

109TH CONGRESS
2^D SESSION

H. R. 5835

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Veterans Identity and
3 Credit Security Act of 2006”.

4 **SEC. 2. FEDERAL AGENCY DATA BREACH NOTIFICATION**
5 **REQUIREMENTS.**

6 (a) **AUTHORITY OF DIRECTOR OF OFFICE OF MAN-**
7 **AGEMENT AND BUDGET TO ESTABLISH DATA BREACH**
8 **POLICIES.**—Section 3543(a) of title 44, United States
9 Code, is amended—

10 (1) by striking “and” at the end of paragraph
11 (7);

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

14 (3) by adding at the end the following:

15 “(9) establishing policies, procedures, and
16 standards for agencies to follow in the event of a
17 breach of data security involving the disclosure of
18 sensitive personal information and for which harm to
19 an individual could reasonably be expected to result,
20 specifically including—

21 “(A) a requirement for timely notice to be
22 provided to those individuals whose sensitive
23 personal information could be compromised as a
24 result of such breach, except no notice shall be
25 required if the breach does not create a reason-

1 able risk of identity theft, fraud, or other un-
2 lawful conduct regarding such individual;

3 “(B) guidance on determining how timely
4 notice is to be provided; and

5 “(C) guidance regarding whether addi-
6 tional special actions are necessary and appro-
7 priate, including data breach analysis, fraud
8 resolution services, identity theft insurance, and
9 credit protection or monitoring services.”.

10 (b) AUTHORITY OF CHIEF INFORMATION OFFICER
11 TO ENFORCE DATA BREACH POLICIES AND DEVELOP
12 AND MAINTAIN INVENTORIES.—Section 3544(a)(3) of
13 title 44, United States Code, is amended—

14 (1) by inserting after “authority to ensure com-
15 pliance with” the following: “and, to the extent de-
16 termined necessary and explicitly authorized by the
17 head of the agency, to enforce”;

18 (2) by striking “and” at the end of subpara-
19 graph (D);

20 (3) by inserting “and” at the end of subpara-
21 graph (E); and

22 (4) by adding at the end the following:

23 “(F) developing and maintaining an inven-
24 tory of all personal computers, laptops, or any

1 other hardware containing sensitive personal in-
2 formation;”.

3 (c) INCLUSION OF DATA BREACH NOTIFICATION IN
4 AGENCY INFORMATION SECURITY PROGRAMS.—Section
5 3544(b) of title 44, United States Code, is amended—

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

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

10 (3) by adding at the end the following:

11 “(9) procedures for notifying individuals whose
12 sensitive personal information is compromised con-
13 sistent with policies, procedures, and standards es-
14 tablished under section 3543(a)(9) of this title.”.

15 (d) AUTHORITY OF AGENCY CHIEF HUMAN CAPITAL
16 OFFICERS TO ASSESS FEDERAL PERSONAL PROPERTY.—
17 Section 1402(a) of title 5, United States Code, is amend-
18 ed—

19 (1) by striking “, and” at the end of paragraph
20 (5) and inserting a semicolon;

21 (2) by striking the period and inserting “; and”
22 at the end of paragraph (6); and

23 (3) by adding at the end the following:

24 “(7) prescribing policies and procedures for exit
25 interviews of employees, including a full accounting

1 of all Federal personal property that was assigned to
2 the employee during the course of employment.”.

3 (e) SENSITIVE PERSONAL INFORMATION DEFINI-
4 TION.—Section 3542(b) of title 44, United States Code,
5 is amended by adding at the end the following new para-
6 graph:

7 “(4) The term ‘sensitive personal information’,
8 with respect to an individual, means any information
9 about the individual maintained by an agency, in-
10 cluding—

11 “(A) education, financial transactions,
12 medical history, and criminal or employment
13 history;

14 “(B) information that can be used to dis-
15 tinguish or trace the individual’s identity, in-
16 cluding name, social security number, date and
17 place of birth, mother’s maiden name, or bio-
18 metric records; or

19 “(C) any other personal information that
20 is linked or linkable to the individual.”.

