

# Union Calendar No. 387

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5835

[Report No. 109–651, Part I]

To amend title 38, United States Code, to improve information management within the Department of Veterans Affairs, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 19, 2006

Mr. BUYER (for himself, Mr. FILNER, Mr. BILIRAKIS, Mr. EVANS, Mr. STEARNS, Mr. GUTIERREZ, Mr. BURTON of Indiana, Ms. CORRINE BROWN of Florida, Mr. BROWN of South Carolina, Mr. MICHAUD, Mr. MILLER of Florida, Ms. HERSETH, Mr. BOOZMAN, Mr. STRICKLAND, Mr. BRADLEY of New Hampshire, Mr. REYES, Ms. GINNY BROWN-WAITE of Florida, Ms. BERKLEY, Mr. BILBRAY, Mr. SALAZAR, Mr. TOM DAVIS of Virginia, Mr. WAXMAN, Mr. WALSH, Mr. EDWARDS, Mr. DINGELL, and Ms. SCHAKOWSKY) introduced the following bill; which was referred to the Committee on Veterans' Affairs, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

SEPTEMBER 13, 2006

Additional sponsors: Mr. MORAN of Kansas, Mr. BOSWELL, Mr. HAYES, Ms. WATSON, Mrs. BONO, Mr. COSTA, Mr. CARTER, Mr. CASE, Mr. BROWN of Ohio, Ms. JACKSON-LEE of Texas, Mr. JOHNSON of Illinois, Mr. GERLACH, Mr. DAVIS of Florida, Mr. WOLF, Mr. WELDON of Pennsylvania, Mrs. DRAKE, Mr. MANZULLO, Mr. BISHOP of Georgia, Mr. GONZALEZ, Mr. ABERCROMBIE, Mrs. CAPITO, Mr. DOGGETT, Mr. FORTUÑO, Mr. CAMP of Michigan, Mr. SOUDER, Mr. ENGLISH of Pennsylvania, Mr. YOUNG of Florida, Mr. HIGGINS, Mr. SMITH of Washington, Mr. CALVERT, Mr. SCHWARZ of Michigan, Mr. KUHLMAN of New York, Mr. McDERMOTT, Mr. CUMMINGS, Mr. BARROW, Mrs. DAVIS of California, Mr. BARTLETT of Maryland, Mr. PASTOR, Mrs. BLACKBURN, Mr. RENZI, and Mr. EVERETT

SEPTEMBER 13, 2006

Reported from the Committee on Veterans' Affairs with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

SEPTEMBER 13, 2006

The Committee on Government Reform discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on July 19, 2006]

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## A BILL

To amend title 38, United States Code, to improve information management within the Department of Veterans Affairs, 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.**

4        *This Act may be cited as the “Veterans Identity and*  
 5        *Credit Security Act of 2006”.*

6        **SEC. 2. FEDERAL AGENCY DATA BREACH NOTIFICATION RE-**  
 7        **QUIREMENTS.**

8        *(a) AUTHORITY OF DIRECTOR OF OFFICE OF MANAGE-*  
 9        *MENT AND BUDGET TO ESTABLISH DATA BREACH POLI-*  
 10        *CIES.—Section 3543(a) of title 44, United States Code, is*  
 11        *amended—*

12                *(1) by striking “and” at the end of paragraph*  
 13                *(7);*

14                *(2) by striking the period and inserting “; and”*  
 15                *at the end of paragraph (8); and*

1           (3) by adding at the end the following new para-  
2 graph:

3           “(9) establishing policies, procedures, and stand-  
4 ards for agencies to follow in the event of a breach of  
5 data security involving the disclosure of sensitive per-  
6 sonal information in violation of section 552a of title  
7 5, including a requirement for timely notice to be  
8 given to those individuals whose sensitive personal in-  
9 formation could be compromised as a result of such  
10 breach, except no notice shall be required if the breach  
11 does not create a reasonable risk of identity theft,  
12 fraud, or other unlawful conduct regarding such indi-  
13 vidual.”.

14       (b) *AUTHORITY OF CHIEF INFORMATION OFFICER TO*  
15 *ENFORCE DATA BREACH POLICIES.*—Section 3544(a)(3) of  
16 title 44, United States Code, is amended by inserting after  
17 “authority to ensure compliance with” the following: “and,  
18 to the extent determined necessary and explicitly authorized  
19 by the head of the agency, to enforce”.

20       (c) *INCLUSION OF DATA BREACH NOTIFICATION IN*  
21 *AGENCY INFORMATION SECURITY PROGRAMS.*—Section  
22 3544(b) of title 44, United States Code, is amended—

23           (1) by striking “and” at the end of paragraph  
24       (7);

1           (2) by striking the period and inserting “; and”  
2           at the end of paragraph (8); and

3           (3) by adding at the end the following new para-  
4           graph:

5           “(9) procedures for notifying individuals whose  
6           sensitive personal information is compromised con-  
7           sistent with policies, procedures, and standards estab-  
8           lished under section 3543(a)(9) of this title.”.

9           (d) *SENSITIVE PERSONAL INFORMATION DEFINI-*  
10          *TION.*—Section 3542(b) of title 44, United States Code, is  
11          amended by adding at the end the following new paragraph:

12           “(4) The term ‘sensitive personal information’  
13           means any information contained in a record, as de-  
14           fined in section 552a(4) of title 5.”.

