

For release on delivery
Expected 10:00 A.M. E.S.T.

Statement by

J. Charles Partee

Member, Board of Governors of the Federal Reserve System

before the

Subcommittee on Federal Spending Practices
and Open Government

of the

Committee on Governmental Affairs

United States Senate

November 1, 1979

I am pleased to appear before the Committee today to present the views of the Federal Reserve Board on S. 1411. The Board is sympathetic with the general objective of the bill--to reduce paperwork and to put effective controls on the process of imposing reporting and recordkeeping requirements on the public. Reporting burdens have grown sharply over the years and there can be no question of the need for stern discipline on agency reporting activities. As a matter of proper procedure, all statistical initiatives should be required to demonstrate (a) that there is a pressing need for every piece of information requested; (b) that there are no unnecessary duplicative collection efforts; (c) that information is asked for in the most efficient and least burdensome manner; and (d) that existing data sources, from whatever agency, have been utilized to the extent feasible.

The Federal Reserve has always endeavored to conduct its data collection efforts with this kind of discipline. Over the years we have strengthened and intensified our report controls. Since 1975, we have had in place a comprehensive system of clearance procedures. These procedures are reviewed periodically, and any changes in clearance standards promulgated by Executive Order or by OMB guidelines have been incorporated in our program to the extent appropriate.

Our program applies both to proposals for new reports and to all existing reports. Under the program, every Board reporting series is periodically reexamined on a zero-based approach to see whether it can be eliminated, cut-back with respect to contents or reporting panel, or otherwise improved with respect to reporting burden. Every Board report is subjected to critical review at several levels and must be justified in detail before it is adopted or renewed. We devote a substantial amount of resources to this program, which is coordinated at the senior staff level. Moreover, the program

involves active participation by several members of the Board, and the final decision on all report proposals is made by the Board as a whole. We believe that our program for the control and review of reporting is one of the most comprehensive in the Federal government, and we are confident that it would meet, and surpass, the program and procedural criteria set forth in section 3504(c)(2) of the bill.

We have had good success in recent years with the Board's program of reducing reporting burden. From the end of 1975 to mid-year 1979, we managed to reduce by almost 25 per cent the total number of items of information reported to us on all our reporting forms (other than those directly related to the accounting for deposits subject to reserve requirements). This total is measured by taking the number of items of information on each report multiplied by the number of respondents and the frequency of reporting within a year and then aggregated for all reports. I should hasten to add that we do not expect to be able to continue this rate of net reduction. Given new legislation, new supervisory and monetary policy needs, and the fact that we have completed the first cycle of review of existing reports, I would anticipate that we have already accomplished most of the net reduction possible for now. Nevertheless, the Board's clearance and review program will continue to ensure that reporting burdens are kept to the minimum consistent with the effective discharge of our responsibilities.

While our statistical clearance procedures incorporate appropriate OMB clearance guidelines and standards, the reports collected by the Board from banking institutions that are used for supervisory purposes have been exempt since 1942 from submission to OMB for approval under the Federal

Reports Act. The banking supervisory reports of the Comptroller of the Currency and the FDIC are also exempt. According to the legislative history of the Federal Reports Act, the exemption was intended to insure that the Bureau of the Budget (OMB's predecessor) would not be able to prohibit the banking agencies from independently collecting information with respect to the banks they supervise if they determined that the direct collection of such data was necessary. Among the reasons for such treatment are (1) the sensitivity of much supervisory information and of the examination process; (2) the necessity at times of obtaining information quickly in response to urgent policy needs; (3) the highly technical content of much of the data that needs to be obtained; and (4) the fact that many of the data collection activities and recordkeeping requirements of the Federal banking agencies are based on specific statutory mandates.

The Board believes that the rationale underlying the current exemption of banking reports from submission to OMB remains operative, particularly in view of our own rigorous report clearance and review procedures. Retention of the exemption is necessary to insure the continued and unhindered capability of the financial supervisory agencies to collect information they regard as essential for maintaining the soundness of the banking system. Involving the proposed Administrator for statistical management in the clearance of reports collected from banking institutions would seem to serve no constructive purpose. At a minimum, such involvement would raise serious

problems in view of the sensitivity of the data and would necessarily occasion delays that could interfere with the effective discharge of our responsibilities.

I am aware that a section of the proposed bill (3509(a)(3)) contains an "override" provision that would enable the Board, by a two-thirds vote, to void the Administrator's disapproval of a proposed reporting requirement and that another section (3511(b)) would permit the Administrator to "delegate his power to approve proposed information requests" to any agency under certain conditions. But neither of these provisions is a workable substitute for the continuation of the current exemption. The exercise of the override could involve a significant lapse of time since some of the specified procedures for submitting a request to the Administrator may be quite time consuming and, in addition, the Administrator is given up to 90 days to render his decision. Similarly, use of the "delegation" provision would be at the discretion of the Administrator and there can be no commitments in advance as to whether or on what conditions it would be utilized.