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

22 (a) UNDER SECRETARY.—Chapter 3 of title 38,
23 United States Code, is amended by inserting after section
24 307 the following new section:

1 **“§ 307A. Under Secretary for Information Services**

2 “(a) UNDER SECRETARY.—There is in the Depart-
3 ment an Under Secretary for Information Services, who
4 is appointed by the President, by and with the advice and
5 consent of the Senate. The Under Secretary shall be the
6 head of the Office of Information Services and shall per-
7 form such functions as the Secretary shall prescribe.

8 “(b) SERVICE AS CHIEF INFORMATION OFFICER.—
9 Notwithstanding any other provision of law, the Under
10 Secretary for Information Services shall serve as the Chief
11 Information Officer of the Department under section 310
12 of this title.”.

13 (b) CLERICAL AMENDMENT.—The table of sections
14 at the beginning of such chapter is amended by inserting
15 after the item relating to section 307 the following new
16 item:

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

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

21 **SEC. 4. DEPARTMENT OF VETERANS AFFAIRS INFORMA-**
22 **TION SECURITY.**

23 (a) INFORMATION SECURITY.—Chapter 57 of title
24 38, United States Code, is amended by adding at the end
25 the following new subchapter:

1 “SUBCHAPTER III—INFORMATION SECURITY

2 “§ 5721. Definitions

3 “For the purposes of this subchapter:

4 “(1) The term ‘sensitive personal information’,
5 with respect to an individual, means any information
6 about the individual maintained by an agency, in-
7 cluding—8 “(A) education, financial transactions,
9 medical history, and criminal or employment
10 history;11 “(B) information that can be used to dis-
12 tinguish or trace the individual’s identity, in-
13 cluding name, social security number, date and
14 place of birth, mother’s maiden name, or bio-
15 metric records; or16 “(C) any other personal information that
17 is linked or linkable to the individual.18 “(2) The term ‘data breach’ means the loss,
19 theft, or other unauthorized access to data con-
20 taining sensitive personal information, in electronic
21 or printed form, that results in the potential com-
22 promise of the confidentiality or integrity of the
23 data.

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

4 “(4) The term ‘fraud resolution services’ means
5 services to assist an individual in the process of re-
6 covering and rehabilitating the credit of the indi-
7 vidual after the individual experiences identity theft.

8 “(5) The term ‘identity theft’ has the meaning
9 given such term under section 603 of the Fair Cred-
10 it Reporting Act (15 U.S.C. 1681a).

11 “(6) The term ‘identity theft insurance’ means
12 any insurance policy that pays benefits for costs, in-
13 cluding travel costs, notary fees, and postage costs,
14 lost wages, and legal fees and expenses associated
15 with the identity theft of the insured individual.

16 “(7) The term ‘principal credit reporting agen-
17 cy’ means a consumer reporting agency as described
18 in section 603(p) of the Fair Credit Reporting Act
19 (15 U.S.C. 1681a(p)).

20 **“§ 5722. Office of the Under Secretary for Information**
21 **Services**

22 “(a) DEPUTY UNDER SECRETARIES.—The Office of
23 the Under Secretary for Information Services shall consist
24 of the following:

1 “(1) The Deputy Under Secretary for Informa-
2 tion Services for Security, who shall serve as the
3 Senior Information Security Officer of the Depart-
4 ment.

5 “(2) The Deputy Under Secretary for Informa-
6 tion Services for Operations and Management.

7 “(3) The Deputy Under Secretary for Informa-
8 tion Services for Policy and Planning.

9 “(b) APPOINTMENTS.—Appointments under sub-
10 section (a) shall be made by the Secretary, notwith-
11 standing the limitations of section 709 of this title.

12 “(c) QUALIFICATIONS.—At least one of positions es-
13 tablished and filled under subsection (a) shall be filled by
14 an individual who has at least five years of continuous
15 service in the Federal civil service in the executive branch
16 immediately preceding the appointment of the individual
17 as a Deputy Under Secretary. For purposes of deter-
18 mining such continuous service of an individual, there
19 shall be excluded any service by such individual in a posi-
20 tion—

21 “(1) of a confidential, policy-determining, pol-
22 icy-making, or policy-advocating character;

23 “(2) in which such individual served as a non-
24 career appointee in the Senior Executive Service, as

1 such term is defined in section 3132(a)(7) of title 5;

2 or

3 “(3) to which such individual was appointed by

4 the President.