15          **SEC. 3. UNDER SECRETARY FOR INFORMATION SERVICES.**

16           (a) *UNDER SECRETARY.*—Chapter 3 of title 38, United  
17          States Code, is amended by inserting after section 307 the  
18          following new section:

19          **“§ 307A. Under Secretary for Information Services**

20           “(a) *UNDER SECRETARY.*—There is in the Department  
21          an Under Secretary for Information Services, who is ap-  
22          pointed by the President, by and with the advice and con-  
23          sent of the Senate. The Under Secretary shall be the head  
24          of the Office of Information Services and shall perform such  
25          functions as the Secretary shall prescribe.

1       “(b) *SERVICE AS CHIEF INFORMATION OFFICER.*—  
 2 *Notwithstanding any other provision of law, the Under Sec-*  
 3 *retary for Information Services shall serve as the Chief In-*  
 4 *formation Officer of the Department under section 310 of*  
 5 *this title.*”.

6       (b) *CLERICAL AMENDMENT.*—*The table of sections at*  
 7 *the beginning of such chapter is amended by inserting after*  
 8 *the item relating to section 307 the following new item:*

“307A. *Under Secretary for Information Services.*”.

9       (c) *CONFORMING AMENDMENT.*—*Section 308(b) of*  
 10 *such title is amended by striking paragraph (5) and redес-*  
 11 *ignating paragraphs (6) through (11) as paragraphs (5)*  
 12 *through (10), respectively.*

13 **SEC. 4. DEPARTMENT OF VETERANS AFFAIRS INFORMA-**  
 14 **TION SECURITY.**

15       (a) *INFORMATION SECURITY.*—*Chapter 57 of title 38,*  
 16 *United States Code, is amended by adding at the end the*  
 17 *following new subchapter:*

18       “**SUBCHAPTER III—INFORMATION SECURITY**  
 19       “**§ 5721. Definitions**

20       “*For the purposes of this subchapter:*

21               “(1) *The term ‘sensitive personal information’*  
 22               *means the name, address, or telephone number of an*  
 23               *individual, in combination with any of the following:*

24                       “(A) *The Social Security number of the in-*  
 25                       *dividual.*

1                   “(B) *The date of birth of the individual.*

2                   “(C) *Any information not available as part*  
3 *of the public record regarding the individual’s*  
4 *military service or health.*

5                   “(D) *Any financial account or other finan-*  
6 *cial information relating to the individual.*

7                   “(E) *The driver’s license number or equiva-*  
8 *lent State identification number of the indi-*  
9 *vidual.*

10                  “(F) *The deoxyribonucleic acid profile or*  
11 *other unique biometric data of the individual,*  
12 *including the fingerprint, voice print, retina or*  
13 *iris image, or other unique physical representa-*  
14 *tion of the individual.*

15                  “(2) *The term ‘data breach’ means the loss, theft,*  
16 *or other unauthorized access to data containing sen-*  
17 *sitive personal information, in electronic or printed*  
18 *form, that results in the potential compromise of the*  
19 *confidentiality or integrity of the data.*

20                  “(3) *The term ‘data breach analysis’ means the*  
21 *identification of any misuse of sensitive personal in-*  
22 *formation involved in a data breach.*

23                  “(4) *The term ‘fraud resolution services’ means*  
24 *services to assist an individual in the process of recov-*

1        *ering and rehabilitating the credit of the individual*  
2        *after the individual experiences identity theft.*

3                *“(5) The term ‘identity theft’ has the meaning*  
4        *given such term under section 603 of the Fair Credit*  
5        *Reporting Act (15 U.S.C. 1681a).*

6                *“(6) The term ‘identity theft insurance’ means*  
7        *any insurance policy that pays benefits for costs, in-*  
8        *cluding travel costs, notary fees, and postage costs,*  
9        *lost wages, and legal fees and expenses associated with*  
10        *the identity theft of the insured individual.*

11                *“(7) The term ‘principal credit reporting agency’*  
12        *means a consumer reporting agency as described in*  
13        *section 603(p) of the Fair Credit Reporting Act (15*  
14        *U.S.C. 1681a(p)).*

15        **“§ 5722. Office of the Under Secretary for Information**  
16                        **Services**

17                *“(a) DEPUTY UNDER SECRETARIES.—The Office of the*  
18        *Under Secretary for Information Services shall consist of*  
19        *the following:*

20                *“(1) The Deputy Under Secretary for Informa-*  
21        *tion Services for Security, who shall serve as the Sen-*  
22        *ior Information Security Officer of the Department.*

23                *“(2) The Deputy Under Secretary for Informa-*  
24        *tion Services for Operations and Management.*

1           “(3) *The Deputy Under Secretary for Informa-*  
2           *tion Services for Policy and Planning.*

3           “(b) *APPOINTMENTS.—Appointments under subsection*  
4           *(a) shall be made by the Secretary, notwithstanding the*  
5           *limitations of section 709 of this title.*

6           “(c) *QUALIFICATIONS.—At least one of positions estab-*  
7           *lished and filled under subsection (a) shall be filled by an*  
8           *individual who has at least five years of continuous service*  
9           *in the Federal civil service in the executive branch imme-*  
10           *diately preceding the appointment of the individual as a*  
11           *Deputy Under Secretary. For purposes of determining such*  
12           *continuous service of an individual, there shall be excluded*  
13           *any service by such individual in a position—*

14           *“(1) of a confidential, policy-determining, pol-*  
15           *icy-making, or policy-advocating character;*

16           *“(2) in which such individual served as a non-*  
17           *career appointee in the Senior Executive Service, as*  
18           *such term is defined in section 3132(a)(7) of title 5;*  
19           *or*

