AN ACT

To amend section 3 of the Administrative Procedure Act, chapter 324, of the Act of June 11, 1946 (60 Stat. 238), to clarify and protect the right of the public to information, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That section 3, chapter 324, of the Act of June 11, 1946 (60 Stat. 238), is amended to read as follows:

“Sec. 3. Every agency shall make available to the public the following information:

“(a) Publication in the Federal Register.—Every agency shall separately state and currently publish in the Federal Register for the guidance of the public (A) de-
scriptions of its central and field organization and the established places at which, the officers from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions; (B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available; (C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations; (D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and (E) every amendment, revision, or repeal of the foregoing. Except to the extent that a person has actual and timely notice of the terms thereof, no person shall in any manner be required to resort to, or be adversely affected by any matter required to be published in the Federal Register and not so published. For purposes of this subsection, matter which is reasonably available to the class of persons affected thereby shall be deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

"(b) AGENCY OPINIONS AND ORDERS.—Every agency shall, in accordance with published rules, make available for
public inspection and copying (A) all final opinions (including concurring and dissenting opinions) and all orders made in the adjudication of cases, (B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register, and (C) administrative staff manuals and instructions to staff that affect any member of the public, unless such materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction: Provided, That in every case the justification for the deletion must be fully explained in writing. Every agency also shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter which is issued, adopted, or promulgated after the effective date of this Act and which is required by this subsection to be made available or published. No final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects any member of the public may be relied upon, used or cited as precedent by an agency against any private party unless it has been indexed and either made available or published as provided by this
subsection or unless that private party shall have actual
and timely notice of the terms thereof.

"(c) AGENCY RECORDS.—Except with respect to the
records made available pursuant to subsections (a) and (b),
every agency shall, upon request for identifiable records made
in accordance with published rules stating the time, place,
fees to the extent authorized by statute and procedure to be
followed, make such records promptly available to any per­
son. Upon complaint, the district court of the United States
in the district in which the complainant resides, or has his
principal place of business, or in which the agency records
are situated shall have jurisdiction to enjoin the agency from
the withholding of agency records and to order the produc­
tion of any agency records improperly withheld from the
complainant. In such cases the court shall determine the
matter de novo and the burden shall be upon the agency to
sustain its action. In the event of noncompliance with the
court’s order, the district court may punish the responsible
officers for contempt. Except as to those causes which the
court deems of greater importance, proceedings before the
district court as authorized by this subsection shall take
precedence on the docket over all other causes and shall be
assigned for hearing and trial at the earliest practicable date
and expedited in every way.

"(d) AGENCY PROCEEDINGS.—Every agency having
more than one member shall keep a record of the final votes of each member in every agency proceeding and such record shall be available for public inspection.

"(e) EXEMPTIONS.—The provisions of this section shall not be applicable to matters that are (1) specifically required by Executive order to be kept secret in the interest of national defense or foreign policy; (2) related solely to the internal personnel rules and practices of any agency; (3) specifically exempted from disclosure by statute; (4) trade secrets and commercial or financial information obtained from any person and privileged or confidential; (5) inter-agency or intra-agency memorandums or letters which would not be available by law to a private party in litigation; (6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; (7) investigatory files compiled for law enforcement purposes except to the extent available by law to a private party; (8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions; and (9) geological and geophysical information and data (including maps) concerning wells.

"(f) LIMITATION OF EXEMPTIONS.—Nothing in this section authorizes withholding of information or limiting the responsible agency to any person in every agency proceeding and such record have actual
the availability of records to the public except as specifically stated in this section, nor shall this section be authority to withhold information from Congress.

"(g) PRIVATE PARTY.—As used in this section, 'private party' means any party other than an agency.

“(h) EFFECTIVE DATE.—This amendment shall become effective one year following the date of the enactment of this Act."

Passed the Senate October 13, 1965.

Attest: FELTON M. JOHNSTON,

Secretary.
AN ACT

To amend section 3 of the Administrative Procedure Act, chapter 324, of the Act of June 11, 1946 (60 Stat. 231), to clarify and protect the right of the public to information, and for other purposes.

S. 1160

69th Congress
1st Session

May 9, 1966.

Mr. Dawson,

The Committee reports the bill (S. 1160) to amend section 3 of the Administrative Procedure Act, chapter 324, of the Act of June 11, 1946 (60 Stat. 231), to clarify and protect the right of the public to information, and for other purposes.

The bill requires every public body to make its records public, except for those exempted by law. These requirements are met by the bill. The proposed bill is not generally applicable to any person. It is not intended to be applicable to any individual. The committee recommends that the bill be referred to the Committee on Government Operations.

October 14, 1965

Referred to the Committee on Government Operations.