5 **“§ 5723. Information security management**

6 “(a) RESPONSIBILITIES OF CHIEF INFORMATION OF-
7 FICER.—To support the economical, efficient, and effec-
8 tive execution of subtitle III of chapter 35 of title 44, and
9 policies and plans of the Department, the Secretary shall
10 ensure that the Chief Information Officer of the Depart-
11 ment has the authority and control necessary to develop,
12 approve, implement, integrate, and oversee the policies,
13 procedures, processes, activities, and systems of the De-
14 partment relating to that subtitle, including the manage-
15 ment of all related mission applications, information re-
16 sources, personnel, and infrastructure.

17 “(b) ANNUAL COMPLIANCE REPORT.—Not later than
18 March 1 of each year, the Secretary shall submit to the
19 Committees on Veterans’ Affairs of the Senate and House
20 of Representatives, the Committee on Government Reform
21 of the House of Representatives, and the Committee on
22 Homeland Security and Governmental Affairs of the Sen-
23 ate, a report on the Department’s compliance with subtitle
24 III of chapter 35 of title 44. The information in such re-
25 port shall be displayed in the aggregate and separately for

1 each Administration, office, and facility of the Depart-
2 ment.

3 “(c) REPORTS TO SECRETARY OF COMPLIANCE DE-
4 FICIENCIES.—(1) At least once every month, the Chief In-
5 formation Officer shall report to the Secretary any defi-
6 ciency in the compliance with subtitle III of chapter 35
7 of title 44 of the Department or any Administration, of-
8 fice, or facility of the Department.

9 “(2) The Chief Information Officer shall immediately
10 report to the Secretary any significant deficiency in such
11 compliance.

12 “(d) DATA BREACHES.—(1) The Chief Information
13 Officer shall immediately provide notice to the Secretary
14 of any data breach.

15 “(2) Immediately after receiving notice of a data
16 breach under paragraph (1), the Secretary shall provide
17 notice of such breach to the Director of the Office of Man-
18 agement and Budget, the Inspector General of the Depart-
19 ment, and, if appropriate, the Federal Trade Commission
20 and the United States Secret Service.

21 “(e) BUDGETARY MATTERS.—When the budget for
22 any fiscal year is submitted by the President to Congress
23 under section 1105 of title 31, the Secretary shall submit
24 to Congress a report that identifies amounts requested for
25 Department implementation and remediation of and com-

1 pliance with this subchapter and subtitle III of chapter
2 35 of title 44. The report shall set forth those amounts
3 both for each Administration within the Department and
4 for the Department in the aggregate and shall identify,
5 for each such amount, how that amount is aligned with
6 and supports such implementation and compliance.

7 **“§ 5724. Congressional reporting and notification of**
8 **data breaches**

9 “(a) QUARTERLY REPORTS.—(1) Not later than 30
10 days after the last day of a fiscal quarter, the Secretary
11 shall submit to the Committees on Veterans’ Affairs of
12 the Senate and House of Representatives a report on any
13 data breach with respect to sensitive personal information
14 processed or maintained by the Department that occurred
15 during that quarter.

16 “(2) Each report submitted under paragraph (1)
17 shall identify, for each data breach covered by the report,
18 the Administration and facility of the Department respon-
19 sible for processing or maintaining the sensitive personal
20 information involved in the data breach.

21 “(b) NOTIFICATION OF SIGNIFICANT DATA
22 BREACHES.—(1) In the event of a data breach with re-
23 spect to sensitive personal information processed or main-
24 tained by the Secretary that the Secretary determines is
25 significant, the Secretary shall provide notice of such

1 breach to the Committees on Veterans' Affairs of the Sen-
2 ate and House of Representatives.

3 “(2) Notice under paragraph (1) shall be provided
4 promptly following the discovery of such a data breach and
5 the implementation of any measures necessary to deter-
6 mine the scope of the breach, prevent any further breach
7 or unauthorized disclosures, and reasonably restore the in-
8 tegrity of the data system.

