairs and the Administrator of the Office of Elec-

1 tronic Government the authority to jointly issue guidance
2 required under this section.

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

7 (2) TECHNICAL AND CONFORMING AMEND-
8 MENTS.—

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

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

13 (B) CROSS-REFERENCE.—Section
14 3504(b)(2)(A) of title 44, United States Code,
15 is amended by striking “the use of the Govern-
16 ment Information Locator Service” and insert-
17 ing “the use of the comprehensive data inven-
18 tory and Federal data catalogue described
19 under section 3511”.

20 (e) CHIEF DATA OFFICERS.—

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

1 **“§ 3520. Chief Data Officers**

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

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

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

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

15 “(2) The Chief Human Capital Officer of any
16 agency.

17 “(3) The Chief Acquisition Officer of any agen-
18 cy.

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

20 “(5) The Performance Improvement Officer of
21 any agency.

22 “(d) FUNCTIONS.—The Chief Data Officer of an
23 agency shall—

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

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

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

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

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

16 “(6) ensure that agency data conforms with
17 data management best practices;

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

21 “(8) support the Performance Improvement Of-
22 ficer of the agency in identifying and using data to
23 carry out the functions described in section
24 1124(a)(2) of title 31;

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

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

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

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

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

21 “(14) comply with any regulation and guidance
22 issued under subchapter III, including the acquisi-
23 tion and maintenance of any required certification
24 and training.

25 “(e) DELEGATION OF RESPONSIBILITIES.—

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

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

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

18 “(f) REPORTS.—The Chief Data Officer of an agency
19 shall submit to the Committee on Homeland Security and
20 Governmental Affairs of the Senate and the Committee
21 on Oversight and Government Reform of the House of
22 Representatives an annual report on the compliance of the
23 agency with the requirements of this subchapter, including
24 information on each requirement that the agency could not

1 carry out and, if applicable, what the agency needs to
 2 carry out such requirement.”.

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

“3520. Chief Data Officers.”.

8 (f) CHIEF DATA OFFICER COUNCIL.—

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

13 **“§ 3520A. Chief Data Officer Council**

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

17 “(b) PURPOSE AND FUNCTIONS.—The Council
 18 shall—

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

22 “(2) promote and encourage data sharing
 23 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

3 SEC. 401. RULE OF CONSTRUCTION.

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

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

10 (2) to create or expand an exemption from dis-
11 closure under such section.

12 SEC. 402. EFFECTIVE DATE.

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