20           *“(3) to which such individual was appointed by*  
21           *the President.*

22           **“§ 5723. Information security management**

23           “(a) *RESPONSIBILITIES OF CHIEF INFORMATION OF-*  
24           *FICER.—To support the economical, efficient, and effective*  
25           *execution of subtitle III of chapter 35 of title 44, and poli-*

1 *cies and plans of the Department, the Secretary shall ensure*  
2 *that the Chief Information Officer of the Department has*  
3 *the authority and control necessary to develop, approve, im-*  
4 *plement, integrate, and oversee the policies, procedures,*  
5 *processes, activities, and systems of the Department relating*  
6 *to that subtitle, including the management of all related*  
7 *mission applications, information resources, personnel, and*  
8 *infrastructure.*

9       “(b) *ANNUAL COMPLIANCE REPORT.*—Not later than  
10 *March 1 of each year, the Secretary shall submit to the*  
11 *Committees on Veterans’ Affairs of the Senate and House*  
12 *of Representatives, the Committee on Government Reform*  
13 *of the House of Representatives, and the Committee on*  
14 *Homeland Security and Governmental Affairs of the Sen-*  
15 *ate, a report on the Department’s compliance with subtitle*  
16 *III of chapter 35 of title 44. The information in such report*  
17 *shall be displayed in the aggregate and separately for each*  
18 *Administration, office, and facility of the Department.*

19       “(c) *REPORTS TO SECRETARY OF COMPLIANCE DEFICI-*  
20 *ENCIES.*—(1) *At least once every month, the Chief Infor-*  
21 *mation Officer shall report to the Secretary any deficiency*  
22 *in the compliance with subtitle III of chapter 35 of title*  
23 *44 of the Department or any Administration, office, or fa-*  
24 *cility of the Department.*

1       “(2) *The Chief Information Officer shall immediately*  
2 *report to the Secretary any significant deficiency in such*  
3 *compliance.*

4       “(d) *DATA BREACHES.—(1) The Chief Information*  
5 *Officer shall immediately provide notice to the Secretary*  
6 *of any data breach.*

7       “(2) *Immediately after receiving notice of a data*  
8 *breach under paragraph (1), the Secretary shall provide no-*  
9 *tice of such breach to the Director of the Office of Manage-*  
10 *ment and Budget, the Inspector General of the Department,*  
11 *and, if appropriate, the Federal Trade Commission and the*  
12 *United States Secret Service.*

13       “(e) *BUDGETARY MATTERS.—When the budget for any*  
14 *fiscal year is submitted by the President to Congress under*  
15 *section 1105 of title 31, the Secretary shall submit to Con-*  
16 *gress a report that identifies amounts requested for Depart-*  
17 *ment implementation and remediation of and compliance*  
18 *with this subchapter and subtitle III of chapter 35 of title*  
19 *44. The report shall set forth those amounts both for each*  
20 *Administration within the Department and for the Depart-*  
21 *ment in the aggregate and shall identify, for each such*  
22 *amount, how that amount is aligned with and supports*  
23 *such implementation and compliance.*

1 **“§5724. Congressional reporting and notification of**  
2 **data breaches**

3 “(a) *QUARTERLY REPORTS.*—(1) *Not later than 30*  
4 *days after the last day of a fiscal quarter, the Secretary*  
5 *shall submit to the Committees on Veterans’ Affairs of the*  
6 *Senate and House of Representatives a report on any data*  
7 *breach with respect to sensitive personal information proc-*  
8 *essed or maintained by the Department that occurred dur-*  
9 *ing that quarter.*

10 “(2) *Each report submitted under paragraph (1) shall*  
11 *identify, for each data breach covered by the report, the Ad-*  
12 *ministration and facility of the Department responsible for*  
13 *processing or maintaining the sensitive personal informa-*  
14 *tion involved in the data breach.*

15 “(b) *NOTIFICATION OF SIGNIFICANT DATA*  
16 *BREACHES.*—(1) *In the event of a data breach with respect*  
17 *to sensitive personal information processed or maintained*  
18 *by the Secretary that the Secretary determines is signifi-*  
19 *cant, the Secretary shall provide notice of such breach to*  
20 *the Committees on Veterans’ Affairs of the Senate and*  
21 *House of Representatives.*

22 “(2) *Notice under paragraph (1) shall be provided*  
23 *promptly following the discovery of such a data breach and*  
24 *the implementation of any measures necessary to determine*  
25 *the scope of the breach, prevent any further breach or unau-*

1 *thorized disclosures, and reasonably restore the integrity of*  
2 *the data system.*

3 **“§ 5725. Data breaches**

4       “(a) *INDEPENDENT RISK ANALYSIS.—(1) In the event*  
5 *of a data breach with respect to sensitive personal informa-*  
6 *tion that is processed or maintained by the Secretary, the*  
7 *Secretary shall ensure that, as soon as possible after the*  
8 *data breach, a non-Department entity conducts an inde-*  
9 *pendent risk analysis of the data breach to determine the*  
10 *level of risk associated with the data breach for the potential*  
11 *misuse of any sensitive personal information involved in*  
12 *the data breach.*

13       “(2) *If the Secretary determines, based on the findings*  
14 *of a risk analysis conducted under paragraph (1), that a*  
15 *reasonable risk exists for the potential misuse of sensitive*  
16 *information involved in a data breach, the Secretary shall*  
17 *provide credit protection services in accordance with section*  
18 *5726 of this title.*

19       “(b) *NOTIFICATION.—(1) In the event of a data breach*  
20 *with respect to sensitive personal information that is proc-*  
21 *essed or maintained by the Secretary, the Secretary shall*  
22 *provide to an individual whose sensitive personal informa-*  
23 *tion is involved in that breach notice of the data breach—*

24               “(A) *in writing; or*

25               “(B) *by email, if—*

1           “(i) the Department’s primary method of  
2           communication with the individual is by email;  
3           and

4           “(ii) the individual has consented to receive  
5           such notification.