Aside from the substantive merits of preserving the current exemption of banking reports from any centralized clearance process, the Board submits that S. 1411 would grant authority to the Administrator in terms so broad as to raise concern that it might constitute an undue and unwarranted invasion of our statutory responsibilities. For example, under section 3515, the Board's authority "under any other law" to prescribe policies, regulations, or procedures in connection with information requests would be subject "to the authority conferred on the Administrator" and section 3516 would make all existing policies, regulations, or procedures in connection with information requests subject to repeal, amendment, and

supersession by the Administrator. It is difficult to assess the consequences of these sweeping provisions without detailed analysis of all statutes related to the Board and the policies and regulations adopted under those statutes. But it seems clear to us that these provisions go beyond a reasonable grant of authority consistent with the specific purposes of the legislation.

There are a number of specific provisions with respect to privacy and availability of data that are of some concern. For example, section 3518(b), which lists the conditions under which information obtained by one federal agency may be released to another federal agency, would seem to prevent or delay the Board in referring evidence of criminal violations of law obtained during the course of a bank examination to the Department of Justice. Such referrals of information are specifically provided for under the Right to Financial Privacy Act (see 12 U.S.C. § 3412(a)).

Similarly, the Right to Financial Privacy Act (see U.S.C. § 3412(d)), authorizes the exchange of examination or other information among financial supervisory agencies, notwithstanding the Act's basic prohibitions on the transfer of such information. S. 1411, in section 3518 (b), does not include a similar provision and could impede or eliminate the sharing or exchange of examination material among the Board, Comptroller of the Currency and FDIC.

Section 3519(a) removes all sanctions for failure to provide information to a federal agency unless collection of the information has been approved by the Administrator. This provision would appear to deny the possibility of applying legal penalties for the failure to provide information in cases where the Administrator's disapproval of the collection

of information is overridden by a two-thirds vote of the members of an independent regulatory agency, or where the Administrator's approval is implied by his failure to respond to an agency request within the specified time limit. The possibility of legal sanctions should be available in such cases.

There are also some administrative provisions of the bill that are troublesome to us in that they appear to be inconsistent with the Board's independent status under the Federal Reserve Act. For example, section 3504 would appear to give the Administrator responsibility for setting certain aspects of budget and management policies for all agencies covered by the bill. For the Board, this would involve areas placed within its discretionary authority by statute. Similarly, section 3513 appears to us to be too broad, both with respect to the Administrator's possible use of Board personnel and resources and with respect to his access to information and records in the Board's possession. As worded, these sections will likely give rise to problems more serious than those they are intended to solve.

I would like also to comment on some technical operating aspects of the bill that could have serious effects on the operation of the federal statistical system. One operational problem arises in connection with section 3509(b), which sets a two-year approval time limit on all new reports. This appears too restrictive and probably an inappropriate detail for legislation. There will be new reports for which an approval for more than two years is entirely appropriate. Moreover, our own experience is that, given the length of time required to go through all the steps of a rigorous clearance process, a universal two-year limit may prove costly and inefficient.

Another operational problem arises in connection with Title II of the bill. That title would establish, with detailed specification, a "Federal Information Locator System" and section 3509(a) would require its use. We have had some experience in related types of procedures for the description and specification of banking data, though of course not on the scale mandated here. On the basis of our experience, it appears that development of a federal information locator system as comprehensive as that called for by the bill would be an extremely complicated task and may in the end prove unworkable. For now, any legislation with respect to such a system might better mandate a program of experimental and developmental work, including the question of whether it is likely to be a cost-effective service. Such experimental work should include investigation of the alternative of having separate systems for different families of statistics that could be geared to the characteristics of each family. Even so, it is likely to require a great deal of time and effort to obtain a clearer picture of what a practical operational system would look like and to provide an informed appraisal of its probable costs and benefits.

The requirements under section 3603(3) and (4) that each agency insert into the locator system " a data profile for each public-use report, recordkeeping requirement, interagency report, and intra-agency report" and that "all data elements" in such reports be registered in the locator system also are premature. Our experience with similar types of systems on a smaller scale has impressed us with the enormous costs and difficulties involved in designing a comprehensive system and in trying to force different kinds of data into a standard format. Again, considerable developmental work seems called for before such a sweeping and costly system is required as a matter of law.

#