

2. The bill amends Rev. Stat. 161 in a manner that makes it inconsistent with section 3 of the Administrative Procedures Act, without specifically repealing the latter section.

3. The reference in the bill to internal personnel rules and practices does not cover investigatory files relating to personnel actions. It should cover them.

4. The reference in the bill to matters specifically excepted from disclosure by statute is ambiguous in its application to a statute that prohibits a Federal official from disclosing particular information unless authorized by law.

5. The reference to trade secrets, etc., apparently contains a drafting error. The words "and privileged or confidential" should be "which is privileged and confidential."

6. The reference to memorandums and letters dealing solely with matters of law or policy does not expressly include working papers, preliminary drafts, and records of advisory committee meetings.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

D. OTIS BEASLEY,
Assistant Secretary of the Interior.

REPLY FROM DEPARTMENT OF LABOR, OFFICE OF THE SECRETARY

APRIL 7, 1965.

HON. WILLIAM L. DAWSON,
Chairman, Committee on Government Operations, House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for our views on H.R. 5012-5021, identical bills to amend section 161 of the Revised Statutes with respect to the authority of Federal officers and agencies to withhold information and limit the availability of records.

This Department supports the principle of providing citizens with maximum disclosure of information by their Government. We have therefore cooperated fully with congressional committees seeking information and have readily responded to requests for information by individual citizens. For the past several years, our disclosure policies and practices have been under study for the purpose of improving and refining them wherever possible. In our experience, present law has served well to protect both the citizens' right to know and the need for limited withholding of information in order to assure adequate performance of our statutorily prescribed duties.

A major defect in the proposed legislation is its inherent inflexibility. H.R. 5012-5021 would require every agency to make all its records available to any person, with certain specifically enumerated exceptions. In our view, it would be impossible to anticipate at this time all specific items which should be justifiably withheld in the public interest. Because of the potentially severe and disruptive effects which this legislation could have on our operations, we would be opposed to its enactment.

In addition to our general opposition to these bills, several specific difficulties arise in connection with certain provisions. It is our understanding that section 1(c) is intended to exclude from this broad disclosure requirement certain records, including business or financial information obtained in confidence and investigatory files compiled for law enforcement purposes. Section 1(c) should be modified to state directly that the specified items are excluded from the requirements of section 1(b). Even with this change, however, we would be seriously concerned about the practical effect of the proposal, particularly on our statistical, enforcement, and other operating programs.

Section 1(c) (4) is apparently designed to exempt from the disclosure requirement trade secrets and commercial and financial information obtained from the public, and privileged or confidential. The term "commercial and financial" may well not include wage and employment data, industrial injury statistics, social and economic data and other information furnished the Department in confidence. The Department operates under arrangements which provide in many cases for the voluntary submission of statistical data by all types of business firms throughout the country. This information, as well as information in connection with other programs of the Department, is obtained with the understanding that portions of it will not be publicly disclosed or identified in any way. Disclosure of this information could jeopardize the entire statisti-