6           “(2) Notice provided under paragraph (1) shall—

7           “(A) describe the circumstances of the data  
8           breach and the risk that the breach could lead to mis-  
9           use, including identity theft, involving the sensitive  
10          personal information of the individual;

11          “(B) describe the specific types of sensitive per-  
12          sonal information that was compromised as a part of  
13          the data breach;

14          “(C) describe the actions the Department is tak-  
15          ing to remedy the data breach;

16          “(D) inform the individual that the individual  
17          may request a fraud alert and credit security freeze  
18          under this section;

19          “(E) clearly explain the advantages and dis-  
20          advantages to the individual of receiving fraud alerts  
21          and credit security freezes under this section; and

22          “(F) includes such other information as the Sec-  
23          retary determines is appropriate.

24          “(3) The notice required under paragraph (1) shall be  
25          provided promptly following the discovery of a data breach

1 *and the implementation of any measures necessary to deter-*  
2 *mine the scope of the breach, prevent any further breach*  
3 *or unauthorized disclosures, and reasonably restore the in-*  
4 *tegrity of the data system.*

5       “(c) *REPORT.*—*For each data breach with respect to*  
6 *sensitive personal information processed or maintained by*  
7 *the Secretary, the Secretary shall promptly submit to the*  
8 *Committees on Veterans’ Affairs of the Senate and House*  
9 *of Representatives a report containing the findings of any*  
10 *independent risk analysis conducted under subsection*  
11 *(a)(1), any determination of the Secretary under subsection*  
12 *(a)(2), and a description of any credit protection services*  
13 *provided under section 5726 of this title.*

14       “(d) *FINAL DETERMINATION.*—*Notwithstanding sec-*  
15 *tions 511 and 7104(a) of this title, any determination of*  
16 *the Secretary under subsection (a)(2) with respect to the*  
17 *reasonable risk for the potential misuse of sensitive informa-*  
18 *tion involved in a data breach is final and conclusive and*  
19 *may not be reviewed by any other official, administrative*  
20 *body, or court, whether by an action in the nature of man-*  
21 *damus or otherwise.*

22       “(e) *FRAUD ALERTS.*—(1) *In the event of a data*  
23 *breach with respect to sensitive personal information that*  
24 *is processed or maintained by the Secretary, the Secretary*  
25 *shall arrange, upon the request of an individual whose sen-*

1 *sitive personal information is involved in the breach to a*  
2 *principal credit reporting agency with which the Secretary*  
3 *has entered into a contract under section 5726(d) and at*  
4 *no cost to the individual, for the principal credit reporting*  
5 *agency to provide fraud alert services for that individual*  
6 *for a period of not less than one year, beginning on the*  
7 *date of such request, unless the individual requests that such*  
8 *fraud alert be removed before the end of such period, and*  
9 *the agency receives appropriate proof of the identity of the*  
10 *individual for such purpose.*

11       “(2) *The Secretary shall arrange for each principal*  
12 *credit reporting agency referred to in paragraph (1) to pro-*  
13 *vide any alert requested under such subsection in the file*  
14 *of the individual along with any credit score generated in*  
15 *using that file, for a period of not less than one year, begin-*  
16 *ning on the date of such request, unless the individual re-*  
17 *quests that such fraud alert be removed before the end of*  
18 *such period, and the agency receives appropriate proof of*  
19 *the identity of the individual for such purpose.*

20       “(f) *CREDIT SECURITY FREEZE.—(1) In the event of*  
21 *a data breach with respect to sensitive personal information*  
22 *that is processed or maintained by the Secretary, the Sec-*  
23 *retary shall arrange, upon the request of an individual*  
24 *whose sensitive personal information is involved in the*  
25 *breach and at no cost to the individual, for each principal*

1 *credit reporting agency to apply a security freeze to the file*  
2 *of that individual for a period of not less than one year,*  
3 *beginning on the date of such request, unless the individual*  
4 *requests that such security freeze be removed before the end*  
5 *of such period, and the agency receives appropriate proof*  
6 *of the identity of the individual for such purpose.*

7       “(2) *The Secretary shall arrange for a principal credit*  
8 *reporting agency applying a security freeze under para-*  
9 *graph (1)—*

10               “(A) *to send a written confirmation of the secu-*  
11 *urity freeze to the individual within five business days*  
12 *of applying the freeze;*

13               “(B) *to refer the information regarding the secu-*  
14 *urity freeze to other consumer reporting agencies;*

15               “(C) *to provide the individual with a unique*  
16 *personal identification number or password to be used*  
17 *by the individual when providing authorization for*  
18 *the release of the individual’s credit for a specific*  
19 *party or period of time; and*

20               “(D) *upon the request of the individual, to tem-*  
21 *porarily lift the freeze for a period of time specified*  
22 *by the individual, beginning not later than three*  
23 *business days after the date on which the agency re-*  
24 *ceives the request.*

1 **“§ 5726. Provision of credit protection services**

2       “(a) *COVERED INDIVIDUAL.*—For purposes of this sec-  
3 tion, a covered individual is an individual whose sensitive  
4 personal information that is processed or maintained by  
5 the Department (or any third-party entity acting on behalf  
6 of the Department) is involved, on or after August 1, 2005,  
7 in a data breach for which the Secretary determines a rea-  
8 sonable risk exists for the potential misuse of sensitive per-  
9 sonal information under section 5725(a)(2) of this title.