9 **“§ 5725. Data breaches**

10 “(a) INDEPENDENT RISK ANALYSIS.—(1) In the
11 event of a data breach with respect to sensitive personal
12 information that is processed or maintained by the Sec-
13 retary, the Secretary shall ensure that, as soon as possible
14 after the data breach, a non-Department entity conducts
15 an independent risk analysis of the data breach to deter-
16 mine the level of risk associated with the data breach for
17 the potential misuse of any sensitive personal information
18 involved in the data breach.

19 “(2) If the Secretary determines, based on the find-
20 ings of a risk analysis conducted under paragraph (1),
21 that a reasonable risk exists for the potential misuse of
22 sensitive information involved in a data breach, the Sec-
23 retary shall provide credit protection services in accord-
24 ance with section 5726 of this title.

1 “(b) NOTIFICATION.—(1) In the event of a data
2 breach with respect to sensitive personal information that
3 is processed or maintained by the Secretary, the Secretary
4 shall provide to an individual whose sensitive personal in-
5 formation is involved in that breach notice of the data
6 breach—

7 “(A) in writing; or

8 “(B) by email, if—

9 “(i) the Department’s primary method of
10 communication with the individual is by email;
11 and

12 “(ii) the individual has consented to receive
13 such notification.

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

15 “(A) describe the circumstances of the data
16 breach and the risk that the breach could lead to
17 misuse, including identity theft, involving the sen-
18 sitive personal information of the individual;

19 “(B) describe the specific types of sensitive per-
20 sonal information that was compromised as a part of
21 the data breach;

22 “(C) describe the actions the Department is
23 taking to remedy the data breach;

1 “(D) inform the individual that the individual
2 may request a fraud alert and credit security freeze
3 under this section;

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

7 “(F) includes such other information as the
8 Secretary determines is appropriate.

9 “(3) The notice required under paragraph (1) shall
10 be provided promptly following the discovery of a data
11 breach and the implementation of any measures necessary
12 to determine the scope of the breach, prevent any further
13 breach or unauthorized disclosures, and reasonably restore
14 the integrity of the data system.

15 “(c) REPORT.—For each data breach with respect to
16 sensitive personal information processed or maintained by
17 the Secretary, the Secretary shall promptly submit to the
18 Committees on Veterans’ Affairs of the Senate and House
19 of Representatives a report containing the findings of any
20 independent risk analysis conducted under subsection
21 (a)(1), any determination of the Secretary under sub-
22 section (a)(2), and a description of any credit protection
23 services provided under section 5726 of this title.

24 “(d) FINAL DETERMINATION.—Notwithstanding sec-
25 tions 511 and 7104(a) of this title, any determination of

1 the Secretary under subsection (a)(2) with respect to the
2 reasonable risk for the potential misuse of sensitive infor-
3 mation involved in a data breach is final and conclusive
4 and may not be reviewed by any other official, administra-
5 tive body, or court, whether by an action in the nature
6 of mandamus or otherwise.

7 “(e) FRAUD ALERTS.—(1) In the event of a data
8 breach with respect to sensitive personal information that
9 is processed or maintained by the Secretary, the Secretary
10 shall arrange, upon the request of an individual whose sen-
11 sitive personal information is involved in the breach to a
12 principal credit reporting agency with which the Secretary
13 has entered into a contract under section 5726(d) and at
14 no cost to the individual, for the principal credit reporting
15 agency to provide fraud alert services for that individual
16 for a period of not less than one year, beginning on the
17 date of such request, unless the individual requests that
18 such fraud alert be removed before the end of such period,
19 and the agency receives appropriate proof of the identity
20 of the individual for such purpose.

21 “(2) The Secretary shall arrange for each principal
22 credit reporting agency referred to in paragraph (1) to
23 provide any alert requested under such subsection in the
24 file of the individual along with any credit score generated
25 in using that file, for a period of not less than one year,

1 beginning on the date of such request, unless the indi-
2 vidual requests that such fraud alert be removed before
3 the end of such period, and the agency receives appro-
4 priate proof of the identity of the individual for such pur-
5 pose.

6 “(f) CREDIT SECURITY FREEZE.— (1) In the event
7 of a data breach with respect to sensitive personal infor-
8 mation that is processed or maintained by the Secretary,
9 the Secretary shall arrange, upon the request of an indi-
10 vidual whose sensitive personal information is involved in
11 the breach and at no cost to the individual, for each prin-
12 cipal credit reporting agency to apply a security freeze to
13 the file of that individual for a period of not less than
14 one year, beginning on the date of such request, unless
15 the individual requests that such security freeze be re-
16 moved before the end of such period, and the agency re-
17 ceives appropriate proof of the identity of the individual
18 for such purpose.

19 “(2) The Secretary shall arrange for a principal cred-
20 it reporting agency applying a security freeze under para-
21 graph (1)—

22 “(A) to send a written confirmation of the security
23 freeze to the individual within five business days of apply-
24 ing the freeze;

1 “(B) to refer the information regarding the security
2 freeze to other consumer reporting agencies;

3 “(C) to provide the individual with a unique personal
4 identification number or password to be used by the indi-
5 vidual when providing authorization for the release of the
6 individual’s credit for a specific party or period of time;
7 and

8 “(D) upon the request of the individual, to tempo-
9 rarily lift the freeze for a period of time specified by the
10 individual, beginning not later than three business days
11 after the date on which the agency receives the request.

12 **“§ 5726. Provision of credit protection services**

13 “(a) COVERED INDIVIDUAL.—For purposes of this
14 section, a covered individual is an individual whose sen-
15 sitive personal information that is processed or maintained
16 by the Department (or any third-party entity acting on
17 behalf of the Department) is involved, on or after August
18 1, 2005, in a data breach for which the Secretary deter-
19 mines a reasonable risk exists for the potential misuse of
20 sensitive personal information under section 5725(a)(2) of
21 this title.

22 “(b) NOTIFICATION.—(1) In addition to any notice
23 required under subsection 5725(b) of this title, the Sec-
24 retary shall provide to a covered individual notice in writ-
25 ing that—

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

3 “(B) clearly explains the advantages and dis-
4 advantages to the individual of receiving credit pro-
5 tection services under this section;

6 “(E) includes a notice of which principal credit
7 reporting agency the Secretary has entered into a
8 contract with under subsection (d), and information
9 about requesting services through that agency;

10 “(C) describes actions the individual can or
11 should take to reduce the risk of identity theft; and

12 “(D) includes such other information as the
13 Secretary determines is appropriate.

14 “(2) The notice required under paragraph (1) shall
15 be made as promptly as possible and without unreasonable
16 delay following the discovery of a data breach for which
17 the Secretary determines a reasonable risk exists for the
18 potential misuse of sensitive personal information under
19 section 5725(a)(2) of this title and the implementation of
20 any measures necessary to determine the scope of the
21 breach, prevent any further breach or unauthorized disclo-
22 sures, and reasonably restore the integrity of the data sys-
23 tem.

24 “(3) The Secretary shall ensure that each notification
25 under paragraph (1) includes a form or other means for

1 readily requesting the credit protection services under this
2 section. Such form or other means may include a tele-
3 phone number, email address, or Internet website address.

4 “(c) AVAILABILITY OF SERVICES THROUGH OTHER
5 GOVERNMENT AGENCIES.—If a service required to be pro-
6 vided under this section is available to a covered individual
7 through another department or agency of the Government,
8 the Secretary and the head of that department or agency
9 may enter into an agreement under which the head of that
10 department or agency agrees to provide that service to the
11 covered individual.

12 “(d) CONTRACT WITH CREDIT REPORTING AGEN-
13 CY.—Subject to the availability of appropriations and not-
14 withstanding any other provision of law, the Secretary
15 shall enter into contracts or other agreements as necessary
16 with one or more principal credit reporting agencies in
17 order to ensure, in advance, the provision of credit protec-
18 tion services under this section and fraud alerts and secu-
19 rity freezes under section 5725 of this title. Any such con-
20 tract or agreement may include provisions for the Sec-
21 retary to pay the expenses of such a credit reporting agen-
22 cy for the provision of such services.