10       “(b) *NOTIFICATION.*—(1) In addition to any notice re-  
11 quired under subsection 5725(b) of this title, the Secretary  
12 shall provide to a covered individual notice in writing  
13 that—

14               “(A) the individual may request credit protec-  
15 tion services under this section;

16               “(B) clearly explains the advantages and dis-  
17 advantages to the individual of receiving credit pro-  
18 tection services under this section;

19               “(C) includes a notice of which principal credit  
20 reporting agency the Secretary has entered into a con-  
21 tract with under subsection (d), and information  
22 about requesting services through that agency;

23               “(D) describes actions the individual can or  
24 should take to reduce the risk of identity theft; and

25               “(E) includes such other information as the Sec-  
26 retary determines is appropriate.

1       “(2) *The notice required under paragraph (1) shall be*  
2 *made as promptly as possible and without unreasonable*  
3 *delay following the discovery of a data breach for which*  
4 *the Secretary determines a reasonable risk exists for the po-*  
5 *tential misuse of sensitive personal information under sec-*  
6 *tion 5725(a)(2) of this title and the implementation of any*  
7 *measures necessary to determine the scope of the breach,*  
8 *prevent any further breach or unauthorized disclosures, and*  
9 *reasonably restore the integrity of the data system.*

10       “(3) *The Secretary shall ensure that each notification*  
11 *under paragraph (1) includes a form or other means for*  
12 *readily requesting the credit protection services under this*  
13 *section. Such form or other means may include a telephone*  
14 *number, email address, or Internet website address.*

15       “(c) *AVAILABILITY OF SERVICES THROUGH OTHER*  
16 *GOVERNMENT AGENCIES.—If a service required to be pro-*  
17 *vided under this section is available to a covered individual*  
18 *through another department or agency of the Government,*  
19 *the Secretary and the head of that department or agency*  
20 *may enter into an agreement under which the head of that*  
21 *department or agency agrees to provide that service to the*  
22 *covered individual.*

23       “(d) *CONTRACT WITH CREDIT REPORTING AGENCY.—*  
24 *Subject to the availability of appropriations and notwith-*  
25 *standing any other provision of law, the Secretary shall*

1 *enter into contracts or other agreements as necessary with*  
2 *one or more principal credit reporting agencies in order*  
3 *to ensure, in advance, the provision of credit protection*  
4 *services under this section and fraud alerts and security*  
5 *freezes under section 5725 of this title. Any such contract*  
6 *or agreement may include provisions for the Secretary to*  
7 *pay the expenses of such a credit reporting agency for the*  
8 *provision of such services.*

9       “(e) *DATA BREACH ANALYSIS.*—*The Secretary shall*  
10 *arrange, upon the request of a covered individual and at*  
11 *no cost to the individual, to provide data breach analysis*  
12 *for the individual for a period of not less than one year,*  
13 *beginning on the date of such request.*

14       “(f) *PROVISION OF CREDIT MONITORING SERVICES*  
15 *AND IDENTITY THEFT INSURANCE.*—*During the one-year*  
16 *period beginning on the date on which the Secretary notifies*  
17 *a covered individual that the individual’s sensitive personal*  
18 *information is involved in a data breach, the Secretary*  
19 *shall arrange, upon the request of the individual and with-*  
20 *out charge to the individual, for the provision of credit mon-*  
21 *itoring services to the individual. Credit monitoring serv-*  
22 *ices under this subsection shall include each of the following:*

23               “(1) *One copy of the credit report of the indi-*  
24               *vidual every three months.*

25               “(2) *Fraud resolution services for the individual.*

1           “(3) *Identity theft insurance in a coverage*  
2           *amount that does not exceed \$30,000 in aggregate li-*  
3           *ability for the insured.*

4   **“§ 5727. Contracts for data processing or maintenance**

5           “(a) *CONTRACT REQUIREMENTS.—If the Secretary en-*  
6           *ters into a contract for the performance of any Department*  
7           *function that requires access to sensitive personal informa-*  
8           *tion, the Secretary shall require as a condition of the con-*  
9           *tract that—*

10           “(1) *the contractor shall not, directly or through*  
11           *an affiliate of the contractor, disclose such informa-*  
12           *tion to any other person unless the disclosure is law-*  
13           *ful and is expressly permitted under the contract;*

14           “(2) *the contractor, or any subcontractor for a*  
15           *subcontract of the contract, shall promptly notify the*  
16           *Secretary of any data breach that occurs with respect*  
17           *to such information.*

18           “(b) *LIQUIDATED DAMAGES.—Each contract subject to*  
19           *the requirements of subsection (a) shall provide for liq-*  
20           *uidated damages to be paid by the contractor to the Sec-*  
21           *retary in the event of a data breach with respect to any*  
22           *sensitive personal information processed or maintained by*  
23           *the contractor or any subcontractor under that contract.*

24           “(c) *PROVISION OF CREDIT PROTECTION SERVICES.—*  
25           *Any amount collected by the Secretary under subsection (b)*

1 *shall be deposited in or credited to the Department account*  
 2 *from which the contractor was paid and shall remain avail-*  
 3 *able for obligation without fiscal year limitation exclusively*  
 4 *for the purpose of providing credit protection services in*  
 5 *accordance with section 5726 of this title.*