23 “(e) DATA BREACH ANALYSIS.—The Secretary shall
24 arrange, upon the request of a covered individual and at
25 no cost to the individual, to provide data breach analysis

1 for the individual for a period of not less than one year,
2 beginning on the date of such request.

3 “(f) PROVISION OF CREDIT MONITORING SERVICES
4 AND IDENTITY THEFT INSURANCE.—During the one-year
5 period beginning on the date on which the Secretary noti-
6 fies a covered individual that the individual’s sensitive per-
7 sonal information is involved in a data breach, the Sec-
8 retary shall arrange, upon the request of the individual
9 and without charge to the individual, for the provision of
10 credit monitoring services to the individual. Credit moni-
11 toring services under this subsection shall include each of
12 the following:

13 “(1) One copy of the credit report of the indi-
14 vidual every three months.

15 “(2) Fraud resolution services for the indi-
16 vidual.

17 “(3) Identity theft insurance in a coverage
18 amount that does not exceed \$30,000 in aggregate
19 liability for the insured.

20 **“§ 5727. Contracts for data processing or mainte-**
21 **nance**

22 “(a) CONTRACT REQUIREMENTS.—If the Secretary
23 enters into a contract for the performance of any Depart-
24 ment function that requires access to sensitive personal

1 information, the Secretary shall require as a condition of
2 the contract that—

3 “(1) the contractor shall not, directly or
4 through an affiliate of the contractor, disclose such
5 information to any other person unless the disclo-
6 sure is lawful and is expressly permitted under the
7 contract;

8 “(2) the contractor, or any subcontractor for a
9 subcontract of the contract, shall promptly notify the
10 Secretary of any data breach that occurs with re-
11 spect to such information.

12 “(b) LIQUIDATED DAMAGES.—Each contract subject
13 to the requirements of subsection (a) shall provide for liq-
14 uidated damages to be paid by the contractor to the Sec-
15 retary in the event of a data breach with respect to any
16 sensitive personal information processed or maintained by
17 the contractor or any subcontractor under that contract.

18 “(c) PROVISION OF CREDIT PROTECTION SERV-
19 ICES.—Any amount collected by the Secretary under sub-
20 section (b) shall be deposited in or credited to the Depart-
21 ment account from which the contractor was paid and
22 shall remain available for obligation without fiscal year
23 limitation exclusively for the purpose of providing credit
24 protection services in accordance with section 5726 of this
25 title.

1 **“§ 5728. Authorization of appropriations**

2 “There are authorized to be appropriated to carry out
3 this subchapter such sums as may be necessary for each
4 fiscal year.”.

5 (b) CLERICAL AMENDMENT.—The table of sections
6 at the beginning of such chapter is amended by adding
7 at the 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.”.

8 (c) DEADLINE FOR REGULATIONS.—Not later than
9 60 days after the date of the enactment of this Act, the
10 Secretary of Veterans Affairs shall publish regulations to
11 carry out subchapter III of chapter 57 of title 38, United
12 States Code, as added by subsection (a).

13 **SEC. 5. REPORT ON FEASIBILITY OF USING PERSONAL**
14 **IDENTIFICATION NUMBERS FOR IDENTIFICA-**
15 **TION.**

16 Not later than 180 days after the date of the enact-
17 ment of this Act, the Secretary of Veterans Affairs shall
18 submit to Congress a report containing the assessment of
19 the Secretary with respect to the feasibility of using per-
20 sonal identification numbers instead of Social Security
21 numbers for the purpose of identifying individuals whose

1 sensitive personal information (as that term is defined in
2 section 5721 of title 38, United States Code, as added by
3 section 4) is processed or maintained by the Secretary.

4 **SEC. 6. DEADLINE FOR APPOINTMENTS.**

5 (a) DEADLINE.—Not later than 180 days after the
6 date of the enactment of this Act—

7 (1) the President shall nominate an individual
8 to serve as the Under Secretary of Veterans Affairs
9 for Information Services under section 307A of title
10 38, United States Code, as added by section 3; and

11 (2) the Secretary of Veterans Affairs shall ap-
12 point an individual to serve as each of the Deputy
13 Under Secretaries of Veterans Affairs for Informa-
14 tion Services under section 5722 of such title, as
15 added by section 4.

16 (b) REPORT.—Not later than 30 days after the date
17 of the enactment of this Act, and every 30 days thereafter
18 until the appointments described in subsection (a) are
19 made, the Secretary of Veterans Affairs shall submit to
20 Congress a report describing the progress of such appoint-
21 ments.

1 **SEC. 7. INFORMATION SECURITY EDUCATION ASSISTANCE**
 2 **PROGRAM.**

3 (a) PROGRAM REQUIRED.—Title 38, United States
 4 Code, is amended by inserting after chapter 78 the fol-
 5 lowing new chapter:

6 **“CHAPTER 79—INFORMATION SECURITY**
 7 **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.

8 **“§ 7901. Programs; purpose**

9 “(a) IN GENERAL.—To encourage the recruitment
 10 and retention of Department personnel who have the in-
 11 formation security skills necessary to meet Department re-
 12 quirements, the Secretary shall carry out programs in ac-
 13 cordance with this chapter to provide financial support for
 14 education in computer science and electrical and computer
 15 engineering at accredited institutions of higher education.

16 “(b) TYPES OF PROGRAMS.—The programs author-
 17 ized under this chapter are as follows:

18 “(1) Scholarships for pursuit of doctoral de-
 19 grees in computer science and electrical and com-
 20 puter engineering at accredited institutions of higher
 21 education.

1 “(2) Education debt reduction for Department
2 personnel who hold doctoral degrees in computer
3 science and electrical and computer engineering at
4 accredited institutions of higher education.

5 **“§ 7902. Scholarship program**

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

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

14 “(B) who enters into an agreement with the
15 Secretary as described in subsection (b).

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

19 “(B) The Secretary may waive the limitation under
20 subparagraph (A) if the Secretary determines that such
21 a waiver is appropriate.

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

1 “(B) Not more than one scholarship awarded under
2 subparagraph (A) may be awarded to an individual who
3 is an employee of the Department when the scholarship
4 is awarded.

5 “(b) SERVICE AGREEMENT FOR SCHOLARSHIP RE-
6 CIPIENTS.—(1) To receive financial assistance under this
7 section an individual shall enter into an agreement to ac-
8 cept and continue employment in the Department for the
9 period of obligated service determined under paragraph
10 (2).

11 “(2) For the purposes of this subsection, the period
12 of obligated service for a recipient of financial assistance
13 under this section shall be the period determined by the
14 Secretary as being appropriate to obtain adequate service
15 in exchange for the financial assistance and otherwise to
16 achieve the goals set forth in section 7901(a) of this title.
17 In no event may the period of service required of a recipi-
18 ent be less than the period equal to two times the total
19 period of pursuit of a degree for which the Secretary
20 agrees to provide the recipient with financial assistance
21 under this section. The period of obligated service is in
22 addition to any other period for which the recipient is obli-
23 gated to serve on active duty or in the civil service, as
24 the case may be.

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

4 “(A) That the period of obligated service begins
5 on a date after the award of the degree that is de-
6 termined under the regulations prescribed under sec-
7 tion 7906 of this title.

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

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

17 “(c) AMOUNT OF ASSISTANCE.—(1) The amount of
18 the financial assistance provided for an individual under
19 this section shall be the amount determined by the Sec-
20 retary as being necessary to pay—

21 “(A) the tuition and fees of the individual; and

22 “(B) \$1500 to the individual each month (in-
23 cluding a month between academic semesters or
24 terms leading to the degree for which such assist-
25 ance is provided or during which the individual is

1 not enrolled in a course of education but is pursuing
2 independent research leading to such degree) for
3 books, laboratory expenses, and expenses of room
4 and board.