6 **“§ 5728. Authorization of appropriations**

7 *“There are authorized to be appropriated to carry out*  
 8 *this subchapter such sums as may be necessary for each fis-*  
 9 *cal year.”.*

10 *(b) CLERICAL AMENDMENT.—The table of sections at*  
 11 *the beginning of such chapter is amended by adding at the*  
 12 *end the following new items:*

*“SUBCHAPTER III—INFORMATION SECURITY*

*“5721. Definitions.*

*“5722. Office of the Under Secretary for Information Services.*

*“5723. Information security management.*

*“5724. Congressional reporting and notification of data breaches.*

*“5725. Data breaches.*

*“5726. Provision of credit protection services.*

*“5727. Contracts for data processing or maintenance.*

*“5728. Authorization of appropriations.”.*

13 *(c) DEADLINE FOR REGULATIONS.—Not later than 60*  
 14 *days after the date of the enactment of this Act, the Sec-*  
 15 *retary of Veterans Affairs shall publish regulations to carry*  
 16 *out subchapter III of chapter 57 of title 38, United States*  
 17 *Code, as added by subsection (a).*

1 **SEC. 5. REPORT ON FEASIBILITY OF USING PERSONAL**  
2 **IDENTIFICATION NUMBERS FOR IDENTIFICA-**  
3 **TION.**

4 *Not later than 180 days after the date of the enactment*  
5 *of this Act, the Secretary of Veterans Affairs shall submit*  
6 *to Congress a report containing the assessment of the Sec-*  
7 *retary with respect to the feasibility of using personal iden-*  
8 *tification numbers instead of Social Security numbers for*  
9 *the purpose of identifying individuals whose sensitive per-*  
10 *sonal information (as that term is defined in section 5721*  
11 *of title 38, United States Code, as added by section 4) is*  
12 *processed or maintained by the Secretary.*

13 **SEC. 6. DEADLINE FOR APPOINTMENTS.**

14 *(a) DEADLINE.—Not later than 180 days after the date*  
15 *of the enactment of this Act—*

16 *(1) the President shall nominate an individual*  
17 *to serve as the Under Secretary of Veterans Affairs for*  
18 *Information Services under section 307A of title 38,*  
19 *United States Code, as added by section 3; and*

20 *(2) the Secretary of Veterans Affairs shall ap-*  
21 *point an individual to serve as each of the Deputy*  
22 *Under Secretaries of Veterans Affairs for Information*  
23 *Services under section 5722 of such title, as added by*  
24 *section 4.*

25 *(b) REPORT.—Not later than 30 days after the date*  
26 *of the enactment of this Act, and every 30 days thereafter*

1 *until the appointments described in subsection (a) are*  
 2 *made, the Secretary of Veterans Affairs shall submit to Con-*  
 3 *gress a report describing the progress of such appointments.*

4 **SEC. 7. INFORMATION SECURITY EDUCATION ASSISTANCE**  
 5 **PROGRAM.**

6 *(a) PROGRAM REQUIRED.—Title 38, United States*  
 7 *Code, is amended by inserting after chapter 78 the following*  
 8 *new chapter:*

9 **“CHAPTER 79—INFORMATION SECURITY**  
 10 **EDUCATION ASSISTANCE PROGRAM**

*“Sec.*

*“7901. Programs; purpose.*

*“7902. Scholarship program.*

*“7903. Education debt reduction program.*

*“7904. Preferences in awarding financial assistance.*

*“7905. Requirement of honorable discharge for veterans receiving assistance.*

*“7906. Regulations.*

*“7907. Termination.*

11 **“§ 7901. Programs; purpose**

12 *“(a) IN GENERAL.—To encourage the recruitment and*  
 13 *retention of Department personnel who have the informa-*  
 14 *tion security skills necessary to meet Department require-*  
 15 *ments, the Secretary shall carry out programs in accord-*  
 16 *ance with this chapter to provide financial support for edu-*  
 17 *cation in computer science and electrical and computer en-*  
 18 *gineering at accredited institutions of higher education.*

19 *“(b) TYPES OF PROGRAMS.—The programs authorized*  
 20 *under this chapter are as follows:*

1           “(1) *Scholarships for pursuit of doctoral degrees*  
2           *in computer science and electrical and computer engi-*  
3           *neering at accredited institutions of higher education.*

4           “(2) *Education debt reduction for Department*  
5           *personnel who hold doctoral degrees in computer*  
6           *science and electrical and computer engineering at ac-*  
7           *credited institutions of higher education.*

8   **“§ 7902. Scholarship program**

9           “(a) *AUTHORITY.—(1) Subject to the availability of*  
10          *appropriations, the Secretary shall establish a scholarship*  
11          *program under which the Secretary shall, subject to sub-*  
12          *section (d), provide financial assistance in accordance with*  
13          *this section to a qualified person—*

14                 “(A) *who is pursuing a doctoral degree in com-*  
15                 *puter science or electrical or computer engineering at*  
16                 *an accredited institution of higher education; and*

17                 “(B) *who enters into an agreement with the Sec-*  
18                 *retary as described in subsection (b).*

19           “(2)(A) *Except as provided under subparagraph (B),*  
20          *the Secretary may provide financial assistance under this*  
21          *section to an individual for up to five years.*

22                 “(B) *The Secretary may waive the limitation under*  
23                 *subparagraph (A) if the Secretary determines that such a*  
24                 *waiver is appropriate.*

1       “(3)(A) *The Secretary may award up to five scholar-*  
2 *ships for any academic year to individuals who did not*  
3 *receive assistance under this section for the preceding aca-*  
4 *demic year.*