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

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

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

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

24 “(2) The Secretary may establish, by regulations,
25 procedures for determining the amount of the repayment

1 required under this subsection and the circumstances
2 under which an exception to the required repayment may
3 be 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.—
12 The 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
17 individual 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
24 degree for which such assistance is provided. Compensa-

1 tion provided for such an internship shall be in addition
2 to the 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
7 MONTGOMERY GI BILL EDUCATION ASSISTANCE PAY-
8 MENTS.—An individual who receives a payment of edu-
9 cational assistance under chapter 30, 31, 32, 34, or 35
10 of this title or chapter 1606 or 1607 of title 10 for a
11 month in which the individual is enrolled in a course of
12 education leading to a doctoral degree in information secu-
13 rity is not eligible to receive financial assistance under this
14 section for that month.

15 **“§ 7903. Education debt reduction program**

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

24 “(2)(A) For each fiscal year, the Secretary may ac-
25 cept up to five individuals into the program established

1 under paragraph (1) who did not receive such a payment
2 during 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
5 a Department employee as of the date on which the indi-
6 vidual 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
3 more than \$16,500 of such payments may be made in each
4 year.

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

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

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

14 “(A) on the last day of the one-year period be-
15 ginning on the date on which the individual is ac-
16 cepted into the program established under sub-
17 section (a); or

18 “(B) in the case of an individual who received
19 a payment under this section for the preceding fiscal
20 year, on the last day of the one-year period begin-
21 ning on the date on which the individual last re-
22 ceived such a payment.

23 “(3) Notwithstanding any other provision of law, edu-
24 cation debt reduction payments under this section shall
25 not be considered as income or resources in determining

1 eligibility for, or the amount of benefits under, any Fed-
2 eral or federally assisted program.

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

9 “(f) NOTIFICATION OF TERMS OF PROVISION OF
10 PAYMENTS.—The Secretary shall provide to an individual
11 who receives a payment under this section notice in writ-
12 ing of the terms and conditions that apply to such a pay-
13 ment.

14 “(g) COVERED COSTS.—For purposes of subsection
15 (b)(3), costs relating to a course of education or training
16 include—

17 “(1) tuition expenses; and

18 “(2) all other reasonable educational expenses,
19 including fees, books, and laboratory expenses;

20 **“§ 7904. Preferences in awarding financial assistance**

21 “In awarding financial assistance under this chapter,
22 the Secretary shall give a preference to qualified individ-
23 uals who are otherwise eligible to receive the financial as-
24 sistance in the following order of priority:

1 “(1) Veterans with service-connected disabili-
2 ties.

3 “(2) Veterans.

4 “(3) Persons described in section 4215(a)(B) of
5 this title.

6 “(4) Individuals who received or are pursuing
7 degrees at institutions designated by the National
8 Security Agency as Centers of Academic Excellence
9 in Information Assurance Education.

10 “(5) Citizens of the United States.

11 **“§ 7905. Requirement of honorable discharge for vet-**
12 **erans receiving assistance**

13 “‘No veteran shall receive financial assistance under
14 this chapter unless the veteran was discharged from the
15 Armed Forces under honorable conditions.

16 **“§ 7906. Regulations**

17 “‘The Secretary shall prescribe regulations for the ad-
18 ministration of this chapter.

19 **“§ 7907. Termination**

20 “‘The authority of the Secretary to make a payment
21 under this chapter shall terminate on July 31, 2017.’”.

22 (b) GAO REPORT.—Not later than three years after
23 the date of the enactment of this Act, the Comptroller
24 General shall submit to Congress a report on the scholar-
25 ship and education debt reduction programs under chapter

1 79 of title 38, United States Code, as added by subsection
2 (a).

3 (c) APPLICABILITY OF SCHOLARSHIPS.—Section
4 7902 of title 38, United States Code, as added by sub-
5 section (a), shall apply with respect to financial assistance
6 provided for an academic semester or term that begins on
7 or after August 1, 2007.

8 (d) CLERICAL AMENDMENT.—The tables of chapters
9 at the beginning of such title, and at the beginning of part
10 V of such title, are amended by inserting after the item
11 relating to chapter 78 the following new item:

“79. Information Security Education Assistance Program 7901”.

Passed the House of Representatives September 26,
2006.

Attest:

Clerk.

109TH CONGRESS
2^D SESSION

H. R. 5835

AN ACT

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