5       “(B) *Not more than one scholarship awarded under*  
6 *subparagraph (A) may be awarded to an individual who*  
7 *is an employee of the Department when the scholarship is*  
8 *awarded.*

9       “(b) *SERVICE AGREEMENT FOR SCHOLARSHIP RECIPI-*  
10 *ENTS.—(1) To receive financial assistance under this sec-*  
11 *tion an individual shall enter into an agreement to accept*  
12 *and continue employment in the Department for the period*  
13 *of obligated service determined under paragraph (2).*

14       “(2) *For the purposes of this subsection, the period of*  
15 *obligated service for a recipient of financial assistance*  
16 *under this section shall be the period determined by the Sec-*  
17 *retary as being appropriate to obtain adequate service in*  
18 *exchange for the financial assistance and otherwise to*  
19 *achieve the goals set forth in section 7901(a) of this title.*  
20 *In no event may the period of service required of a recipient*  
21 *be less than the period equal to two times the total period*  
22 *of pursuit of a degree for which the Secretary agrees to pro-*  
23 *vide the recipient with financial assistance under this sec-*  
24 *tion. The period of obligated service is in addition to any*

1 *other period for which the recipient is obligated to serve*  
2 *on active duty or in the civil service, as the case may be.*

3       “(3) *An agreement entered into under this section by*  
4 *a person pursuing an doctoral degree shall include terms*  
5 *that provide the following:*

6               “(A) *That the period of obligated service begins*  
7 *on a date after the award of the degree that is deter-*  
8 *mined under the regulations prescribed under section*  
9 *7906 of this title.*

10              “(B) *That the individual will maintain satisfac-*  
11 *tory academic progress, as determined in accordance*  
12 *with those regulations, and that failure to maintain*  
13 *such progress constitutes grounds for termination of*  
14 *the financial assistance for the individual under this*  
15 *section.*

16              “(C) *Any other terms and conditions that the*  
17 *Secretary determines appropriate for carrying out*  
18 *this section.*

19       “(c) *AMOUNT OF ASSISTANCE.—(1) The amount of the*  
20 *financial assistance provided for an individual under this*  
21 *section shall be the amount determined by the Secretary as*  
22 *being necessary to pay—*

23               “(A) *the tuition and fees of the individual; and*

24               “(B) *\$1500 to the individual each month (in-*  
25 *cluding a month between academic semesters or terms*

1        *leading to the degree for which such assistance is pro-*  
2        *vided or during which the individual is not enrolled*  
3        *in a course of education but is pursuing independent*  
4        *research leading to such degree) for books, laboratory*  
5        *expenses, and expenses of room and board.*

6        *“(2) In no case may the amount of assistance provided*  
7        *for an individual under this section for an academic year*  
8        *exceed \$50,000.*

9        *“(3) In no case may the total amount of assistance*  
10       *provided for an individual under this section exceed*  
11       *\$200,000.*

12       *“(4) Notwithstanding any other provision of law, fi-*  
13       *nancial assistance paid an individual under this section*  
14       *shall not be considered as income or resources in deter-*  
15       *mining eligibility for, or the amount of benefits under, any*  
16       *Federal or federally assisted program.*

17       *“(d) REPAYMENT FOR PERIOD OF UNSERVED OBLI-*  
18       *GATED SERVICE.—(1) An individual who receives financial*  
19       *assistance under this section shall repay to the Secretary*  
20       *an amount equal to the unearned portion of the financial*  
21       *assistance if the individual fails to satisfy the requirements*  
22       *of the service agreement entered into under subsection (b),*  
23       *except in certain circumstances authorized by the Secretary.*

24       *“(2) The Secretary may establish, by regulations, pro-*  
25       *cedures for determining the amount of the repayment re-*

1 *quired under this subsection and the circumstances under*  
2 *which an exception to the required repayment may be*  
3 *granted.*

4       “(3) *An obligation to repay the Secretary under this*  
5 *subsection is, for all purposes, a debt owed the United*  
6 *States. A discharge in bankruptcy under title 11 does not*  
7 *discharge a person from such debt if the discharge order*  
8 *is entered less than five years after the date of the termi-*  
9 *nation of the agreement or contract on which the debt is*  
10 *based.*

11       “(e) *WAIVER OR SUSPENSION OF COMPLIANCE.—The*  
12 *Secretary shall prescribe regulations providing for the*  
13 *waiver or suspension of any obligation of a individual for*  
14 *service or payment under this section (or an agreement*  
15 *under this section) whenever noncompliance by the indi-*  
16 *vidual is due to circumstances beyond the control of the in-*  
17 *dividual or whenever the Secretary determines that the*  
18 *waiver or suspension of compliance is in the best interest*  
19 *of the United States.*

20       “(f) *INTERNSHIPS.—(1) The Secretary may offer a*  
21 *compensated internship to an individual for whom finan-*  
22 *cial assistance is provided under this section during a pe-*  
23 *riod between academic semesters or terms leading to the de-*  
24 *gree for which such assistance is provided. Compensation*

1 *provided for such an internship shall be in addition to the*  
2 *financial assistance provided under this section.*

3       “(2) *An internship under this subsection shall not be*  
4 *counted toward satisfying a period of obligated service*  
5 *under this section.*

6       “(g) *INELIGIBILITY OF INDIVIDUALS RECEIVING CER-*  
7 *TAIN EDUCATION ASSISTANCE PAYMENTS.—An individual*  
8 *who receives a payment of educational assistance under*  
9 *chapter 30, 31, 32, 34, or 35 of this title or chapter 1606*  
10 *or 1607 of title 10 for a month in which the individual*  
11 *is enrolled in a course of education leading to a doctoral*  
12 *degree in information security is not eligible to receive fi-*  
13 *nancial assistance under this section for that month.*

14 **“§ 7903. Education debt reduction program**

15       “(a) *AUTHORITY.—(1) Subject to the availability of*  
16 *appropriations, the Secretary shall establish an education*  
17 *debt reduction program under which the Secretary shall*  
18 *make education debt reduction payments under this section*  
19 *to qualified individuals eligible under subsection (b) for the*  
20 *purpose of reimbursing such individuals for payments by*  
21 *such individuals of principal and interest on loans de-*  
22 *scribed in paragraph (2) of that subsection.*

23       “(2)(A) *For each fiscal year, the Secretary may accept*  
24 *up to five individuals into the program established under*

1 *paragraph (1) who did not receive such a payment during*  
2 *the preceding fiscal year.*

3       “(B) *Not more than one individual accepted into the*  
4 *program for a fiscal year under subsection (A) shall be a*  
5 *Department employee as of the date on which the individual*  
6 *is accepted into the program.*

7       “(b) *ELIGIBILITY.—An individual is eligible to par-*  
8 *ticipate in the program under this section if the indi-*  
9 *vidual—*

10               “(1) *has completed a doctoral degree a doctoral*  
11 *degree in computer science or electrical or computer*  
12 *engineering at an accredited institution of higher*  
13 *education during the five-year period preceding the*  
14 *date on which the individual is hired;*

15               “(2) *is an employee of the Department who*  
16 *serves in a position related to information security*  
17 *(as determined by the Secretary); and*

18               “(3) *owes any amount of principal or interest*  
19 *under a loan, the proceeds of which were used by or*  
20 *on behalf of that individual to pay costs relating to*  
21 *a doctoral degree in computer science or electrical or*  
22 *computer engineering at an accredited institution of*  
23 *higher education.*

24       “(c) *AMOUNT OF ASSISTANCE.—(1) Subject to para-*  
25 *graph (2), the amount of education debt reduction pay-*

1 *ments made to an individual under this section may not*  
2 *exceed \$82,500 over a total of five years, of which not more*  
3 *than \$16,500 of such payments may be made in each year.*

4       “(2) *The total amount payable to an individual under*  
5 *this section for any year may not exceed the amount of the*  
6 *principal and interest on loans referred to in subsection*  
7 *(b)(3) that is paid by the individual during such year.*

8       “(d) *PAYMENTS.—(1) The Secretary shall make edu-*  
9 *cation debt reduction payments under this section on an*  
10 *annual basis.*

11       “(2) *The Secretary shall make such a payment—*

12               “(A) *on the last day of the one-year period be-*  
13 *ginning on the date on which the individual is ac-*  
14 *cepted into the program established under subsection*  
15 *(a); or*

16               “(B) *in the case of an individual who received*  
17 *a payment under this section for the preceding fiscal*  
18 *year, on the last day of the one-year period beginning*  
19 *on the date on which the individual last received such*  
20 *a payment.*

21       “(3) *Notwithstanding any other provision of law, edu-*  
22 *cation debt reduction payments under this section shall not*  
23 *be considered as income or resources in determining eligi-*  
24 *bility for, or the amount of benefits under, any Federal or*  
25 *federally assisted program.*

1           “(e) *PERFORMANCE REQUIREMENT.*—*The Secretary*  
2 *may make education debt reduction payments to an indi-*  
3 *vidual under this section for a year only if the Secretary*  
4 *determines that the individual maintained an acceptable*  
5 *level of performance in the position or positions served by*  
6 *the individual during the year.*

7           “(f) *NOTIFICATION OF TERMS OF PROVISION OF PAY-*  
8 *MENTS.*—*The Secretary shall provide to an individual who*  
9 *receives a payment under this section notice in writing of*  
10 *the terms and conditions that apply to such a payment.*

11           “(g) *COVERED COSTS.*—*For purposes of subsection*  
12 *(b)(3), costs relating to a course of education or training*  
13 *include—*

14                   “(1) *tuition expenses; and*

15                   “(2) *all other reasonable educational expenses,*  
16 *including fees, books, and laboratory expenses;*

17 **“§ 7904. Preferences in awarding financial assistance**

18           *“In awarding financial assistance under this chapter,*  
19 *the Secretary shall give a preference to qualified individuals*  
20 *who are otherwise eligible to receive the financial assistance*  
21 *in the following order of priority:*

22                   “(1) *Veterans with service-connected disabilities.*

23                   “(2) *Veterans.*

24                   “(3) *Persons described in section 4215(a)(1)(B)*  
25 *of this title.*



1 *an academic semester or term that begins on or after August*  
2 *1, 2007.*

3       *(d) CLERICAL AMENDMENT.—The tables of chapters at*  
4 *the beginning of such title, and at the beginning of part*  
5 *V of such title, are amended by inserting after the item re-*  
6 *lating to chapter 78 the following new item:*

*“79. Information Security Education Assistance Program ..... 7901”.*



Union Calendar No. 387

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 5835**

[Report No. 109-651, Part I]

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**A BILL**

To amend title 38, United States Code, to improve information management within the Department of Veterans Affairs, and for other purposes.

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SEPTEMBER 13, 2006

Reported from the Committee on Veterans' Affairs with  
an amendment

SEPTEMBER 13, 2006

The Committee on Government Reform discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed