DEWINE) was added as a cosponsor of S. 1190, a bill to provide sufficient blind rehabilitation outpatient specialists at medical centers of the Department of Veterans Affairs.

S. 1417

At the request of Mrs. CLINTON, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1417, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. 1419

At the request of Mr. LUGAR, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 1419, a bill to maintain the free flow of information to the public by providing conditions for the federally compelled disclosure of information by certain persons connected with the news media.

S. 1516

At the request of Mr. DEWINE, his name was added as a cosponsor of S. 1516, a bill to reauthorize Amtrak, and for other purposes.

S. 1570

At the request of Mr. ROBERTS, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S. 1570, a bill to promote employment of individuals with severe disabilities through Federal Government contracting and procurement processes, and for other purposes.

S. 1689

At the request of Mr. KYL, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 1689, a bill to state the policy of the United States on international taxation.

S. 1691

At the request of Mr. CRAIG, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 1691, a bill to amend selected statutes to clarify existing Federal law as to the treatment of students privately educated at home under State law.

S. 1692

At the request of Mr. DAYTON, his name was added as a cosponsor of S. 1692, a bill to provide disaster assistance to agricultural producers for crop and livestock losses, and for other purposes.

S. 1749

At the request of Mr. KENNEDY, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1749, a bill to reinstate the application of the wage requirements of the Davis-Bacon Act to Federal contracts in areas affected by Hurricane Katrina.

S. 1770

At the request of Mr. OBAMA, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1770, a bill to amend the Internal Revenue Code of 1986 to provide for advance payment of the earned income tax credit and the child tax credit for 2005 in order to provide needed funds to victims of Hurricane Katrina and to stimulate local economies.

S. 1772

At the request of Mr. INHOFE, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 1772, a bill to streamline the refinery permitting process, and for other purposes.

S. 1779

At the request of Mr. AKAKA, the names of the Senator from Rhode Island (Mr. REED) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 1779, a bill to amend the Humane Methods of Livestock Slaughter Act of 1958 to ensure the humane slaughter of nonambulatory livestock, and for other purposes.

S. 1780

At the request of Mr. SANTORUM, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1780, a bill to amend the Internal Revenue Code of 1986 to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low-income Americans to gain financial security by building assets, and for other purposes.

S. 1787

At the request of Mr. VITTER, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1787, a bill to provide bankruptcy relief for victims of natural disasters, and for other purposes.

S.J. RES. 25

At the request of Mr. TALENT, the names of the Senator from South Carolina (Mr. GRAHAM) and the Senator from South Carolina (Mr. DEMINT) were added as cosponsors of S.J. Res. 25, a joint resolution proposing an amendment to the Constitution of the United States to authorize the President to reduce or disapprove any appropriation in any bill presented by Congress.

S. CON. RES. 25

At the request of Mr. TALENT, the name of the Senator from South Carolina (Mr. GRAHAM) was withdrawn as a cosponsor of S. Con. Res. 25, a concurrent resolution expressing the sense of Congress regarding the application of Airbus for launch aid.

S. CON. RES. 53

At the request of Mr. OBAMA, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. Con. Res. 53, a concurrent resolution expressing the sense of Congress that any effort to impose photo identification requirements for voting should be rejected.

S. RES. 256

At the request of Mr. SCHUMER, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. Res. 256, a resolution honoring the life of Sandra Feldman.

AMENDMENT NO. 1534

At the request of Mr. DEWINE, the names of the Senator from Nebraska (Mr. NELSON) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of amendment No. 1534 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER (for himself, Mr. LEAHY, Mrs. FEINSTEIN, and Mr. FEINGOLD):

S. 1789. A bill to prevent and mitigate identity theft, to ensure privacy to provide notice of security breaches, and to enhance criminal penalties, law enforcement assistance, and other protections against security breaches, fraudulent access, and misuse of personally identifiable information; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection the bill was ordered to be printed in the RECORD, as follows:

S. 1789

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Personal Data Privacy and Security Act of 2005''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. FINDINGS.

Congress finds that—

(1) databases of personally identifiable information are increasingly prime targets of hackers, identity thieves, rogue employees, and other criminals, including organized and sophisticated criminal operations;

(2) identity theft is a serious threat to the nation's economic stability, homeland security, the development of e-commerce, and the privacy rights of Americans;

(3) over 9,300,000 individuals were victims of identity theft in America last year;

(4) security breaches are a serious threat to consumer confidence, homeland security, e-commerce, and economic stability;

(5) it is important for business entities that own, use, or license personally identifiable information to adopt reasonable procedures to ensure the security, privacy, and confidentially of that personally identifiable information;

(6) individuals whose personal information has been compromised or who have been victims of identity theft should receive the necessary information and assistance to mitigate their damages and to restore the integrity of their personal information and identities;

(7) data brokers have assumed a significant role in providing identification, authentication, and screening services, and related data collection and analyses for commercial, nonprofit, and government operations;

(8) data misuse and use of inaccurate data have the potential to cause serious or irreparable harm to an individual's livelihood, privacy, and liberty and undermine efficient and effective business and government operations;

(9) there is a need to insure that data brokers conduct their operations in a manner that prioritizes fairness, transparency, accuracy, and respect for the privacy of consumers;

(10) government access to commercial data can potentially improve safety, law enforcement, and national security; and

(11) because government use of commercial data containing personal information potentially affects individual privacy, and law enforcement and national security operations, there is a need for Congress to exercise oversight over government use of commercial data.

SEC. 3. DEFINITIONS.

In this Act:

(1) AGENCY.—The term ''agency'' has the same meaning given such term in section 551 of title 5, United States Code.

(2) AFFILIATE.—The term ''affiliate'' means persons related by common ownership or by corporate control.

(3) BUSINESS ENTITY.—The term ''business entity'' means any organization, corporation, trust, partnership, sole proprietorship, unincorporated association, venture established to make a profit, or nonprofit, and any contractor, subcontractor, affiliate, or licensee thereof engaged in interstate commerce.

(4) IDENTITY THEFT.—The term ''identity theft'' means a violation of section 1028 of title 18, United States Code, or any other similar provision of applicable State law.

(5) DATA BROKER.—The term ''data broker'' means a business entity which for monetary fees, dues, or on a cooperative nonprofit basis, currently or regularly engages, in whole or in part, in the practice of collecting, transmitting, or providing access to sensitive personally identifiable information primarily for the purposes of providing such information to nonaffiliated third parties on a nationwide basis on more than 5,000 individuals who are not the customers or employees of the business entity or affiliate.

(6) DATA FURNISHER.—The term ''data furnisher'' means any agency, governmental entity, organization, corporation, trust, partnership, sole proprietorship, unincorporated association, venture established to make a profit, or nonprofit, and any contractor, subcontractor, affiliate, or licensee thereof, that serves as a source of information for a data broker.

(7) PERSONAL ELECTRONIC RECORD.—The term ''personal electronic record'' means data associated with an individual contained in a database, networked or integrated databases, or other data system that holds sensitive personally identifiable information of that individual and is provided to non-affiliated third parties.

(8) PERSONALLY IDENTIFIABLE INFORMATION.—The term ''personally identifiable information'' means any information, or compilation of information, in electronic or digital form serving as a means of identification, as defined by section 1028(d)(7) of title 18, United State Code.

(9) PUBLIC RECORD SOURCE.—The term ''public record source'' means any agency, Federal court, or State court that maintains personally identifiable information in records available to the public.

(10) SECURITY BREACH.—

(A) IN GENERAL.—The term ''security breach'' means compromise of the security, confidentiality, or integrity of computerized data through misrepresentation or actions that result in, or there is a reasonable basis to conclude has resulted in, the unauthorized acquisition of and access to sensitive personally identifiable information.

(B) EXCLUSION.—The term ''security breach'' does not include—

(i) a good faith acquisition of sensitive personally identifiable information by a business entity or agency, or an employee or agent of a business entity or agency, if the sensitive personally identifiable information is not subject to further unauthorized disclosure; or

(ii) the release of a public record not otherwise subject to confidentiality or nondisclosure requirements.

(11) SENSITIVE PERSONALLY IDENTIFIABLE INFORMATION.—The term ''sensitive personally identifiable information'' means any information or compilation of information, in electronic or digital form that includes:

(A) An individual's name in combination with any 1 of the following data elements:

(i) A non-truncated social security number, driver's license number, passport number, or alien registration number.

(ii) Any 2 of the following:

(I) Information that relates to—

(aa) the past, present, or future physical or mental health or condition of an individual;

(bb) the provision of health care to an individual; or

(cc) the past, present, or future payment for the provision of health care to an individual.

(II) Home address or telephone number.

(III) Mother's maiden name, if identified as such.

(IV) Month, day, and year of birth.

(iii) Unique biometric data such as a finger print, voice print, a retina or iris image, or any other unique physical representation.

(iv) A unique electronic identification number, user name, or routing code in combination with the associated security code, access code, or password.

(v) Any other information regarding an individual determined appropriate by the Federal Trade Commission.

(B) A financial account number or credit or debit card number in combination with the required security code, access code, or password.

TITLE I—ENHANCING PUNISHMENT FOR IDENTITY THEFT AND OTHER VIOLATIONS OF DATA PRIVACY AND SECURITY

SEC. 101. FRAUD AND RELATED CRIMINAL ACTIVITY IN CONNECTION WITH UNAUTHORIZED ACCESS TO PERSONALLY IDENTIFIABLE INFORMATION.

Section 1030(a)(2) of title 18, United States Code, is amended—

(1) in subparagraph (B), by striking ''or'' after the semicolon;

(2) in subparagraph (C), by inserting ''or'' after the semicolon; and

(3) by adding at the end the following:

''(D) information contained in the databases or systems of a data broker, or in other personal electronic records, as such terms are defined in section 3 of the Personal Data Privacy and Security Act of 2005;''.

SEC. 102. ORGANIZED CRIMINAL ACTIVITY IN CONNECTION WITH UNAUTHORIZED ACCESS TO PERSONALLY IDENTIFIABLE INFORMATION.

Section 1961(1) of title 18, United States Code, is amended by inserting ''section 1030(a)(2)(D)(relating to fraud and related activity in connection with unauthorized access to personally identifiable information,'' before ''section 1084''.

SEC. 103. CONCEALMENT OF SECURITY BREACHES INVOLVING SENSITIVE PERSONALLY IDENTIFIABLE INFORMATION.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"§ 1039. Concealment of security breaches involving sensitive personally identifiable information

''(a) Whoever, having knowledge of a security breach and the obligation to provide notice of such breach to individuals under title IV of the Personal Data Privacy and Security Act of 2005, and having not otherwise qualified for an exemption from providing notice under section 422 of such Act, intentionally and willfully conceals the fact of such security breach which causes economic damages to 1 or more persons, shall be fined under this title or imprisoned not more than 5 years, or both.

''(b) For purposes of subsection (a), the term 'person' means any individual, corporation, company, association, firm, partnership, society, or joint stock company.''.

(b) CONFORMING AND TECHNICAL AMENDMENTS.—The table of sections for chapter 47 of title 18, United States Code, is amended by adding at the end the following:

''1039. Concealment of security breaches involving personally identifiable information.''.

(c) ENFORCEMENT AUTHORITY.—The United States Secret Service shall have the authority to investigate offenses under this section.

SEC. 104. AGGRAVATED FRAUD IN CONNECTION WITH COMPUTERS.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding after section 1030 the following:

"§ 1030A. Aggravated fraud in connection with computers

''(a) IN GENERAL.—Whoever, during and in relation to any felony violation enumerated in subsection (c), knowingly obtains, accesses, or transmits, without lawful authority, a means of identification of another person may, in addition to the punishment provided for such felony, be sentenced to a term of imprisonment of up to 2 years.

''(b) CONSECUTIVE SENTENCES.—Notwithstanding any other provision of law, should a court in its discretion impose an additional sentence under subsection (a)—

''(1) no term of imprisonment imposed on a person under this section shall run concurrently, except as provided in paragraph (3), with any other term of imprisonment imposed on such person under any other provision of law, including any term of imprisonment imposed for the felony during which the means of identifications was obtained, accessed, or transmitted;

''(2) in determining any term of imprisonment to be imposed for the felony during which the means of identification was obtained, accessed, or transmitted, a court shall not in any way reduce the term to be imposed for such crime so as to compensate for, or otherwise take into account, any separate term of imprisonment imposed or to be imposed for a violation of this section; and

''(3) a term of imprisonment imposed on a person for a violation of this section may, in the discretion of the court, run concurrently, in whole or in part, only with another term of imprisonment that is imposed by the court at the same time on that person for an additional violation of this section.

''(c) DEFINITION.—For purposes of this section, the term 'felony violation enumerated in subsection (c)' means any offense that is a felony violation of paragraphs (2) through (7) of section 1030(a).''.

(b) CONFORMING AND TECHNICAL AMENDMENTS.—The table of sections for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1030 the following new item:

''1030A. Aggravated fraud in connection with computers.''.

SEC. 105. REVIEW AND AMENDMENT OF FEDERAL SENTENCING GUIDELINES RELATED TO FRAUDULENT ACCESS TO OR MISUSE OF DIGITIZED OR ELECTRONIC PERSONALLY IDENTIFIABLE INFORMATION.

(a) REVIEW AND AMENDMENT.—Not later than 180 days after the date of enactment of this Act, the United States Sentencing Commission, pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, shall review and, if appropriate, amend the Federal sentencing guidelines (including its policy statements) applicable to persons convicted of using fraud to access, or misuse of, digitized or electronic personally identifiable information, including identity theft or any offense under—

(1) sections 1028, 1028A, 1030, 1030A, 2511, and 2701 of title 18, United States Code; or

(2) any other relevant provision.

(b) REQUIREMENTS.—In carrying out the requirements of this section, the United States Sentencing Commission shall—

(1) ensure that the Federal sentencing guidelines (including its policy statements) reflect—

(A) the serious nature of the offenses and penalties referred to in this Act;

(B) the growing incidences of theft and misuse of digitized or electronic personally identifiable information, including identity theft; and

(C) the need to deter, prevent, and punish such offenses;

(2) consider the extent to which the Federal sentencing guidelines (including its policy statements) adequately address violations of the sections amended by this Act to—

(A) sufficiently deter and punish such offenses; and

(B) adequately reflect the enhanced penalties established under this Act;

(3) maintain reasonable consistency with other relevant directives and sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) consider whether to provide a sentencing enhancement for those convicted of the offenses described in subsection (a), if the conduct involves—

(A) the online sale of fraudulently obtained or stolen personally identifiable information;

(B) the sale of fraudulently obtained or stolen personally identifiable information to an individual who is engaged in terrorist activity or aiding other individuals engaged in terrorist activity; or

(C) the sale of fraudulently obtained or stolen personally identifiable information to finance terrorist activity or other criminal activities;

(6) make any necessary conforming changes to the Federal sentencing guidelines to ensure that such guidelines (including its policy statements) as described in subsection (a) are sufficiently stringent to deter, and adequately reflect crimes related to fraudulent access to, or misuse of, personally identifiable information; and

(7) ensure that the Federal sentencing guidelines adequately meet the purposes of sentencing under section 3553(a)(2) of title 18, United States Code.

(c) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The United States Sentencing Commission may, as soon as practicable, promulgate amendments under this section in accordance with procedures established in section 21(a) of the Sentencing Act of 1987 (28 U.S.C. 994 note) as though the authority under that Act had not expired.

TITLE II—ASSISTANCE FOR STATE AND LOCAL LAW ENFORCEMENT COMBATING CRIMES RELATED TO FRAUDULENT, UNAUTHORIZED, OR OTHER CRIMINAL USE OF PERSONALLY IDENTIFIABLE INFORMATION

SEC. 201. GRANTS FOR STATE AND LOCAL ENFORCEMENT.

(a) IN GENERAL.—Subject to the availability of amounts provided in advance in appropriations Acts, the Assistant Attorney General for the Office of Justice Programs of the Department of Justice may award a grant to a State to establish and develop programs to increase and enhance enforcement against crimes related to fraudulent, unauthorized, or other criminal use of personally identifiable information.

(b) APPLICATION.—A State seeking a grant under subsection (a) shall submit an application to the Assistant Attorney General for the Office of Justice Programs of the Department of Justice at such time, in such manner, and containing such information as the Assistant Attorney General may require.

(c) USE OF GRANT AMOUNTS.—A grant awarded to a State under subsection (a) shall be used by a State, in conjunction with units of local government within that State, State and local courts, other States, or combinations thereof, to establish and develop programs to—

(1) assist State and local law enforcement agencies in enforcing State and local criminal laws relating to crimes involving the fraudulent, unauthorized, or other criminal use of personally identifiable information;

(2) assist State and local law enforcement agencies in educating the public to prevent and identify crimes involving the fraudulent, unauthorized, or other criminal use of personally identifiable information;

(3) educate and train State and local law enforcement officers and prosecutors to conduct investigations and forensic analyses of evidence and prosecutions of crimes involving the fraudulent, unauthorized, or other criminal use of personally identifiable information;

(4) assist State and local law enforcement officers and prosecutors in acquiring computer and other equipment to conduct investigations and forensic analysis of evidence of crimes involving the fraudulent, unauthorized, or other criminal use of personally identifiable information; and

(5) facilitate and promote the sharing of Federal law enforcement expertise and information about the investigation, analysis, and prosecution of crimes involving the fraudulent, unauthorized, or other criminal use of personally identifiable information with State and local law enforcement officers and prosecutors, including the use of multi-jurisdictional task forces.

(d) ASSURANCES AND ELIGIBILITY.—To be eligible to receive a grant under subsection (a), a State shall provide assurances to the Attorney General that the State—

(1) has in effect laws that penalize crimes involving the fraudulent, unauthorized, or other criminal use of personally identifiable information, such as penal laws prohibiting—

(A) fraudulent schemes executed to obtain personally identifiable information;

(B) schemes executed to sell or use fraudulently obtained personally identifiable information; and

(C) online sales of personally identifiable information obtained fraudulently or by other illegal means;

(2) will provide an assessment of the resource needs of the State and units of local government within that State, including criminal justice resources being devoted to the investigation and enforcement of laws

related to crimes involving the fraudulent, unauthorized, or other criminal use of personally identifiable information; and

(3) will develop a plan for coordinating the programs funded under this section with other federally funded technical assistant and training programs, including directly funded local programs such as the Local Law Enforcement Block Grant program (described under the heading ''Violent Crime Reduction Programs, State and Local Law Enforcement Assistance'' of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105–119)).

(e) MATCHING FUNDS.—The Federal share of a grant received under this section may not exceed 90 percent of the total cost of a program or proposal funded under this section unless the Attorney General waives, wholly or in part, the requirements of this subsection.

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this title $25,000,000 for each of fiscal years 2006 through 2009.

(b) LIMITATIONS.—Of the amount made available to carry out this title in any fiscal year not more than 3 percent may be used by the Attorney General for salaries and administrative expenses.

(c) MINIMUM AMOUNT.—Unless all eligible applications submitted by a State or units of local government within a State for a grant under this title have been funded, the State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this title not less than 0.75 percent of the total amount appropriated in the fiscal year for grants pursuant to this title, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands each shall be allocated 0.25 percent.

(d) GRANTS TO INDIAN TRIBES.—Notwithstanding any other provision of this title, the Attorney General may use amounts made available under this title to make grants to Indian tribes for use in accordance with this title.

TITLE III—DATA BROKERS

SEC. 301. TRANSPARENCY AND ACCURACY OF DATA COLLECTION.

(a) IN GENERAL.—Data brokers engaging in interstate commerce are subject to the requirements of this title for any product or service offered to third parties that allows access, use, compilation, distribution, processing, analyzing, or evaluation of sensitive personally identifiable information.

(b) LIMITATION.—Notwithstanding any other paragraph of this title, this section shall not apply to—

(1) brokers engaging in interstate commerce for any offered product or service currently subject to, and in compliance with, access and accuracy protections similar to those under subsections (c) through (f) of this section under the Fair Credit Reporting Act (Public Law 91–508), or the Gramm-Leach Bliley Act (Public Law 106–102);

(2) data brokers engaging in interstate commerce for any offered product or service currently in compliance with the requirements for such entities under the Health Insurance Portability and Accountability Act (Public Law 104–191), and implementing regulations;

(3) information in a personal electronic record held by a data broker if—

(A) the data broker maintains such information solely pursuant to a license agreement with another business entity; and

(B) the business entity providing such information to the data broker pursuant to a license agreement either complies with the provisions of this section or qualifies for this exemption; and

(4) information in a personal record that—

(A) the data broker has identified as inaccurate, but maintains for the purpose of aiding the data broker in preventing inaccurate information from entering an individual's personal electronic record; and

(B) is not maintained primarily for the purpose of transmitting or otherwise providing that information, or assessments based on that information, to non-affiliated third parties.

(c) DISCLOSURES TO INDIVIDUALS.—

(1) IN GENERAL.—A data broker shall, upon the request of an individual, clearly and accurately disclose to such individual for a reasonable fee all personal electronic records pertaining to that individual maintained for disclosure to third parties in the ordinary course of business in the databases or systems of the data broker at the time of the request.

(2) INFORMATION ON HOW TO CORRECT INACCURACIES.—The disclosures required under paragraph (1) shall also include guidance to individuals on the processes and procedures for demonstrating and correcting any inaccuracies.

(d) CREATION OF AN ACCURACY RESOLUTION PROCESS.—A data broker shall develop and publish on its website timely and fair processes and procedures for responding to claims of inaccuracies, including procedures for correcting inaccurate information in the personal electronic records it maintains on individuals.

(e) ACCURACY RESOLUTION PROCESS.—

(1) INFORMATION FROM A PUBLIC RECORD SOURCE.—

(A) IN GENERAL.—If an individual notifies a data broker of a dispute as to the completeness or accuracy of information, and the data broker determines that such information is derived from a public record source, the data broker shall determine within 30 days whether the information in its system accurately and completely records the information offered by the public record source.

(B) DATA BROKER ACTIONS.—If a data broker determines under subparagraph (A) that the information in its systems—

(i) does not accurately and completely record the information offered by a public record source, the data broker shall correct any inaccuracies or incompleteness, and provide to such individual written notice of such changes; and

(ii) does accurately and completely record the information offered by a public record source, the data broker shall—

(I) provide such individual with the name, address, and telephone contact information of the public record source; and

(II) notify such individual of the right to add for a period of 90 days to the personal electronic record of the individual maintained by the data broker notice of the dispute under subsection (f).

(2) INVESTIGATION OF DISPUTED INFORMATION NOT FROM A PUBLIC RECORD SOURCE.—If the completeness or accuracy of any nonpublic record source disclosed to an individual under subsection (c) is disputed by the individual and such individual notifies the data broker directly of such dispute, the data broker shall, before the end of the 30-day period beginning on the date on which the data broker receives the notice of the dispute—

(A) investigate free of charge and record the current status of the disputed information; or

(B) delete the item from the individuals data file in accordance with paragraph (8).

(3) EXTENSION OF PERIOD TO INVESTIGATE.—Except as provided in paragraph (4), the 30-day period described in paragraph (1) may be extended for not more than 15 additional days if a data broker receives information from the individual during that 30-day period that is relevant to the investigation.

(4) LIMITATIONS ON EXTENSION OF PERIOD TO INVESTIGATE.—Paragraph (3) shall not apply to any investigation in which, during the 30-day period described in paragraph (1), the information that is the subject of the investigation is found to be inaccurate or incomplete or a data broker determines that the information cannot be verified.

(5) NOTICE IDENTIFYING THE DATA FURNISHER.—If the completeness or accuracy of any information disclosed to an individual under subsection (c) is disputed by the individual, a data broker shall provide upon the request of the individual, the name, business address, and telephone contact information of any data furnisher who provided an item of information in dispute.

(6) DETERMINATION THAT DISPUTE IS FRIVOLOUS OR IRRELEVANT.—

(A) IN GENERAL.—Notwithstanding paragraphs (1) through (4), a data broker may decline to investigate or terminate an investigation of information disputed by an individual under those paragraphs if the data broker reasonably determines that the dispute by the individual is frivolous or irrelevant, including by reason of a failure by the individual to provide sufficient information to investigate the disputed information.

(B) NOTICE.—Not later than 5 business days after making any determination in accordance with subparagraph (A) that a dispute is frivolous or irrelevant, a data broker shall notify the individual of such determination by mail, or if authorized by the individual, by any other means available to the data broker.

(C) CONTENTS OF NOTICE.—A notice under subparagraph (B) shall include—

(i) the reasons for the determination under subparagraph (A); and

(ii) identification of any information required to investigate the disputed information, which may consist of a standardized form describing the general nature of such information.

(7) CONSIDERATION OF INDIVIDUAL INFORMATION.—In conducting any investigation with respect to disputed information in the personal electronic record of any individual, a data broker shall review and consider all relevant information submitted by the individual in the period described in paragraph (2) with respect to such disputed information.

(8) TREATMENT OF INACCURATE OR UNVERIFIABLE INFORMATION.—

(A) IN GENERAL.—If, after any review of public record information under paragraph (1) or any investigation of any information disputed by an individual under paragraphs (2) through (4), an item of information is found to be inaccurate or incomplete or cannot be verified, a data broker shall promptly delete that item of information from the individual's personal electronic record or modify that item of information, as appropriate, based on the results of the investigation.

(B) NOTICE TO INDIVIDUALS OF REINSERTION OF PREVIOUSLY DELETED INFORMATION.—If any information that has been deleted from an individual's personal electronic record pursuant to subparagraph (A) is reinserted in the personal electronic record of the individual, a data broker shall, not later than 5 days after reinsertion, notify the individual of the reinsertion and identify any data furnisher not previously disclosed in writing, or if authorized by the individual for that purpose, by any other means available to the data broker, unless such notification has been previously given under this subsection.

(C) NOTICE OF RESULTS OF INVESTIGATION OF DISPUTED INFORMATION FROM A NONPUBLIC RECORD SOURCE.—

(i) IN GENERAL.—Not later than 5 business days after the completion of an investigation under paragraph (2), a data broker shall provide written notice to an individual of the results of the investigation, by mail or, if authorized by the individual for that purpose, by other means available to the data broker.

(ii) ADDITIONAL REQUIREMENT.—Before the expiration of the 5-day period, as part of, or in addition to such notice, a data broker shall, in writing, provide to an individual—

(I) a statement that the investigation is completed;

(II) a report that is based upon the personal electronic record of such individual as that personal electronic record is revised as a result of the investigation;

(III) a notice that, if requested by the individual, a description of the procedures used to determine the accuracy and completeness of the information shall be provided to the individual by the data broker, including the business name, address, and telephone number of any data furnisher of information contacted in connection with such information; and

(IV) a notice that the individual has the right to request notifications under subsection (f).

(D) DESCRIPTION OF INVESTIGATION PROCEDURES.—Not later than 15 days after receiving a request from an individual for a description referred to in subparagraph (C)(ii)(III), a data broker shall provide to the individual such a description.

(E) EXPEDITED DISPUTE RESOLUTION.—If by no later than 3 business days after the date on which a data broker receives notice of a dispute from an individual of information in the personal electronic record of such individual in accordance with paragraph (2), a data broker resolves such dispute in accordance with subparagraph (A) by the deletion of the disputed information, then the data broker shall not be required to comply with subsections (e) and (f) with respect to that dispute if the data broker provides to the individual, by telephone or other means authorized by the individual, prompt notice of the deletion.

(f) NOTICE OF DISPUTE.—

(1) IN GENERAL.—If the completeness or accuracy of any information disclosed to an individual under subsection (c) is disputed and unless there is a reasonable ground to believe that such dispute is frivolous or irrelevant, an individual may request that the data broker indicate notice of the dispute for a period of—

(A) 30 days for information from a nonpublic record source; and

(B) 90 days for information from a public record source.

(2) COMPLIANCE.—A data broker shall be deemed in compliance with the requirements under paragraph (1) by either—

(A) allowing the individual to file a brief statement setting forth the nature of the dispute under paragraph (3); or

(B) using an alternative notice method that—

(i) clearly flags the disputed information for third parties accessing the information; and

(ii) provides a means for third parties to obtain further information regarding the nature of the dispute.

(3) CONTENTS OF STATEMENT.—A data broker may limit statements made under paragraph (2)(A) to not more than 100 words if it provides an individual with assistance in writing a clear summary of the dispute or until the dispute is resolved.

(g) ADDITIONAL REQUIREMENTS.—The Federal Trade Commission may exempt certain classes of data brokers from this title in a rulemaking process pursuant to section 553 of title 5, United States Code.

SEC. 302. ENFORCEMENT.

(a) CIVIL PENALTIES.—

(1) PENALTIES.—Any data broker that violates the provisions of section 301 shall be subject to civil penalties of not more than $1,000 per violation per day, with a maximum of $15,000 per day, while such violations persist.

(2) INTENTIONAL OR WILLFUL VIOLATION.—A data broker that intentionally or willfully violates the provisions of section 301 shall be subject to additional penalties in the amount of $1,000 per violation per day, with a maximum of an additional $15,000 per day, while such violations persist.

(3) EQUITABLE RELIEF.—A data broker engaged in interstate commerce that violates this section may be enjoined from further violations by a court of competent jurisdiction.

(4) OTHER RIGHTS AND REMEDIES.—The rights and remedies available under this subsection are cumulative and shall not affect any other rights and remedies available under law.

(b) INJUNCTIVE ACTIONS BY THE ATTORNEY GENERAL.—

(1) IN GENERAL.—Whenever it appears that a data broker to which this title applies has engaged, is engaged, or is about to engage, in any act or practice constituting a violation of this title, the Attorney General may bring a civil action in an appropriate district court of the United States to—

(A) enjoin such act or practice;

(B) enforce compliance with this title;

(C) obtain damages—

(i) in the sum of actual damages, restitution, and other compensation on behalf of the affected residents of a State; and

(ii) punitive damages, if the violation is willful or intentional; and

(D) obtain such other relief as the court determines to be appropriate.

(2) OTHER INJUNCTIVE RELIEF.—Upon a proper showing in the action under paragraph (1), the court shall grant a permanent injunction or a temporary restraining order without bond.

(c) STATE ENFORCEMENT.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by an act or practice that violates this title, the State may bring a civil action on behalf of the residents of that State in a district court of the United States of appropriate jurisdiction, or any other court of competent jurisdiction, to—

(A) enjoin that act or practice;

(B) enforce compliance with this title;

(C) obtain—

(i) damages in the sum of actual damages, restitution, or other compensation on behalf of affected residents of the State; and

(ii) punitive damages, if the violation is willful or intentional; or

(D) obtain such other legal and equitable relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under this subsection, the attorney general of the State involved shall provide to the Attorney General—

(i) a written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general of a State determines that it is not feasible to provide the notice described in this subparagraph before the filing of the action.

(C) NOTIFICATION WHEN PRACTICABLE.—In an action described under subparagraph (B), the attorney general of a State shall provide the written notice and the copy of the complaint to the Attorney General as soon after the filing of the complaint as practicable.

(3) ATTORNEY GENERAL AUTHORITY.—Upon receiving notice under paragraph (2), the Attorney General shall have the right to—

(A) move to stay the action, pending the final disposition of a pending Federal proceeding or action as described in paragraph (4);

(B) intervene in an action brought under paragraph (1); and

(C) file petitions for appeal.

(4) PENDING PROCEEDINGS.—If the Attorney General has instituted a proceeding or action for a violation of this title or any regulations thereunder, no attorney general of a State may, during the pendency of such proceeding or action, bring an action under this subsection against any defendant named in such criminal proceeding or civil action for any violation that is alleged in that proceeding or action.

(5) RULE OF CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(A) conduct investigations;

(B) administer oaths and affirmations; or

(C) compel the attendance of witnesses or the production of documentary and other evidence.

(6) VENUE; SERVICE OF PROCESS.—

(A) VENUE.—Any action brought under this subsection may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1931 of title 28, United States Code.

(B) SERVICE OF PROCESS.—In an action brought under this subsection process may be served in any district in which the defendant—

(i) is an inhabitant; or

(ii) may be found.

(d) NO PRIVATE CAUSE OF ACTION.—Nothing in this title establishes a private cause of action against a data broker for violation of any provision of this title.

SEC. 303. RELATION TO STATE LAWS.

No requirement or prohibition may be imposed under the laws of any State with respect to any subject matter regulated under section 301, relating to individual access to, and correction of, personal electronic records held by databrokers.

SEC. 304. EFFECTIVE DATE.

This title shall take effect 180 days after the date of enactment of this Act and shall be implemented pursuant to a State by State rollout schedule set by the Federal Trade Commission, but in no case shall full implementation and effect of this title occur later than 1 year and 180 days after the date of enactment of this Act.

TITLE IV—PRIVACY AND SECURITY OF PERSONALLY IDENTIFIABLE INFORMATION

Subtitle A—Data Privacy and Security Program

SEC. 401. PURPOSE AND APPLICABILITY OF DATA PRIVACY AND SECURITY PROGRAM.

(a) PURPOSE.—The purpose of this subtitle is to ensure standards for developing and implementing administrative, technical, and physical safeguards to protect the privacy, security, confidentiality, integrity, storage, and disposal of sensitive personally identifiable information.

(b) IN GENERAL.—A business entity engaging in interstate commerce that involves collecting, accessing, transmitting, using, storing, or disposing of sensitive personally identifiable information in electronic or digital form on 10,000 or more United States

persons is subject to the requirements for a data privacy and security program under section 402 for protecting sensitive personally identifiable information.

(c) LIMITATIONS.—Notwithstanding any other obligation under this subtitle, this subtitle does not apply to—

(1) financial institutions—

(A) subject to the data security requirements and implementing regulations under the Gramm-Leach-Bliley Act (15 U.S.C. 6801 et seq.); and

(B) subject to—

(i) examinations for compliance with the requirements of this Act by 1 or more Federal or State functional regulators (as defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)); or

(ii) compliance with part 314 of title 16, Code of Federal Regulations; or

(2) ''covered entities'' subject to the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1301 et seq.), including the data security requirements and implementing regulations of that Act.

(d) SAFE HARBOR.—A business entity shall be deemed in compliance with the privacy and security program requirements under section 402 if the business entity complies with or provides protection equal to industry standards, as identified by the Federal Trade Commission, that are applicable to the type of sensitive personally identifiable information involved in the ordinary course of business of such business entity.

SEC. 402. REQUIREMENTS FOR A PERSONAL DATA PRIVACY AND SECURITY PROGRAM.

(a) PERSONAL DATA PRIVACY AND SECURITY PROGRAM.—Unless otherwise limited under section 401(c), a business entity subject to this subtitle shall comply with the following safeguards and any others identified by the Federal Trade Commission in a rulemaking process pursuant to section 553 of title 5, United States Code, to protect the privacy and security of sensitive personally identifiable information:

(1) SCOPE.—A business entity shall implement a comprehensive personal data privacy and security program that includes administrative, technical, and physical safeguards appropriate to the size and complexity of the business entity and the nature and scope of its activities.

(2) DESIGN.—The personal data privacy and security program shall be designed to—

(A) ensure the privacy, security, and confidentiality of personal electronic records;

(B) protect against any anticipated vulnerabilities to the privacy, security, or integrity of personal electronic records; and

(C) protect against unauthorized access to use of personal electronic records that could result in substantial harm or inconvenience to any individual.

(3) RISK ASSESSMENT.—A business entity shall—

(A) identify reasonably foreseeable internal and external vulnerabilities that could result in unauthorized access, disclosure, use, or alteration of sensitive personally identifiable information or systems containing sensitive personally identifiable information;

(B) assess the likelihood of and potential damage from unauthorized access, disclosure, use, or alteration of sensitive personally identifiable information; and

(C) assess the sufficiency of its policies, technologies, and safeguards in place to control and minimize risks from unauthorized access, disclosure, use, or alteration of sensitive personally identifiable information.

(4) RISK MANAGEMENT AND CONTROL.—Each business entity shall—

(A) design its personal data privacy and security program to control the risks identified under paragraph (3); and

(B) adopt measures commensurate with the sensitivity of the data as well as the size, complexity, and scope of the activities of the business entity that—

(i) control access to systems and facilities containing sensitive personally identifiable information, including controls to authenticate and permit access only to authorized individuals;

(ii) detect actual and attempted fraudulent, unlawful, or unauthorized access, disclosure, use, or alteration of sensitive personally identifiable information, including by employees and other individuals otherwise authorized to have access; and

(iii) protect sensitive personally identifiable information during use, transmission, storage, and disposal by encryption or other reasonable means (including as directed for disposal of records under section 628 of the Fair Credit Reporting Act (15 U.S.C. 1681w) and the implementing regulations of such Act as set forth in section 682 of title 16, Code of Federal Regulations).

(b) TRAINING.—Each business entity subject to this subtitle shall take steps to ensure employee training and supervision for implementation of the data security program of the business entity.

(c) VULNERABILITY TESTING.—

(1) IN GENERAL.—Each business entity subject to this subtitle shall take steps to ensure regular testing of key controls, systems, and procedures of the personal data privacy and security program to detect, prevent, and respond to attacks or intrusions, or other system failures.

(2) FREQUENCY.—The frequency and nature of the tests required under paragraph (1) shall be determined by the risk assessment of the business entity under subsection (a)(3).

(d) RELATIONSHIP TO SERVICE PROVIDERS.—In the event a business entity subject to this subtitle engages service providers not subject to this subtitle, such business entity shall—

(1) exercise appropriate due diligence in selecting those service providers for responsibilities related to sensitive personally identifiable information, and take reasonable steps to select and retain service providers that are capable of maintaining appropriate safeguards for the security, privacy, and integrity of the sensitive personally identifiable information at issue; and

(2) require those service providers by contract to implement and maintain appropriate measures designed to meet the objectives and requirements governing entities subject to this section, section 401, and subtitle B.

(e) PERIODIC ASSESSMENT AND PERSONAL DATA PRIVACY AND SECURITY MODERNIZATION.—Each business entity subject to this subtitle shall on a regular basis monitor, evaluate, and adjust, as appropriate its data privacy and security program in light of any relevant changes in—

(1) technology;

(2) the sensitivity of personally identifiable information;

(3) internal or external threats to personally identifiable information; and

(4) the changing business arrangements of the business entity, such as—

(A) mergers and acquisitions;

(B) alliances and joint ventures;

(C) outsourcing arrangements;

(D) bankruptcy; and

(E) changes to sensitive personally identifiable information systems.

(f) IMPLEMENTATION TIME LINE.—Not later than 1 year after the date of enactment of this Act, a business entity subject to the provisions of this subtitle shall implement a data privacy and security program pursuant to this subtitle.

SEC. 403. ENFORCEMENT.

(a) CIVIL PENALTIES.—

(1) IN GENERAL.—Any business entity that violates the provisions of sections 401 or 402 shall be subject to civil penalties of not more than $5,000 per violation per day, with a maximum of $35,000 per day, while such violations persist.

(2) INTENTIONAL OR WILLFUL VIOLATION.—A business entity that intentionally or willfully violates the provisions of sections 401 or 402 shall be subject to additional penalties in the amount of $5,000 per violation per day, with a maximum of an additional $35,000 per day, while such violations persist.

(3) EQUITABLE RELIEF.—A business entity engaged in interstate commerce that violates this section may be enjoined from further violations by a court of competent jurisdiction.

(4) OTHER RIGHTS AND REMEDIES.—The rights and remedies available under this section are cumulative and shall not affect any other rights and remedies available under law

(b) INJUNCTIVE ACTIONS BY THE ATTORNEY GENERAL.—

(1) IN GENERAL.—Whenever it appears that a business entity or agency to which this subtitle applies has engaged, is engaged, or is about to engage, in any act or practice constituting a violation of this subtitle, the Attorney General may bring a civil action in an appropriate district court of the United States to—

(A) enjoin such act or practice;

(B) enforce compliance with this subtitle; and

(C) obtain damages—

(i) in the sum of actual damages, restitution, and other compensation on behalf of the affected residents of a State; and

(ii) punitive damages, if the violation is willful or intentional; and

(D) obtain such other relief as the court determines to be appropriate.

(2) OTHER INJUNCTIVE RELIEF.—Upon a proper showing in the action under paragraph (1), the court shall grant a permanent injunction or a temporary restraining order without bond.

(c) STATE ENFORCEMENT.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by an act or practice that violates this subtitle, the State may bring a civil action on behalf of the residents of that State in a district court of the United States of appropriate jurisdiction, or any other court of competent jurisdiction, to—

(A) enjoin that act or practice;

(B) enforce compliance with this subtitle;

(C) obtain—

(i) damages in the sum of actual damages, restitution, or other compensation on behalf of affected residents of the State; and

(ii) punitive damages, if the violation is willful or intentional; or

(D) obtain such other legal and equitable relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under this subsection, the attorney general of the State involved shall provide to the Attorney General—

(i) a written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general of a

State determines that it is not feasible to provide the notice described in this subparagraph before the filing of the action.

(C) NOTIFICATION WHEN PRACTICABLE.—In an action described under subparagraph (B), the attorney general of a State shall provide the written notice and the copy of the complaint to the Attorney General as soon after the filing of the complaint as practicable.

(3) ATTORNEY GENERAL AUTHORITY.—Upon receiving notice under paragraph (2), the Attorney General shall have the right to—

(A) move to stay the action, pending the final disposition of a pending Federal proceeding or action as described in paragraph (4);

(B) intervene in an action brought under paragraph (1); and

(C) file petitions for appeal.

(4) PENDING PROCEEDINGS.—If the Attorney General has instituted a proceeding or action for a violation of this title or any regulations thereunder, no attorney general of a State may, during the pendency of such proceeding or action, bring an action under this subsection against any defendant named in such criminal proceeding or civil action for any violation that is alleged in that proceeding or action.

(5) RULE OF CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1) nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(A) conduct investigations;

(B) administer oaths and affirmations; or

(C) compel the attendance of witnesses or the production of documentary and other evidence.

(6) VENUE; SERVICE OF PROCESS.—

(A) VENUE.—Any action brought under this subsection may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1931 of title 28, United States Code.

(B) SERVICE OF PROCESS.—In an action brought under this subsection process may be served in any district in which the defendant—

(i) is an inhabitant; or

(ii) may be found.

(d) NO PRIVATE CAUSE OF ACTION.—Nothing in this title establishes a private cause of action against a business entity for violation of any provision of this subtitle.

SEC. 404. RELATION TO STATE LAWS.

(a) IN GENERAL.—No State may—

(1) require an entity described in section 401(c) to comply with this subtitle or any regulation promulgated thereunder; and

(2) require an entity in compliance with the safe harbor established under section 401(d), to comply with any other provision of this subtitle.

(b) EFFECT OF SUBTITLE A.—Except as provided in subsection (a), this subtitle does not annul, alter, affect, or exempt any person subject to the provisions of this subtitle from complying with the laws of any State with respect to security programs for sensitive personally identifiable information, except to the extent that those laws are inconsistent with any provisions of this subtitle, and then only to the extent of such inconsistency.

Subtitle B—Security Breach Notification

SEC. 421. NOTICE TO INDIVIDUALS.

(a) IN GENERAL.—Any agency, or business entity engaged in interstate commerce, that uses, accesses, transmits, stores, disposes of or collects sensitive personally identifiable information shall, following the discovery of a security breach maintained by the agency or business entity that contains such information, notify any resident of the United States whose sensitive personally identifiable information was subject to the security breach.

(b) OBLIGATION OF OWNER OR LICENSEE.—

(1) NOTICE TO OWNER OR LICENSEE.—Any agency, or business entity engaged in interstate commerce, that uses, accesses, transmits, stores, disposes of, or collects sensitive personally identifiable information that the agency or business entity does not own or license shall notify the owner or licensee of the information following the discovery of a security breach containing such information.

(2) NOTICE BY OWNER, LICENSEE OR OTHER DESIGNATED THIRD PARTY.—Noting in this subtitle shall prevent or abrogate an agreement between an agency or business entity required to give notice under this section and a designated third party, including an owner or licensee of the sensitive personally identifiable information subject to the security breach, to provide the notifications required under subsection (a).

(3) BUSINESS ENTITY RELIEVED FROM GIVING NOTICE.—A business entity obligated to give notice under subsection (a) shall be relieved of such obligation if an owner or licensee of the sensitive personally identifiable information subject to the security breach, or other designated third party, provides such notification.

(c) TIMELINESS OF NOTIFICATION.—

(1) IN GENERAL.—All notifications required under this section shall be made without unreasonable delay following—

(A) the discovery by the agency or business entity of a security breach; and

(B) any measures necessary to determine the scope of the breach, prevent further disclosures, and restore the reasonable integrity of the data system.

(2) BURDEN OF PROOF.—The agency, business entity, owner, or licensee required to provide notification under this section shall have the burden of demonstrating that all notifications were made as required under this subtitle, including evidence demonstrating the necessity of any delay.

(d) DELAY OF NOTIFICATION AUTHORIZED FOR LAW ENFORCEMENT PURPOSES.—

(1) IN GENERAL.—If a law enforcement agency determines that the notification required under this section would impede a criminal investigation, such notification may be delayed upon the written request of the law enforcement agency.

(2) EXTENDED DELAY OF NOTIFICATION.—If the notification required under subsection (a) is delayed pursuant to paragraph (1), an agency or business entity shall give notice 30 days after the day such law enforcement delay was invoked unless a law enforcement agency provides written notification that further delay is necessary.

SEC. 422. EXEMPTIONS.

(a) EXEMPTION FOR NATIONAL SECURITY AND LAW ENFORCEMENT.—

(1) IN GENERAL.—Section 421 shall not apply to an agency if the head of the agency certifies, in writing, that notification of the security breach as required by section 421 reasonably could be expected to—

(A) cause damage to the national security; or

(B) hinder a law enforcement investigation or the ability of the agency to conduct law enforcement investigations.

(2) LIMITS ON CERTIFICATIONS.—The head of an agency may not execute a certification under paragraph (1) to—

(A) conceal violations of law, inefficiency, or administrative error;

(B) prevent embarrassment to a business entity, organization, or agency; or

(C) restrain competition.

(3) NOTICE.—In every case in which a head of an agency issues a certification under paragraph (1), the certification, accompanied by a concise description of the factual basis for the certification, shall be immediately provided to the Congress.

(b) RISK ASSESSMENT EXEMPTION.—An agency or business entity will be exempt from the notice requirements under section 421, if—

(1) a risk assessment concludes that there is no significant risk that the security breach has resulted in, or will result in, harm to the individuals whose sensitive personally identifiable information was subject to the security breach;

(2) without unreasonable delay, but not later than 45 days after the discovery of a security breach, unless extended by the United States Secret Service, the business entity notifies the United States Secret Service, in writing, of—

(A) the results of the risk assessment;

(B) its decision to invoke the risk assessment exemption; and

(3) the United States Secret Service does not indicate, in writing, within 10 days from receipt of the decision, that notice should be given.

(c) FINANCIAL FRAUD PREVENTION EXEMPTION.—

(1) IN GENERAL.—A business entity will be exempt from the notice requirement under section 421 if the business entity utilizes or participates in a security program that—

(A) is designed to block the use of the sensitive personally identifiable information to initiate unauthorized financial transactions before they are charged to the account of the individual; and

(B) provides for notice after a security breach that has resulted in fraud or unauthorized transactions.

(2) LIMITATION.—The exemption by this subsection does not apply if the information subject to the security breach includes, in addition to an account number, sensitive personally identifiable information.

SEC. 423. METHODS OF NOTICE.

An agency, or business entity shall be in compliance with section 421 if it provides:

(1) INDIVIDUAL NOTICE.—

(A) Written notification to the last known home mailing address of the individual in the records of the agency or business entity; or

(B) E-mail notice, if the individual has consented to receive such notice and the notice is consistent with the provisions permitting electronic transmission of notices under section 101 of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001).

(2) MEDIA NOTICE.—If more than 5,000 residents of a State or jurisdiction are impacted, notice to major media outlets serving that State or jurisdiction.

SEC. 424. CONTENT OF NOTIFICATION.

(a) IN GENERAL.—Regardless of the method by which notice is provided to individuals under section 423, such notice shall include, to the extent possible—

(1) a description of the categories of sensitive personally identifiable information that was, or is reasonably believed to have been, acquired by an unauthorized person;

(2) a toll-free number—

(A) that the individual may use to contact the agency or business entity, or the agent of the agency or business entity; and

(B) from which the individual may learn—

(i) what types of sensitive personally identifiable information the agency or business entity maintained about that individual or about individuals in general; and

(ii) whether or not the agency or business entity maintained sensitive personally identifiable information about that individual; and

(3) the toll-free contact telephone numbers and addresses for the major credit reporting agencies.

(b) ADDITIONAL CONTENT.—Notwithstanding section 429, a State may require that a notice under subsection (a) shall also include information regarding victim protection assistance provided for by that State.

SEC. 425. COORDINATION OF NOTIFICATION WITH CREDIT REPORTING AGENCIES.

If an agency or business entity is required to provide notification to more than 1,000 individuals under section 421(a), the agency or business entity shall also notify, without unreasonable delay, all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis (as defined in section 603(p) of the Fair Credit Reporting Act (15 U.S.C. 1681a(p)) of the timing and distribution of the notices.

SEC. 426. NOTICE TO LAW ENFORCEMENT.

(a) SECRET SERVICE.—Any business entity or agency required to give notice under section 421 shall also give notice to the United States Secret Service if the security breach impacts—

(1) more than 10,000 individuals nationwide;

(2) a database, networked or integrated databases, or other data system associated with the sensitive personally identifiable information on more than 1,000,000 individuals nationwide;

(3) databases owned by the Federal Government; or

(4) primarily sensitive personally identifiable information of employees and contractors of the Federal Government involved in national security or law enforcement.

(b) NOTICE TO OTHER LAW ENFORCEMENT AGENCIES.—The United States Secret Service shall be responsible for notifying—

(1)(A) the Federal Bureau of Investigation, if the security breach involves espionage, foreign counterintelligence, information protected against unauthorized disclosure for reasons of national defense or foreign relations, or Restricted Data (as that term is defined in section 11y of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)), except for offenses affecting the duties of the United States Secret Service under section 3056(a) of title 18, United States Code; and

(B) the United States Postal Inspection Service, if the security breach involves mail fraud; and

(2) the attorney general of each State affected by the security breach.

(c) 30-DAY RULE.—The notices to Federal law enforcement and the attorney general of each State affected by a security breach required under this section shall be delivered without unreasonable delay, but not later than 30 days after discovery of the events requiring notice.

SEC. 427. CIVIL REMEDIES.

(a) PENALTIES.—Any agency, or business entity engaged in interstate commerce, that violates this subtitle shall be subject to a fine of—

(1) not more than $1,000 per individual per day whose sensitive personally identity information was, or is reasonably believed to have been, acquired by an unauthorized person; or

(2) not more than $50,000 per day while the failure to give notice under this subtitle persists.

(b) EQUITABLE RELIEF.—Any agency or business entity that violates, proposes to violate, or has violated this subtitle may be enjoined from further violations by a court of competent jurisdiction.

(c) OTHER RIGHTS AND REMEDIES.—The rights and remedies available under this subtitle are cumulative and shall not affect any other rights and remedies available under law.

(d) FRAUD ALERT.—Section 605A(b)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681c–1(b)(1)) is amended by inserting ‘‘, or evidence that the consumer has received notice that the consumer's financial information has or may have been compromised,’’ after ‘‘identity theft report’’.

(e) INJUNCTIVE ACTIONS BY THE ATTORNEY GENERAL.—Whenever it appears that a business entity or agency to which this subtitle applies has engaged, is engaged, or is about to engage, in any act or practice constituting a violation of this subtitle, the Attorney General may bring a civil action in an appropriate district court of the United States to—

(1) enjoin such act or practice;

(2) enforce compliance with this subtitle;

(3) obtain damages—

(A) in the sum of actual damages, restitution, and other compensation on behalf of the affected residents of a State; and

(B) punitive damages, if the violation is willful or intentional; and

(4) obtain such other relief as the court determines to be appropriate.

SEC. 428. ENFORCEMENT BY STATE ATTORNEYS GENERAL.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State, or any State or local law enforcement agency authorized by the State attorney general or by State statute to prosecute violations of consumer protection law, has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any agency or business entity in a practice that is prohibited under this subtitle, the State, as parens patriae on behalf of the residents of the State, or the State or local law enforcement agency on behalf of the residents of the agency's jurisdiction, may bring a civil action on behalf of the residents of the State or jurisdiction in a district court of the United States of appropriate jurisdiction or any other court of competent jurisdiction, including a State court, to—

(A) enjoin that practice;

(B) enforce compliance with this subtitle;

(C) obtain damages, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Attorney General of the United States—

(i) written notice of the action; and

(ii) a copy of the complaint for the action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subtitle, if the State attorney general determines that it is not feasible to provide the notice described in such subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Attorney General at the time the State attorney general files the action.

(b) FEDERAL PROCEEDINGS.—Upon receiving notice under subsection (a)(2), the Attorney General shall have the right to—

(1) move to stay the action, pending the final disposition of a pending Federal proceeding or action;

(2) intervene in an action brought under subsection (a)(2); and

(3) file petitions for appeal.

(c) PENDING PROCEEDINGS.—If the Attorney General has instituted a proceeding or action for a violation of this subtitle or any regulations thereunder, no attorney general of a State may, during the pendency of such proceeding or action, bring an action under this subtitle against any defendant named in such criminal proceeding or civil action for any violation that is alleged in that proceeding or action.

(d) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this subtitle regarding notification shall be construed to prevent an attorney general of a State from exercising the powers conferred on such attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in—

(A) the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code; or

(B) another court of competent jurisdiction.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

(f) NO PRIVATE CAUSE OF ACTION.—Nothing in this subtitle establishes a private cause of action against a data broker for violation of any provision of this subtitle.

SEC. 429. EFFECT ON FEDERAL AND STATE LAW.

The provisions of this subtitle shall supersede any other provision of Federal law or any provision of law of any State relating to notification of a security breach, except as provided in section 424(b).

SEC. 430. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to cover the costs incurred by the United States Secret Service to carry out investigations and risk assessments of security breaches as required under this subtitle.

SEC. 431. REPORTING ON RISK ASSESSMENT EXEMPTION.

The United States Secret Service shall report to Congress not later than 18 months after the date of enactment of this Act, and upon the request by Congress thereafter, on the number and nature of the security breaches described in the notices filed by those business entities invoking the risk assessment exemption under section 422(b) and the response of the United States Secret Service to those notices.

SEC. 432. EFFECTIVE DATE.

This subtitle shall take effect on the expiration of the date which is 90 days after the date of enactment of this Act.

TITLE V—GOVERNMENT ACCESS TO AND USE OF COMMERCIAL DATA

SEC. 501. GENERAL SERVICES ADMINISTRATION REVIEW OF CONTRACTS.

(a) IN GENERAL.—In considering contract awards totaling more than $500,000 and entered into after the date of enactment of this Act with data brokers, the Administrator of the General Services Administration shall evaluate—

(1) the data privacy and security program of a data broker to ensure the privacy and security of data containing personally identifiable information, including whether such program adequately addresses privacy and security threats created by malicious software or code, or the use of peer-to-peer file sharing software;

(2) the compliance of a data broker with such program;

(3) the extent to which the databases and systems containing personally identifiable information of a data broker have been compromised by security breaches; and

(4) the response by a data broker to such breaches, including the efforts by such data broker to mitigate the impact of such breaches.

(b) COMPLIANCE SAFE HARBOR.—The data privacy and security program of a data broker shall be deemed sufficient for the purposes of subsection (a), if the data broker complies with or provides protection equal to industry standards, as identified by the Federal Trade Commission, that are applicable to the type of personally identifiable information involved in the ordinary course of business of such data broker.

(c) PENALTIES.—In awarding contracts with data brokers for products or services related to access, use, compilation, distribution, processing, analyzing, or evaluating personally identifiable information, the Administrator of the General Services Administration shall—

(1) include monetary or other penalties—

(A) for failure to comply with subtitles A and B of title IV of this Act; or

(B) if a contractor knows or has reason to know that the personally identifiable information being provided is inaccurate, and provides such inaccurate information; and

(2) require a data broker that engages service providers not subject to subtitle A of title IV for responsibilities related to sensitive personally identifiable information to—

(A) exercise appropriate due diligence in selecting those service providers for responsibilities related to personally identifiable information;

(B) take reasonable steps to select and retain service providers that are capable of maintaining appropriate safeguards for the security, privacy, and integrity of the personally identifiable information at issue; and

(C) require such service providers, by contract, to implement ad maintain appropriate measures designed to meet the objectives and requirements in title IV.

(d) LIMITATION.—The penalties under subsection (c) shall not apply to a data broker providing information that is accurately and completely recorded from a public record source.

SEC. 502. REQUIREMENT TO AUDIT INFORMATION SECURITY PRACTICES OF CONTRACTORS AND THIRD PARTY BUSINESS ENTITIES.

Section 3544(b) of title 44, United States Code, is amended—

(1) in paragraph (7)(C)(iii), by striking ''and'' after the semicolon;

(2) in paragraph (8), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(9) procedures for evaluating and auditing the information security practices of contractors or third party business entities supporting the information systems or operations of the agency involving personally identifiable information (as that term is defined in section 3 of the Personal Data Privacy and Security Act of 2005) and ensuring remedial action to address any significant deficiencies.''.

SEC. 503. PRIVACY IMPACT ASSESSMENT OF GOVERNMENT USE OF COMMERCIAL INFORMATION SERVICES CONTAINING PERSONALLY IDENTIFIABLE INFORMATION.

(a) IN GENERAL.—Section 208(b)(1) of the E-Government Act of 2002 (44 U.S.C. 3501 note) is amended—

(1) in subparagraph (A)(i), by striking ''or''; and

(2) in subparagraph (A)(ii), by striking the period and inserting ''; or''; and

(3) by inserting after clause (ii) the following:

''(iii) purchasing or subscribing for a fee to personally identifiable information from a data broker (as such terms are defined in section 3 of the Personal Data Privacy and Security Act of 2005).''.

(b) LIMITATION.—Notwithstanding any other provision of law, commencing 1 year after the date of enactment of this Act, no Federal department or agency may enter into a contract with a data broker to access for a fee any database consisting primarily of personally identifiable information concerning United States persons (other than news reporting or telephone directories) unless the head of such department or agency—

(1) completes a privacy impact assessment under section 208 of the E-Government Act of 2002 (44 U.S.C. 3501 note), which shall subject to the provision in that Act pertaining to sensitive information, include a description of—

(A) such database;

(B) the name of the data broker from whom it is obtained; and

(C) the amount of the contract for use;

(2) adopts regulations that specify—

(A) the personnel permitted to access, analyze, or otherwise use such databases;

(B) standards governing the access, analysis, or use of such databases;

(C) any standards used to ensure that the personally identifiable information accessed, analyzed, or used is the minimum necessary to accomplish the intended legitimate purpose of the Federal department or agency;

(D) standards limiting the retention and redisclosure of personally identifiable information obtained from such databases;

(E) procedures ensuring that such data meet standards of accuracy, relevance, completeness, and timeliness;

(F) the auditing and security measures to protect against unauthorized access, analysis, use, or modification of data in such databases;

(G) applicable mechanisms by which individuals may secure timely redress for any adverse consequences wrongly incurred due to the access, analysis, or use of such databases;

(H) mechanisms, if any, for the enforcement and independent oversight of existing or planned procedures, policies, or guidelines; and

(I) an outline of enforcement mechanisms for accountability to protect individuals and the public against unlawful or illegitimate access or use of databases; and

(3) incorporates into the contract or other agreement totaling more than $500,000, provisions—

(A) providing for penalties—

(i) for failure to comply with title IV of this Act; or

(ii) if the entity knows or has reason to know that the personally identifiable information being provided to the Federal department or agency is inaccurate, and provides such inaccurate information.

(B) requiring a data broker that engages service providers not subject to subtitle A of title IV for responsibilities related to sensitive personally identifiable information to—

(i) exercise appropriate due diligence in selecting those service providers for responsibilities related to personally identifiable information;

(ii) take reasonable steps to select and retain service providers that are capable of maintaining appropriate safeguards for the security, privacy, and integrity of the personally identifiable information at issue; and

(iii) require such service providers, by contract, to implement ad maintain appropriate measures designed to meet the objectives and requirements in title IV.

(c) LIMITATION ON PENALTIES.—The penalties under paragraph (3)(A) shall not apply to a data broker providing information that is accurately and completely recorded from a public record source.

(d) INDIVIDUAL SCREENING PROGRAMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, commencing one year after the date of enactment of this Act, no Federal department or agency may use commercial databases or contract with a data broker to implement an individual screening program unless such program is—

(A) congressionally authorized; and

(B) subject to regulations developed by notice and comment that—

(i) establish a procedure to enable individuals, who suffer an adverse consequence because the screening system determined that they might pose a security threat, to appeal such determination and correct information contained in the system;

(ii) ensure that Federal and commercial databases that will be used to establish the identity of individuals or otherwise make assessments of individuals under the system will not produce a large number of false positives or unjustified adverse consequences;

(iii) ensure the efficacy and accuracy of all of the search tools that will be used and ensure that the department or agency can make an accurate predictive assessment of those who may constitute a threat;

(iv) establish an internal oversight board to oversee and monitor the manner in which the system is being implemented;

(v) establish sufficient operational safeguards to reduce the opportunities for abuse;

(vi) implement substantial security measures to protect the system from unauthorized access;

(vii) adopt policies establishing the effective oversight of the use and operation of the system; and

(viii) ensure that there are no specific privacy concerns with the technological architecture of the system; and

(C) coordinated with the Terrorist Screening Center or any such successor organization.

(2) DEFINITION.—As used in this subsection, the term ''individual screening program''—

(A) means a system that relies on personally identifiable information from commercial databases to—

(i) evaluate all or most individuals seeking to exercise a particular right or privilege under Federal law; and

(ii) determine whether such individuals are on a terrorist watch list or otherwise pose a security threat; and

(B) does not include any program or system to grant security clearances.

(e) STUDY OF GOVERNMENT USE.—

(1) SCOPE OF STUDY.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and audit and prepare a report on Federal agency use of data brokers or commercial databases containing personally identifiable information, including the impact on privacy and security, and the extent to which Federal contracts include sufficient provisions to ensure privacy and security protections, and penalties for failures in privacy and security practices.

(2) REPORT.—A copy of the report required under paragraph (1) shall be submitted to Congress.

SEC. 504. IMPLEMENTATION OF CHIEF PRIVACY OFFICER REQUIREMENTS.

(a) DESIGNATION OF THE CHIEF PRIVACY OFFICER.—Pursuant to the requirements under section 522 of the Transportation, Treasury,

Independent Agencies, and General Government Appropriations Act, 2005 (Division H of Public Law 108–447; 118 Stat. 3199) that each agency designate a Chief Privacy Officer, the Department of Justice shall implement such requirements by designating a department-wide Chief Privacy Officer, whose primary role shall be to fulfill the duties and responsibilities of Chief Privacy Officer and who shall report directly to the Deputy Attorney General.

(b) DUTIES AND RESPONSIBILITIES OF CHIEF PRIVACY OFFICER.—In addition to the duties and responsibilities outlined under section 522 of the Transportation, Treasury, Independent Agencies, and General Government Appropriations Act, 2005 (Division H of Public Law 108–447; 118 Stat. 3199), the Department of Justice Chief Privacy Officer shall—

(1) oversee the Department of Justice's implementation of the requirements under section 603 to conduct privacy impact assessments of the use of commercial data containing personally identifiable information by the Department;

(2) promote the use of law enforcement technologies that sustain privacy protections, and assure that the implementation of such technologies relating to the use, collection, and disclosure of personally identifiable information preserve the privacy and security of such information; and

(3) coordinate with the Privacy and Civil Liberties Oversight Board, established in the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458), in implementing paragraphs (1) and (2) of this subsection.

Mr. LEAHY. Mr. President, today we reintroduce the Specter-Leahy Personal Data Privacy and Security Act of 2005.

Earlier this year, Senator SPECTER and I introduced a comprehensive bill to bring urgently needed reforms to protect Americans' privacy and to secure their personal data. Chairman SPECTER has shown great leadership on this issue, and I appreciate his dedication to solving these challenging problems through his willingness to work together to enhance this legislation as we have deemed appropriate. Since initial introduction of our bill, we have worked with Senator FEINSTEIN and other members of the Judiciary Committee to address areas of concern and to perfect the bill. We have also worked closely with a wide variety of stakeholders and experts in these issues, which has also improved the bill.

I especially thank Senator FEINSTEIN for her dedication and resolve to address these difficult data security and privacy concerns. I commend her input and leadership, and I am pleased that she is joining as an original cosponsor of this revised bill. I also thank Senator FEINGOLD for his commitment to ensuring that the government also acts responsibly in its use of our personal information and appreciate his support as an original cosponsor. This is a good bill—carefully calibrated to help remedy the problems we set out to address—and I look forward to continuing our efforts to pass effective legislation.

We have teamed together and applied our collective wisdom to sort through these issues with care and precision. We took the time needed to develop well-balanced, focused legislation that provides strong protections where necessary, and that offers strong penalties and consequences as disincentives for those who fail to protect Americans' most personal information.

Reforms like these are long overdue. As we look toward the end of the year, these necessary reforms should be included in our domestic priorities so that we can achieve some positive changes in areas that affect the everyday lives of Americans.

First our bill requires data brokers to let people know what sensitive personal information they have about them, and to allow people to correct inaccurate information. These principles have precedent from the credit report context, and we have adapted them in a way that makes sense for the data brokering industry. This is a simple matter of fairness.

Second, we would require companies that have databases with sensitive personal information on Americans to establish and implement data privacy and security programs. In the digital age, any company that wants to be trusted by the public must earn that trust by vigilantly protecting the databases they use and maintain which contain Americans' private data. They also have a responsibility in the next link in the security chain, to make sure that contractors hired to process data are adequately vetted to keep the personal information in these databases secure. This is increasingly important as Americans' personal information more and more is outsourced for processing overseas and beyond U.S. laws.

Third, our bill requires notice when sensitive personal information has been compromised. The American people have a right to know when they are at risk because of corporate failures to protect their data, or when a criminal has infiltrated data systems. The notice rules in our bill were carefully crafted to ensure that the trigger for notice is tied to ''significant risk of harm'' with appropriate checks-and-balances, in order to make sure that companies do not underreport. We also recognize important fraud prevention techniques that already exist. But our priority has been to make sure that victims have critical information as a roadmap that offers the assistance necessary to protect themselves, their families and their financial well-being.

Finally, our bill addresses the government's use of personal data. We are living in a world in which our government increasingly is turning to the private sector to get personal data the government could not legally collect on its own without oversight and appropriate protections. This bill would place privacy and security front and center in evaluating whether data brokers can be trusted with government contracts that involve sensitive information about the American people. It would require contract reviews that include these considerations, audits to ensure good practice, and contract penalties for failure to protect data privacy and security.

This legislation meets other key goals. It provides tough monetary and criminal penalties for compromising personal data or failing to provide necessary protections. This creates an incentive for companies to protect personal information, especially when there is no commercial relationship between individuals and companies using their data. We also would authorize an additional $100 million over four years to help state law enforcement agencies fight misuse of personal information.

This is a solid bill—a comprehensive bill—that not only deals with the need to provide Americans notice when they have already been hurt, but that also deals with the underlying problem of lax security and lack of accountability in dealing with the public's most personal and private information.

I commend Senator SPECTER for his leadership on this emerging problem. Senator FEINSTEIN and Senator FEINGOLD have long recognized the importance of data privacy and security, and I appreciate their support in this effort and on this bill. Other members on the Commerce Committee, such as Senator NELSON and Senator CANTWELL, and on the Banking Committee, have also taken great strides in these areas as well, and we look forward to working closely with them to pass legislation this year.

By Mr. BINGAMAN (for himself, Mr. SPECTER, Mr. NELSON of Nebraska, Mr. HARKIN and Mr. ROCKEFELLER):

S. 1793. A bill to extend certain apportionments to primary airports; to the Committee on Commerce, Science, and Transportation.

Mr. BINGAMAN. Mr. President, I rise today with my colleague Senator SPECTER to introduce legislation that is important to a number of rural communities located in over half of the States. Our legislation will ensure that over 50 mostly rural airports will not see an 85 percent reduction in their annual grant from the Federal Aviation Administration's Airport Improvement Program.

I think all Senators are well aware of the wide-ranging impact the tragic events of September 11, 2001, have had throughout our economy. One of the hardest hit industries has been commercial aviation, which is continuing to feel the effects in terms of higher costs and loss of passengers. Nowhere has the decline in commercial aviation been felt more than in small and rural communities.

All across America, small communities already face growing hurdles to promoting their economic growth and development. Today, many rural areas lack access to interstate or even four-lane highways, railroads or broadband telecommunications. Business development in rural areas frequently depends on the quality of their airports and the

availability of scheduled air service. For small communities, airports often provide the critical link to the national and international transportation system.

Ensuring small communities have the resources they need to preserve this vital airport infrastructure in rural areas is the purpose of our bill.

Under current formulae for distributing Federal funds, every airport that has more than 10,000 annual passenger boardings is guaranteed an entitlement grant from the FAA's AIP of at least $1 million per year. These are called ''primary'' airports. Airports with less than 10,000 annual boardings receive $150,000. Unfortunately, there are a handful of primary airports that have had their annual boardings drop below 10,000 as a result of the effects of 9/11. One of these airports is the Roswell International Air Center in my State of New Mexico.

For the passed two years, Congress has permitted these so called ''virtual primary'' airports to retain their full $1 million entitlement, even though their annual boardings had dropped below the 10,000 threshold as a direct result of 9/11. This two-year waiver was included in section 146 of the Vision 100 aviation reauthorization act. (P.L. 108–176).

Unfortunately, based on preliminary boarding data for 2004, there are still about 50 primary airports that have not yet regained their previous boarding levels. As a result, these airports will face a cut in their annual entitlement in FY2006 from $1 million to $150,000.

I ask unanimous consent that a list of these likely virtual primary airports for fiscal year 2006 be printed in the RECORD.

LIKELY VIRTUAL PRIMARY AIRPORTS FOR FY2006

Alaska—Fort Yukon, Gustavus, Haines, Iliamna, Kodiak, Metlakatla, Skagway, Merrill Field* and Manokotak*.
California—Imperial, Santa Rosa, Visalia.
Connecticut—Groton-New London.
Florida—Naples.
Georgia—Athens.
Iowa—Burlington, Fort Dodge.
Illinois—Belleville, Quincy.
Indiana—Lafayette.
Kansas—Garden City, Salina.
Kentucky—Owensboro.
Maine—Rockland*.
Massachusetts—Worcester.
Michigan—Alpena, Escanaba.
Minnesota—Grand Rapids, Hibbing.
Montana—Sidney-Richland*.
North Carolina—Hickory, Pinehurst/Southern Pines.
Nebraska—Grand Island, Kearney, Scottsbluff.
New Hampshire—Lebanon.
New Mexico—Roswell.
Ohio—Youngstown/Warren.
Oregon—Pendleton.
Pennsylvania—Altoona, Bradford, Brookville, Lancaster, and Reading*.
Rhode Island—Block Island, Westerly.
Tennessee—Jackson.
Utah—Cedar City.
Virginia—Weyers Cave.
Washington—Anacortes, Moses Lake, and Port Angeles*.
West Virginia—Clarksburg*.
Wyoming—Laramie.

*These primary airports where above 10,000 boardings in CY2003 but could lose their $1 million AIP entitlement based on the preliminary CY2004 enplanements.

List compiled from preliminary FAA data.

The good news is a number of airports that were virtual primary airports in fiscal year 2005 have seen their annual boardings increase back above 10,000 per year. However, for this handful of airports that were still below 10,000 boardings in 2004, I believe it is appropriate that they have another year to regain their status as primary airports and not suffer the loss of 85 percent of their fiscal year 2006 annual entitlement grant for airport improvement projects.

Thus, our bill provides a simple one year extension of the existing law to preserve the airports' current level of federal funding and give these mostly rural communities a little breathing room while the airline industry recovers from the effects of 9/11.

I ask unanimous consent that a letter and resolution from the City of Roswell and the text of the bill be printed in the RECORD.

There being no objection, the material; were ordered to be printed in the RECORD, as follows:

CITY OF ROSWELL,
Roswell, NM, September 21, 2005.

Hon. JEFF BINGAMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR BINGAMAN: The purpose of this correspondence is to, on behalf of the City of Roswell, request your assistance on an extremely important matter. Your time, as well as that of your staff, particularly Dan Alpert, has been and will continue to be most appreciated.

Attached is a resolution passed by our City Council on Thursday, September 8th pertaining to the pending loss of our annual $1 mil entitlement funds. Unless there is action involving extending the passenger boarding enplanement waiver as suggested, the City will only be eligible for $150,000 to use for airport improvements beginning with the FY 06 Budget. As far as we know we are the only Airport affected in the State of New Mexico, a fact that may have been mentioned to you by Councilor Judy Stubbs when she visited with you recently.

Our request of you is that if you can influence, beginning with the Senate Commerce and Transportation Committee, an amendment to the FY 06 Budget to extend the enplanement waiver through the FY 07 Budget, we would be most grateful. Suffice is to say, the loss of almost $900,000 each year will be devastating to our Airport and our economy

As is the case every time we approach you for assistance, we are grateful for your concern and whatever assistance you feel you can provide us.

Thank you again.

Sincerely,

BILL B. OWEN,
Mayor.

RESOLUTION NO. 05–27

A RESOLUTION SUPPORTING AN EXTENSION FOR PASSENGER BOARDING ENPLANEMENTS

Whereas, annual Federal entitlements under the Airport Improvemnt Program are based on passenger boarding; and

Whereas, in the wake of 9/11, a number of airports, including the Roswell International Air Center, saw a dramatic drop in passenger boardings; and

Whereas, current Federal legislation provides airports that have over 10,000 annual boardings $1 million per year, and airports with boardings less than 10,000 annually $150,000; and

Whereas, in November 2001, the President signed P.L. 107–71 which allowed airports that had suffered declines in passenger boardings to use the greater of either the 2000 or 2001 boardings in calculating their FY2003 entitlements; and

Whereas, the Roswell International Air Center is one of over 50 airports in the United States that benefitted from P.L. 107–71, retaining its annual $1 million entitlement, even when passenger boardings dropped below 10,000; and

Whereas, Congress extended the exception for two additional years, FY2004 and FY2005 (P.L. 108–176, sec. 146); and

Whereas, Roswell International Air Center enplanements are increasing and coming close to 1O,OOO and Now, Therefore be it

Resolved, The City of Roswell seeks the continued support from the New Mexico Congressional Delegation to persuade the Senate Commerce and Transportation Committee to extend the exception through FY2007 and encourages the citizens of Roswell and Eastern New Mexico to support the local air service. Further be it

Resolved by the governing body of the City of Roswell, New Mexico, the Roswell City Council, to support whatever means and energy is necessary to extend the passenger boarding enplanement waiver through FY2007.

S. 1793

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

SECTION 1. EXTENSION OF APPORTIONMENTS.

Section 47114(c)(1)(F) of title 49, United States Code, is amended by striking ''and 2005'' each place it appears in the heading and inserting '', 2005, and 2006''.

By Mr. DURBIN (for himself and Mr. OBAMA):

S. 1794. A bill to establish a Strategic Gasoline and Fuel Reserve; to the Committee on Energy and Natural Resources.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1794

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Strategic Gasoline and Fuel Reserve Act of 2005''.

SEC. 2. STRATEGIC GASOLINE AND FUEL RESERVE.

(a) IN GENERAL.—Title I of the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.) is amended—

(1) by redesignating part E (42 U.S.C. 6251 et seq.) as part F;

(2) by redesignating section 191 (42 U.S.C. 6251) as section 199; and

(3) by inserting after part D (42 U.S.C. 6250 et seq.) the following:

''PART E—STRATEGIC GASOLINE AND FUEL RESERVE

''SEC. 191. DEFINITIONS.

''In this part:

''(1) GASOLINE.—The term 'gasoline' means regular unleaded gasoline.

''(2) RESERVE.—The term 'Reserve' means the Strategic Gasoline and Fuel Reserve established under section 192(a).

''SEC. 192. ESTABLISHMENT.

''(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Secretary shall establish, maintain, and operate a Strategic Gasoline and Fuel Reserve.

''(b) NOT COMPONENT OF STRATEGIC PETROLEUM RESERVE.—The Reserve is not a component of the Strategic Petroleum Reserve established under part B.

''(c) CAPACITY.—The Reserve shall contain not more than—

''(1) 40,000,000 barrels of gasoline; and

''(2) 7,500,000 barrels of jet fuel.

''(d) RESERVE SITES.—

''(1) SITING.—Not later than 1 year after the date of enactment of this Act, the Secretary shall determine not less than 3 Reserve sites, and not more than 5 Reserve sites, throughout the United States that are regionally strategic.

''(2) OPERATION.—The Reserve sites described in paragraph (1) shall be operational not later than 2 years after the date of enactment of this Act.

''(e) SECURITY.—In establishing the Reserve under this section, the Secretary shall obtain the concurrence of the Secretary of Homeland Security with respect to physical design security and operational security.

''(f) AUTHORITY.—In carrying out this part, the Secretary may—

''(1) purchase, contract for, lease, or otherwise acquire, in whole or in part, storage and related facilities and storage services;

''(2) use, lease, maintain, sell, or otherwise dispose of storage and related facilities acquired under this part;

''(3) acquire by purchase, exchange, lease, or other means gasoline and fuel for storage in the Reserve;

''(4) store gasoline and fuel in facilities not owned by the United States; and

''(5) sell, exchange, or otherwise dispose of gasoline and fuel from the Reserve, including to maintain—

''(A) the quality or quantity of the gasoline or fuel in the Reserve; or

''(B) the operational capacity of the Reserve.

''(g) FILL DATE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall complete the process of filling the Reserve under this section by March 1, 2008.

''(2) EXTENSIONS.—The President may extend the deadline established under paragraph (1) if—

''(A) the President determines that filling the Reserve within that deadline would cause an undue economic burden on the United States; and

''(B) the President receives approval from Congress.

''SEC. 193. RELEASE OF GASOLINE AND FUEL.

''(a) IN GENERAL.—The Secretary shall release gasoline or fuel from the Reserve only if—

''(1) the President finds that there is a severe fuel supply disruption by finding that—

''(A) a regional or national supply shortage of gasoline or fuel of significant scope and duration has occurred;

''(B) a substantial increase in the price of gasoline or fuel has resulted from the shortage;

''(C) the price increase is likely to cause a significant adverse impact on the national economy; and

''(D) releasing gasoline or fuel from the Reserve would assist directly and significantly in reducing the adverse impact of the shortage; or

''(2)(A) the Governor of a State submits to the Secretary a written request for a release from the Reserve that contains a finding that—

''(i) a regional or statewide supply shortage of gasoline or fuel of significant scope and duration has occurred;

''(ii) a substantial increase in the price of gasoline or fuel has resulted from the shortage; and

''(iii) the price increase is likely to cause a significant adverse impact on the economy of the State; and

''(B) the Secretary concurs with the findings of the Governor under subparagraph (A) and determines that—

''(i) a release from the Reserve would mitigate gasoline or fuel price volatility in the State;

''(ii) a release from the Reserve would not have an adverse effect on the long-term economic viability of retail gasoline or fuel markets in the State and adjacent States; and

''(iii) a release from the Reserve would not suppress prices below long-term market trend levels.

''(b) PROCEDURE.—

''(1) RESPONSE OF SECRETARY.—The Secretary shall respond to a request submitted under subsection (a)(2) not later than 5 days after receipt of the request by—

''(A) approving the request;

''(B) denying the request; or

''(C) requesting additional supporting information.

''(2) RELEASE.—The Secretary shall establish procedures governing the release of gasoline or fuel from the Reserve in accordance with this subsection.

''(3) REQUIREMENTS.—

''(A) ELIGIBLE ENTITY.—In this paragraph, the term 'eligible entity' means an entity that is customarily engaged in the sale or distribution of gasoline or fuel.

''(B) SALE OR DISPOSAL FROM RESERVE.—The procedures established under this subsection shall provide that the Secretary may—

''(i) sell gasoline or fuel from the Reserve to an eligible entity through a competitive process; or

''(ii) enter into an exchange agreement with an eligible entity under which the Secretary receives a greater volume of gasoline or fuel as repayment from the eligible entity than the volume provided to the eligible entity.

''(c) CONTINUING EVALUATION.—The Secretary shall conduct a continuing evaluation of the drawdown and sales procedures established under this section.

''SEC. 194. REPORTS.

''(a) GASOLINE AND FUEL.—Not later than 45 days after the date of enactment of this section, the Secretary shall submit to Congress and the President a plan describing—

''(1) the acquisition of storage and related facilities or storage services for the Reserve, including the use of storage facilities not currently in use or not currently used to capacity;

''(2) the acquisition of gasoline and fuel for storage in the Reserve;

''(3) the anticipated methods of disposition of gasoline and fuel from the Reserve;

''(4) the estimated costs of establishment, maintenance, and operation of the Reserve;

''(5) efforts that the Department will take to minimize any potential need for future drawdowns from the Reserve; and

''(6) actions to ensure the quality of the gasoline and fuel in the Reserve are maintained.

''(b) NATURAL GAS AND DIESEL.—Not later than 90 days after the date of enactment of this section, the Secretary shall submit to Congress a report describing the feasibility of creating a natural gas and diesel reserve similar to the Reserve under this part.

''SEC. 195. STRATEGIC GASOLINE AND FUEL RESERVE FUND.

''(a) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund, to be known as the 'Strategic Gasoline and Fuel Reserve Fund' (referred to in this section as the 'Fund'), consisting of—

''(1) such amounts as are appropriated to the Fund under subsection (b);

''(2) such amounts as are appropriated to the Fund under section 196; and

''(3) any interest earned on investment of amounts in the Fund under subsection (d).

''(b) TRANSFERS TO FUND.—There are appropriated to the Fund amounts equivalent to amounts collected as receipts and received in the Treasury from the sale, exchange, or other disposition of gasoline or fuel from the Reserve.

''(c) EXPENDITURES FROM FUND.—On request by the Secretary and without the need for further appropriation, the Secretary of the Treasury shall transfer from the Fund to the Secretary such amounts as the Secretary determines are necessary to carry out activities under this part, to remain available until expended.

''(d) INVESTMENT OF AMOUNTS.—

''(1) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals.

''(2) INTEREST-BEARING OBLIGATIONS.—Investments may be made only in interest-bearing obligations of the United States.

''(3) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under paragraph (1), obligations may be acquired—

''(A) on original issue at the issue price; or

''(B) by purchase of outstanding obligations at the market price.

''(4) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

''(5) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

''(e) TRANSFERS OF AMOUNTS.—

''(1) IN GENERAL.—The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

''(2) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

''SEC. 196. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as are necessary to carry out this part, to remain available until expended.''.

SEC. 3. CONFORMING AMENDMENTS.

The table of contents for title I of the Energy Policy and Conservation Act (42 U.S.C. 6201 note) is amended by striking the matter relating to part D and inserting the following:

''PART D—NORTHEAST HOME HEATING OIL RESERVE

''Sec. 181. Establishment.
''Sec. 182. Authority.
''Sec. 183. Conditions for release; plan.
''Sec. 184. Northeast home heating oil reserve account.
''Sec. 185. Exemptions.
''Sec. 186. Authorization of appropriations.

''PART E—STRATEGIC GASOLINE AND FUEL RESERVE

''Sec. 191. Definitions.
''Sec. 192. Establishment.

By Mr. JOHNSON (for himself, Ms. CANTWELL, Mr. LEAHY, Mr. CORZINE, Mrs. MURRAY, Mr. SALAZAR, Mr. REED, and Ms. MIKULSKI):

S. 1795. A bill to amend the Social Security Act to protect Social Security cost-of-living adjustments (COLA); to the Committee on Finance.

Mr. JOHNSON. Mr. President, today I am joined by several of my colleagues in the Senate to introduce the Social Security COLA Protection Act of 2005. This legislation will provide some relief to seniors from rising Medicare premiums, and ensure that their Social Security cost-of-living-adjustments or COLAs are made available for other essential needs such as food and housing.

I first thank Senators CANTWELL, LEAHY, CORZINE, MURRAY, SALAZAR, REED and MIKULSKI in joining me in this effort. Last Congress several colleagues joined Senator Daschle and myself to introduce a similar bill. Representative HERSETH in the House has introduced the companion bill today, and I thank her as well for her leadership on this and other important issues to seniors in South Dakota.

In my home State, 1 in 6 people are Medicare beneficiaries. That represents 16 percent of our total State population. Many of these individuals live on modest fixed incomes and have to pay close attention to the checks they write and the groceries they buy every month. The seniors of my State are people that worked very hard all of their lives, as farmers, small business owners, teachers and parents. In old age, all they are hoping for is an opportunity to live out their years with a basic level of comfort and certainty.

Unfortunately, as the cost of health care continues to rise at alarming rates, it becomes more and more difficult for seniors to have a sense of security during their retirement years. According to the Kaiser Family Foundation, U.S. spending on health care was approximately $1.7 trillion in 2003, almost two and a half times the $696 billion spent in 1990. That $1.7 trillion represents over 15 percent of the gross domestic product. While spending did level off in 2004, according to an analysis by the Center for Health System Change, overall health spending growth outpaced overall economic growth by 2.6 percent in 2004.

Increases in health care costs hit the pocketbooks of every American. Recently the Centers for Medicare and Medicaid Services or CMS announced that the Medicare Part B premiums, which pay for seniors' doctor visits and other nonhospital services, will rise 13 percent in 2006. The 2006 increase will mark the third year in a row that beneficiaries will be subjected to a rise in their premiums of more than 10 percent.

These premium increases will come at the same time that many Medicare beneficiaries will start to pay an additional premium for the Part D prescription drug program. Those premiums will range, averaging from $20 to $35 a month. Both Part D and Part B premiums will be taken from a senior's Social Security check.

While seniors can expect a modest increase in their Social Security COLA every year, that increase has not kept up with the pace of increased health care costs and specifically Medicare premium costs. This is unfortunate, and does force many seniors to have to face the harsh reality every year that their fixed income is shrinking as their health costs go up. This October we should learn the Social Security COLA for 2006, and I fear that the combination of a modest increase and increased costs for participating in Medicare Part D are going to be difficult to adjust to for many seniors in South Dakota.

This is why I have introduced the Social Security COLA Protection Act of 2005, which will mandate that no more than 25 percent of a senior's COLA be absorbed by the increase in Medicare premiums. This is important legislation that will protect the financial security of many retirees in my home State and across the country. I thank all of the Members who have introduced this bill with me today and urge the rest of my colleagues to join me in this effort.

By Mrs. MURRAY (for herself, Mr. LEAHY, Mr. DAYTON, Mr. DODD, and Mr. CORZINE):

S. 1796. A bill to promote the economic security and safety of victims of domestic violence, dating violence, sexual assault, or stalking, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. MURRAY. Mr. President, along with my colleagues, Senators LEAHY, DAYTON, DODD and CORZINE, I am introducing legislation that, if adopted, will protect and even save the lives of victims of domestic or sexual violence and their families. This bill, the Security and Financial Empowerment (SAFE) Act, addresses the impact of domestic and sexual violence that extends far beyond the moment the abuse occurs.

I am introducing this legislation today as a tribute to Paul and Sheila Wellstone, who were such champions for victims of domestic violence. Senator Wellstone and I first introduced this legislation together in 1998. Paul's desk was just behind me here on the Senate floor. I can still see him behind me waving his arms and making the case for people who have no voice.

Not long ago, domestic violence was considered a family problem, and many victims had nowhere to turn for help.

Today, thanks to the Violence Against Women Act (VAWA) we have made great progress in fighting these violent crimes. I worked to help pass this landmark legislation in 1994 and I am proud to be a part of reauthorizing it this year. But although VAWA has been a great success in coordinating victims' advocates, social service providers and law enforcement professionals to meet immediate challenges, there is still work to be done.

As someone who has spent my entire public life working with victims and experts to fight domestic violence, I am offering this bill based on what these courageous individuals have told me they need. Financial insecurity is a major factor in ongoing domestic violence. Too often, victims who are not economically self sufficient are forced to choose between protecting themselves and their children and keeping a roof over their heads. It is critical that we help guarantee the economic security of victims of domestic or sexual violence so that they can provide permanent safety for themselves and their families and so that they are not forced, because of economic dependence, to stay in an abusive relationship.

In order to do this, we must ensure that victims of domestic or sexual violence can seek the help they need without the fear of losing their jobs. Too many victims have been fired for missing work in order to find shelter or get a court restraining order, even after receiving permission from their employers. Today, a woman can use the Family and Medical Leave Act to care for a sick or injured spouse, but she cannot use that act to seek protection from her abuser. The SAFE Act will allow victims to take time off from work without penalty in order to make court appearances, seek legal assistance, and get help with safety planning. For too many victims, access to these essential services can mean the difference between life and death.

Unfortunately, some victims of domestic or sexual violence are forced to leave their jobs and relocate to protect themselves and their families. We must ensure the continued financial security of these victims through the use of unemployment benefits. Currently, a woman can receive unemployment benefits if she leaves her job because her husband must relocate. But if that same woman is fleeing her husband's abuse, in many States she cannot receive the same benefits. Currently, 28 States and the District of Columbia provide some type of unemployment assistance to victims of domestic or sexual violence. Our bill will ensure that assistance is available in every State, so that no woman has to make the tragic choice of risking her safety to protect her livelihood.

Moreover, victims must not be made silent by the fear of discrimination in employment and insurance. Punishing victims for circumstances beyond their control is wrong and only helps abusers in their efforts to control their victims. Denying a woman employment

because she is a victim of domestic violence robs her of the economic security she needs to escape a dangerous relationship. Making insurance coverage decisions based on a history of abuse only encourages women to lie about their victimization and avoid seeking help until it is too late. The SAFE Act prohibits discrimination in employment and insurance based on domestic or sexual violence, to ensure that victims are never punished for their abusers' crimes.

Sadly, domestic violence and poverty are inextricably linked, and many victims of domestic or sexual violence are also recipients of Temporary Aid to Needy Families (TANF). Work requirements in this program often punish victims who must take time off to protect themselves and their children. In 1996, Senator Paul Wellstone and I offered an amendment to TANF called the Family Violence Option, which allows States to adjust TANF work requirements for victims of domestic violence. The SAFE act will strengthen the Family Violence Option, in order to protect some of the most economically vulnerable victims.

Despite the great progress that has been made, domestic violence is still a serious problem in our country. Domestic violence is the leading cause of injury to women, and over 5.3 million incidents occur every year. Domestic or sexual violence also continues to have severe economic consequences, costing businesses between 3 and 5 billion dollars each year in lost productivity. The SAFE Act will help victims to escape dangerous situations and prevent abuse from occurring. This will not only protect the lives of countless victims, it will allow them to be more productive members of the economy.

I am proud of the guidance we've received from advocates in crafting this legislation. I want to thank them for their efforts and their commitment to breaking the cycle of violence. I want to particularly acknowledge the efforts of the advocates in Washington State who have provided invaluable input in drafting this legislation. The support and leadership of our communities will help us take this critical next step in passing SAFE.

For victims of domestic violence, an abusive relationship can seem like a hopeless situation. Through VAWA, we have already provided new hope to millions of these victims. The SAFE Act is the crucial next step in ending the cycle of abuse. I urge my colleagues to support this bill and provide victims and their families with the tools they need for productive, independent and most importantly, safe futures.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1796

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Security and Financial Empowerment Act'' or the ''SAFE Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Domestic violence crimes account for approximately 15 percent of total crime costs in the United States each year.

(2) Violence against women has been reported to be the leading cause of physical injury to women. Such violence has a devastating impact on women's physical and emotional health and financial security.

(3) According to a recent study by the National Institutes of Health and Centers for Disease Control and Prevention, each year there are 5,300,000 non-fatal violent victimizations committed by intimate partners against women. Female murder victims were substantially more likely than male murder victims to have been killed by an intimate partner. About ⅓ of female murder victims, and about 4 percent of male murder victims, were killed by an intimate partner.

(4) According to recent government estimates, approximately 987,400 rapes occur annually in the United States, 89 percent of the rapes perpetrated against female victims. Since 2001, rapes have actually increased by 4 percent.

(5) Approximately 10,200,000 people have been stalked at some time in their lives. Four out of every 5 stalking victims are women. Stalkers harass and terrorize their victims by spying on the victims, standing outside their places of work or homes, making unwanted phone calls, sending or leaving unwanted letters or items, or vandalizing property.

(6) Employees in the United States who have been victims of domestic violence, dating violence, sexual assault, or stalking too often suffer adverse consequences in the workplace as a result of their victimization.

(7) Victims of domestic violence, dating violence, sexual assault, and stalking are particularly vulnerable to changes in employment, pay, and benefits as a result of their victimizations, and are, therefore, in need of legal protection.

(8) The prevalence of domestic violence, dating violence, sexual assault, stalking, and other violence against women at work is dramatic. About 36,500 individuals, 80 percent of whom are women, were raped or sexually assaulted in the workplace each year from 1993 through 1999. Half of all female victims of violent workplace crimes know their attackers. Nearly 1 out of 10 violent workplace incidents are committed by partners or spouses. Women who work for State and local governments suffer a higher incidence of workplace assaults, including rapes, than women who work in the private sector.

(9) Homicide is the leading cause of death for women on the job. Husbands, boyfriends, and ex-partners commit 15 percent of workplace homicides against women.

(10) Studies indicate that between 35 and 56 percent of employed battered women surveyed were harassed at work by their abusive partners.

(11) According to a 1998 report of the Government Accountability Office, between ¼ and ½ of domestic violence victims surveyed in 3 studies reported that the victims lost a job due, at least in part, to domestic violence.

(12) Women who have experienced domestic violence or dating violence are more likely than other women to be unemployed, to suffer from health problems that can affect employability and job performance, to report lower personal income, and to rely on welfare.

(13) Abusers frequently seek to control their partners by actively interfering with their ability to work, including preventing their partners from going to work, harassing their partners at work, limiting the access of their partners to cash or transportation, and sabotaging the child care arrangements of their partners.

(14) More than ½ of women receiving welfare have been victims of domestic violence as adults and between ¼ and ⅓ reported being abused in the last year.

(15) Victims of intimate partner violence lose 8,000,000 days of paid work each year, the equivalent of over 32,000 full-time jobs and 5,600,000 days of household productivity.

(16) Sexual assault, whether occurring in or out of the workplace, can impair an employee's work performance, require time

away from work, and undermine the employee's ability to maintain a job. Almost 50 percent of sexual assault survivors lose their jobs or are forced to quit in the aftermath of the assaults.

(17) More than 35 percent of stalking victims report losing time from work due to the stalking and 7 percent never return to work.

(18)(A) According to the National Institute of Justice, crime costs an estimated $450,000,000,000 annually in medical expenses, lost earnings, social service costs, pain, suffering, and reduced quality of life for victims, which harms the Nation's productivity and drains the Nation's resources.

(B) Violent crime accounts for $426,000,000,000 per year of this amount.

(C) Rape exacts the highest costs per victim of any criminal offense, and accounts for $127,000,000,000 per year of the amount described in subparagraph (A).

(19) Violent crime results in wage losses equivalent to 1 percent of all United States earnings, and causes 3 percent of the Nation's medical spending and 14 percent of the Nation's injury-related medical spending.

(20) The Bureau of National Affairs has estimated that domestic violence costs United States employers between $3,000,000,000 and $5,000,000,000 annually in lost time and productivity. Other reports have estimated that domestic violence costs those employers between $5,800,000,000 and $13,000,000,000 annually.

(21) United States medical costs for domestic violence have been estimated to be $31,000,000,000 per year.

(22) Surveys of business executives and corporate security directors also underscore the heavy toll that workplace violence takes on women, businesses, and interstate commerce in the United States.

(23) Ninety-four percent of corporate security and safety directors at companies nationwide rank domestic violence as a high security concern.

(24) Forty-nine percent of senior executives recently surveyed said domestic violence has a harmful effect on their company's productivity, 47 percent said domestic violence negatively affects attendance, and 44 percent said domestic violence increases health care costs.

(25) Only 28 States have laws that explicitly provide unemployment insurance to domestic violence victims in certain circumstances, and none of the laws explicitly cover victims of sexual assault or stalking.

(26) Only 6 States provide domestic violence victims with leave from work to go to court, to the doctor, or to take other steps to address the domestic violence in their lives, and only Maine provides such leave to victims of sexual assault and stalking.

(27) No States prohibit employment discrimination against all victims of domestic violence, sexual assault, or stalking. Five States have limited protections against such discrimination for some victims under certain circumstances.

(28) Employees, including individuals participating in welfare to work programs, may need to take time during business hours to—

(A) obtain orders of protection;

(B) seek medical or legal assistance, counseling, or other services; or

(C) look for housing in order to escape from domestic violence.

(29) Victims of domestic violence, dating violence, sexual assault, or stalking have been subjected to discrimination by private and State employers, including discrimination motivated by stereotypic notions about women and other discrimination on the basis of sex.

(30) Domestic violence victims and third parties who help them have been subjected to discriminatory practices by health, life, disability, and property and casualty insurers, and employers who self-insure employee benefits, who have denied or canceled coverage, rejected claims, and raised rates based on domestic violence. Although some State legislatures have tried to address those practices, the scope of protection afforded by the laws adopted varies from State to State, with many failing to address the problem comprehensively. Moreover, Federal law prevents States from protecting the almost 40 percent of employees whose employers self-insure employee benefits.

(31) Existing Federal law does not explicitly—

(A) authorize victims of domestic violence, dating violence, sexual assault, or stalking to take leave from work to seek legal assistance and redress, counseling, or assistance with safety planning activities;

(B) address the eligibility of victims of domestic violence, dating violence, sexual assault, or stalking for unemployment compensation;

(C) prohibit employment discrimination against actual or perceived victims of domestic violence, dating violence, sexual assault, or stalking; or

(D) prohibit insurers and employers who self-insure employee benefits from—

(i) discriminating against domestic violence victims and those who help them in determining eligibility for coverage, rates charged, and standards for payment of claims; or

(ii) disclosing information about abuse and the location of the victims through insurance databases and other means.

SEC. 3. DEFINITIONS.

In this Act, except as otherwise expressly provided:

(1) COMMERCE.—The terms ''commerce'' and ''industry or activity affecting commerce'' have the meanings given the terms in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611).

(2) COURSE OF CONDUCT.—The term ''course of conduct'' means a course of repeatedly maintaining a visual or physical proximity to a person or conveying verbal or written threats, including threats conveyed through electronic communications, or threats implied by conduct.

(3) DATING VIOLENCE.—The term ''dating violence'' has the meaning given the term in section 826 of the Higher Education Amendments of 1998 (20 U.S.C. 1152).

(4) DOMESTIC VIOLENCE.—The term ''domestic violence'' has the meaning given the term in section 826 of the Higher Education Amendments of 1998 (20 U.S.C. 1152).

(5) DOMESTIC VIOLENCE COALITION.—The term ''domestic violence coalition'' means a nonprofit, nongovernmental membership organization that—

(A) consists of the entities carrying out a majority of the domestic violence programs carried out within a State;

(B) collaborates and coordinates activities with Federal, State, and local entities to further the purposes of domestic violence intervention and prevention; and

(C) among other activities, provides training and technical assistance to entities carrying out domestic violence programs within a State, territory, political subdivision, or area under Federal authority.

(6) ELECTRONIC COMMUNICATIONS.—The term ''electronic communications'' includes communications via telephone (including mobile phone), computer, e-mail, video recorder, fax machine, telex, or pager.

(7) EMPLOY; STATE.—The terms ''employ'' and ''State'' have the meanings given the terms in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(8) EMPLOYEE.—

(A) IN GENERAL.—The term ''employee'' means any person employed by an employer. In the case of an individual employed by a public agency, such term means an individual employed as described in section 3(e)(2) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)(2)).

(B) BASIS.—The term includes a person employed as described in subparagraph (A) on a full- or part-time basis, for a fixed time period, on a temporary basis, pursuant to a detail, as an independent contractor, or as a participant in a work assignment as a condition of receipt of Federal or State income-based public assistance.

(9) EMPLOYER.—The term ''employer''—

(A) means any person engaged in commerce or in any industry or activity affecting commerce who employs 15 or more individuals; and

(B) includes any person acting directly or indirectly in the interest of an employer in relation to an employee, and includes a public agency that employs individuals as described in section 3(e)(2) of the Fair Labor Standards Act of 1938, but does not include any labor organization (other than when acting as an employer) or anyone acting in the capacity of officer or agent of such labor organization.

(10) EMPLOYMENT BENEFITS.—The term ''employment benefits'' means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employer or through an ''employee benefit plan'', as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)).

(11) FAMILY OR HOUSEHOLD MEMBER.—The term ''family or household member'', used with respect to a person, means a spouse, former spouse, parent, son or daughter, or person residing or formerly residing in the same dwelling unit as the person.

(12) PARENT; SON OR DAUGHTER.—The terms ''parent'' and ''son or daughter'' have the meanings given the terms in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611).

(13) PERSON.—The term ''person'' has the meaning given the term in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(14) PUBLIC AGENCY.—The term ''public agency'' has the meaning given the term in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(15) PUBLIC ASSISTANCE.—The term ''public assistance'' includes cash, food stamps, medical assistance, housing assistance, and other benefits provided on the basis of income by a public agency.

(16) REDUCED LEAVE SCHEDULE.—The term ''reduced leave schedule'' means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

(17) REPEATEDLY.—The term ''repeatedly'' means on 2 or more occasions.

(18) SECRETARY.—The term ''Secretary'' means the Secretary of Labor.

(19) SEXUAL ASSAULT.—The term ''sexual assault'' has the meaning given the term in section 826 of the Higher Education Amendments of 1998 (20 U.S.C. 1152).

(20) SEXUAL ASSAULT COALITION.—The term ''sexual assault coalition'' means a nonprofit, nongovernmental membership organization that—

(A) consists of the entities carrying out a majority of the sexual assault programs carried out within a State;

(B) collaborates and coordinates activities with Federal, State, and local entities to further the purposes of sexual assault intervention and prevention; and

(C) among other activities, provides training and technical assistance to entities carrying out sexual assault programs within a State, territory, political subdivision, or area under Federal authority.

(21) STALKING.—The term ''stalking'' means engaging in a course of conduct directed at a specific person that would cause a reasonable person to suffer substantial emotional distress or to fear bodily injury, sexual assault, or death to the person, or the person's spouse, parent, or son or daughter, or any other person who regularly resides in the person's household, if the conduct causes the specific person to have such distress or fear.

(22) VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING.—The term ''victim of domestic violence, dating violence, sexual assault, or stalking'' includes a person who has been a victim of domestic violence, dating violence, sexual assault, or stalking and a person whose family or household member has been a victim of domestic violence, dating violence, sexual assault, or stalking.

(23) VICTIM SERVICES ORGANIZATION.—The term ''victim services organization'' means a nonprofit, nongovernmental organization that provides assistance to victims of domestic violence, dating violence, sexual assault, or stalking, or to advocates for such victims, including a rape crisis center, an organization carrying out a domestic violence program, an organization operating a shelter or providing counseling services, or an organization providing assistance through the legal process.

TITLE I—ENTITLEMENT TO EMERGENCY LEAVE FOR ADDRESSING DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

SEC. 101. PURPOSES.

The purposes of this title are, pursuant to the affirmative power of Congress to enact legislation under the portions of section 8 of article I of the Constitution relating to providing for the general welfare and to regulation of commerce among the several States, and under section 5 of the 14th amendment to the Constitution—

(1) to promote the national interest in reducing domestic violence, dating violence, sexual assault, and stalking by enabling victims of domestic violence, dating violence, sexual assault, or stalking to maintain the financial independence necessary to leave abusive situations, achieve safety, and minimize the physical and emotional injuries from domestic violence, dating violence, sexual assault, or stalking, and to reduce the devastating economic consequences of domestic violence, dating violence, sexual assault, or stalking to employers and employees;

(2) to promote the national interest in ensuring that victims of domestic violence, dating violence, sexual assault, or stalking can recover from and cope with the effects of domestic violence, dating violence, sexual assault, or stalking, and participate in criminal and civil justice processes, without fear of adverse economic consequences from their employers;

(3) to ensure that victims of domestic violence, dating violence, sexual assault, or stalking can recover from and cope with the effects of domestic violence, dating violence, sexual assault, or stalking, and participate in criminal and civil justice processes, without fear of adverse economic consequences with respect to public benefits;

(4) to promote the purposes of the 14th amendment by preventing sex-based discrimination and discrimination against victims of domestic violence, dating violence, sexual assault, or stalking in employment leave, by addressing the failure of existing laws to protect the employment rights of victims of domestic violence, dating violence, sexual assault, or stalking, by protecting their civil and economic rights, and by furthering the equal opportunity of women for economic self-sufficiency and employment free from discrimination;

(5) to minimize the negative impact on interstate commerce from dislocations of employees and harmful effects on productivity, employment, health care costs, and employer costs, caused by domestic violence, dating violence, sexual assault, or stalking, including intentional efforts to frustrate women's ability to participate in employment and interstate commerce;

(6) to further the goals of human rights and dignity reflected in instruments such as the Charter of the United Nations, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights; and

(7) to accomplish the purposes described in paragraphs (1) through (6) by—

(A) entitling employed victims of domestic violence, dating violence, sexual assault, or stalking to take leave to seek medical help, legal assistance, counseling, safety planning, and other assistance without penalty from their employers; and

(B) prohibiting employers from discriminating against actual or perceived victims of domestic violence, dating violence, sexual assault, or stalking, in a manner that accommodates the legitimate interests of employers and protects the safety of all persons in the workplace.

SEC. 102. ENTITLEMENT TO EMERGENCY LEAVE FOR ADDRESSING DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING.

(a) LEAVE REQUIREMENT.—

(1) BASIS.—An employee who is a victim of domestic violence, dating violence, sexual assault, or stalking may take leave from work to address domestic violence, dating violence, sexual assault, or stalking, by—

(A) seeking medical attention for, or recovering from, physical or psychological injuries caused by domestic violence, dating violence, sexual assault, or stalking to the employee or the employee's family or household member;

(B) obtaining services from a victim services organization for the employee or the employee's family or household member;

(C) obtaining psychological or other counseling for the employee or the employee's family or household member;

(D) participating in safety planning, temporarily or permanently relocating, or taking other actions to increase the safety of the employee or the employee's family or household member from future domestic violence, dating violence, sexual assault, or stalking or ensure economic security; or

(E) seeking legal assistance or remedies to ensure the health and safety of the employee or the employee's family or household member, including preparing for or participating in any civil or criminal legal proceeding related to or derived from domestic violence, dating violence, sexual assault, or stalking.

(2) PERIOD.—An employee may take not more than 30 days of leave, as described in paragraph (1), in any 12-month period.

(3) SCHEDULE.—Leave described in paragraph (1) may be taken intermittently or on a reduced leave schedule.

(b) NOTICE.—The employee shall provide the employer with reasonable notice of the employee's intention to take the leave, unless providing such notice is not practicable.

(c) CERTIFICATION.—

(1) IN GENERAL.—The employer may require the employee to provide certification to the employer, within a reasonable period after the employer requests the certification, that—

(A) the employee or the employee's family or household member is a victim of domestic violence, dating violence, sexual assault, or stalking; and

(B) the leave is for 1 of the purposes enumerated in subsection (a)(1).

(2) CONTENTS.—An employee may satisfy the certification requirement of paragraph (1) by providing to the employer—

(A) a sworn statement of the employee;

(B) documentation from an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional, from whom the employee or the employee's family or household member has sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking and the effects of domestic violence, dating violence, sexual assault, or stalking;

(C) a police or court record; or

(D) other corroborating evidence.

(d) CONFIDENTIALITY.—All information provided to the employer pursuant to subsection (b) or (c), including a statement of the employee or any other documentation, record, or corroborating evidence, and the fact that the employee has requested or obtained leave pursuant to this section, shall be retained in the strictest confidence by the employer, except to the extent that disclosure is—

(1) requested or consented to by the employee in writing; or

(2) otherwise required by applicable Federal or State law.

(e) EMPLOYMENT AND BENEFITS.—

(1) RESTORATION TO POSITION.—

(A) IN GENERAL.—Except as provided in paragraph (2), any employee who takes leave under this section for the intended purpose of the leave shall be entitled, on return from such leave—

(i) to be restored by the employer to the position of employment held by the employee when the leave commenced; or

(ii) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(B) LOSS OF BENEFITS.—The taking of leave under this section shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

(C) LIMITATIONS.—Nothing in this subsection shall be construed to entitle any restored employee to—

(i) the accrual of any seniority or employment benefits during any period of leave; or

(ii) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

(D) CONSTRUCTION.—Nothing in this paragraph shall be construed to prohibit an employer from requiring an employee on leave under this section to report periodically to the employer on the status and intention of the employee to return to work.

(2) EXEMPTION CONCERNING CERTAIN HIGHLY COMPENSATED EMPLOYEES.—

(A) DENIAL OF RESTORATION.—An employer may deny restoration under paragraph (1) to any employee described in subparagraph (B) if—

(i) such denial is necessary to prevent substantial and grievous economic injury to the operations of the employer;

(ii) the employer notifies the employee of the intent of the employer to deny restoration on such basis at the time the employer

determines that such injury would occur; and

(iii) in any case in which the leave has commenced, the employee elects not to return to employment after receiving such notice.

(B) AFFECTED EMPLOYEES.—An employee referred to in subparagraph (A) is a salaried employee who is among the highest paid 10 percent of the employees employed by the employer within 75 miles of the facility at which the employee is employed.

(3) MAINTENANCE OF HEALTH BENEFITS.—

(A) COVERAGE.—Except as provided in subparagraph (B), during any period that an employee takes leave under this section, the employer shall maintain coverage under any group health plan (as defined in section 5000(b)(1) of the Internal Revenue Code of 1986) for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of such leave.

(B) FAILURE TO RETURN FROM LEAVE.—The employer may recover the premium that the employer paid for maintaining coverage for the employee under such group health plan during any period of leave under this section if—

(i) the employee fails to return from leave under this section after the period of leave to which the employee is entitled has expired; and

(ii) the employee fails to return to work for a reason other than—

(I) the continuation of, recurrence of, or onset of an episode of domestic violence, dating violence, sexual assault, or stalking, that entitles the employee to leave pursuant to this section; or

(II) other circumstances beyond the control of the employee.

(C) CERTIFICATION.—

(i) ISSUANCE.—An employer may require an employee who claims that the employee is unable to return to work because of a reason described in subclause (I) or (II) of subparagraph (B)(ii) to provide, within a reasonable period after making the claim, certification to the employer that the employee is unable to return to work because of that reason.

(ii) CONTENTS.—An employee may satisfy the certification requirement of clause (i) by providing to the employer—

(I) a sworn statement of the employee;

(II) documentation from an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional, from whom the employee or the employee's family or household member has sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking and the effects of domestic violence, dating violence, sexual assault, or stalking;

(III) a police or court record; or

(IV) other corroborating evidence.

(D) CONFIDENTIALITY.—All information provided to the employer pursuant to subparagraph (C), including a statement of the employee or any other documentation, record, or corroborating evidence, and the fact that the employee is not returning to work because of a reason described in subclause (I) or (II) of subparagraph (B)(ii), shall be retained in the strictest confidence by the employer, except to the extent that disclosure is—

(i) requested or consented to by the employee; or

(ii) otherwise required by applicable Federal or State law.

(f) PROHIBITED ACTS.—

(1) INTERFERENCE WITH RIGHTS.—

(A) EXERCISE OF RIGHTS.—It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this section.

(B) EMPLOYER DISCRIMINATION.—It shall be unlawful for any employer to discharge or harass any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment of the individual (including retaliation in any form or manner) because the individual—

(i) exercised any right provided under this section; or

(ii) opposed any practice made unlawful by this section.

(C) PUBLIC AGENCY SANCTIONS.—It shall be unlawful for any public agency to deny, reduce, or terminate the benefits of, otherwise sanction, or harass any individual, or otherwise discriminate against any individual (including retaliation in any form or manner) with respect to the amount, terms, or conditions of public assistance of the individual because the individual—

(i) exercised any right provided under this section; or

(ii) opposed any practice made unlawful by this section.

(2) INTERFERENCE WITH PROCEEDINGS OR INQUIRIES.—It shall be unlawful for any person to discharge or in any other manner discriminate (as described in subparagraph (B) or (C) of paragraph (1)) against any individual because such individual—

(A) has filed any charge, or has instituted or caused to be instituted any proceeding, under or related to this section;

(B) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this section; or

(C) has testified, or is about to testify, in any inquiry or proceeding relating to any right provided under this section.

(g) ENFORCEMENT.—

(1) CIVIL ACTION BY AFFECTED INDIVIDUALS.—

(A) LIABILITY.—Any employer that violates subsection (f) shall be liable to any individual affected—

(i) for damages equal to—

(I) the amount of—

(aa) any wages, salary, employment benefits, or other compensation denied or lost to such individual by reason of the violation; or

(bb) in a case in which wages, salary, employment benefits, or other compensation has not been denied or lost to the individual, any actual monetary losses sustained by the individual as a direct result of the violation;

(II) the interest on the amount described in subclause (I) calculated at the prevailing rate; and

(III) an additional amount as liquidated damages equal to the sum of the amount described in subclause (I) and the interest described in subclause (II), except that if an employer that has violated subsection (f) proves to the satisfaction of the court that the act or omission that violated subsection (f) was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of subsection (f), such court may, in the discretion of the court, reduce the amount of the liability to the amount and interest determined under subclauses (I) and (II), respectively; and

(ii) for such equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(B) RIGHT OF ACTION.—An action to recover the damages or equitable relief prescribed in subparagraph (A) may be maintained against any employer in any Federal or State court of competent jurisdiction by any 1 or more affected individuals for and on behalf of—

(i) the individuals; or

(ii) the individuals and other individuals similarly situated.

(C) FEES AND COSTS.—The court in such an action shall, in addition to any judgment awarded to the plaintiff, allow a reasonable attorney's fee, reasonable expert witness fees, and other costs of the action to be paid by the defendant.

(D) LIMITATIONS.—The right provided by subparagraph (B) to bring an action by or on behalf of any affected individual shall terminate—

(i) on the filing of a complaint by the Secretary in an action under paragraph (4) in which restraint is sought of any further delay in the payment of the amount described in subparagraph (A)(i) to such individual by an employer responsible under subparagraph (A) for the payment; or

(ii) on the filing of a complaint by the Secretary in an action under paragraph (2) in which a recovery is sought of the damages described in subparagraph (A)(i) owing to an affected individual by an employer liable under subparagraph (A),

unless the action described in clause (i) or (ii) is dismissed without prejudice on motion of the Secretary.

(2) ACTION BY THE SECRETARY.—

(A) ADMINISTRATIVE ACTION.—The Secretary shall receive, investigate, and attempt to resolve complaints of violations of subsection (f) in the same manner as the Secretary receives, investigates, and attempts to resolve complaints of violations of sections 6 and 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 and 207).

(B) CIVIL ACTION.—The Secretary may bring an action in any court of competent jurisdiction to recover the damages described in paragraph (1)(A)(i).

(C) SUMS RECOVERED.—Any sums recovered by the Secretary pursuant to subparagraph (B) shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to each individual affected. Any such sums not paid to such an individual because of inability to do so within a period of 3 years shall be deposited into the Treasury of the United States as miscellaneous receipts.

(3) LIMITATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), an action may be brought under this subsection not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

(B) WILLFUL VIOLATION.—In the case of such action brought for a willful violation of subsection (f), such action may be brought within 3 years after the date of the last event constituting the alleged violation for which such action is brought.

(C) COMMENCEMENT.—In determining when an action is commenced by the Secretary under this subsection for the purposes of this paragraph, it shall be considered to be commenced on the date when the complaint is filed.

(4) ACTION FOR INJUNCTION BY SECRETARY.—The district courts of the United States shall have jurisdiction, for cause shown, in an action brought by the Secretary—

(A) to restrain violations of subsection (f), including the restraint of any withholding of payment of wages, salary, employment benefits, or other compensation, plus interest, found by the court to be due to affected individuals; or

(B) to award such other equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(5) SOLICITOR OF LABOR.—The Solicitor of Labor may appear for and represent the Secretary on any litigation brought under this subsection.

(6) EMPLOYER LIABILITY UNDER OTHER LAWS.—Nothing in this section shall be construed to limit the liability of an employer or public agency to an individual, for harm suffered relating to the individual's experience of domestic violence, dating violence, sexual assault, or stalking, pursuant to any other Federal or State law, including a law providing for a legal remedy.

(7) LIBRARY OF CONGRESS.—Notwithstanding any other provision of this subsection, in the case of the Library of Congress, the authority of the Secretary under this subsection shall be exercised by the Librarian of Congress.

(8) CERTAIN PUBLIC AGENCY EMPLOYERS.—

(A) AGENCIES.—Notwithstanding any other provision of this subsection, in the case of a public agency that employs individuals as described in subparagraph (A) or (B) of section 3(e)(2) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)(2)) (other than an entity of the legislative branch of the Federal Government), subparagraph (B) shall apply.

(B) AUTHORITY.—In the case described in subparagraph (A), the powers, remedies, and procedures provided in the case of a violation of chapter 63 of title 5, United States Code, in that title to an employing agency, in chapter 12 of that title to the Merit Systems Protection Board, or in that title to any person alleging a violation of chapter 63 of that title, shall be the powers, remedies, and procedures this subsection provides in the case of a violation of subsection (f) to that agency, that Board, or any person alleging a violation of subsection (f), respectively, against an employee who is such an individual.

(9) PUBLIC AGENCIES PROVIDING PUBLIC ASSISTANCE.—Consistent with regulations prescribed under section 106(d), the President shall ensure that any public agency that violates subsection (f)(1)(C), or subsection (f)(2) by discriminating as described in subsection (f)(1)(C), shall provide to any individual who receives a less favorable amount, term, or condition of public assistance as a result of the violation—

(A)(i) the amount of any public assistance denied or lost to such individual by reason of the violation; and

(ii) the interest on the amount described in clause (i); and

(B) such equitable relief as may be appropriate.

SEC. 103. EXISTING LEAVE USABLE FOR ADDRESSING DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING.

An employee who is entitled to take paid or unpaid leave (including family, medical, sick, annual, personal, or similar leave) from employment, pursuant to State or local law, a collective bargaining agreement, or an employment benefits program or plan, may elect to substitute any period of such leave for an equivalent period of leave provided under section 102.

SEC. 104. EMERGENCY BENEFITS.

(a) IN GENERAL.—A State may use funds provided to the State under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) to provide nonrecurrent short-term emergency benefits to an individual for any period of leave the individual takes pursuant to section 102.

(b) ELIGIBILITY.—In calculating the eligibility of an individual for such emergency benefits, the State shall count only the cash available or accessible to the individual.

(c) TIMING.—

(1) APPLICATIONS.—An individual seeking emergency benefits under subsection (a) from a State shall submit an application to the State.

(2) BENEFITS.—The State shall provide benefits to an eligible applicant under paragraph (1) on an expedited basis, and not later than 7 days after the applicant submits an application under paragraph (1).

(d) CONFORMING AMENDMENT.—Section 404 of the Social Security Act (42 U.S.C. 604) is amended by adding at the end the following:

''(l) AUTHORITY TO PROVIDE EMERGENCY BENEFITS.—A State that receives a grant under section 403 may use the grant to provide nonrecurrent short-term emergency benefits, in accordance with section 104 of the Security and Financial Empowerment Act, to individuals who take leave pursuant to section 102 of that Act, without regard to whether the individuals receive assistance under the State program funded under this part.''.

SEC. 105. EFFECT ON OTHER LAWS AND EMPLOYMENT BENEFITS.

(a) MORE PROTECTIVE LAWS, AGREEMENTS, PROGRAMS, AND PLANS.—Nothing in this title shall be construed to supersede any provision of any Federal, State, or local law, collective bargaining agreement, or employment benefits program or plan that provides—

(1) greater leave benefits for victims of domestic violence, dating violence, sexual assault, or stalking than the rights established under this title; or

(2) leave benefits for a larger population of victims of domestic violence, dating violence, sexual assault, or stalking (as defined in such law, agreement, program, or plan) than the victims of domestic violence, dating violence, sexual assault, or stalking covered under this title.

(b) LESS PROTECTIVE LAWS, AGREEMENTS, PROGRAMS, AND PLANS.—The rights established for victims of domestic violence, dating violence, sexual assault, or stalking under this title shall not be diminished by any State or local law, collective bargaining agreement, or employment benefits program or plan.

SEC. 106. REGULATIONS.

(a) IN GENERAL.—Except as provided in subsections (b), (c), and (d), the Secretary shall issue regulations to carry out this title.

(b) LIBRARY OF CONGRESS.—The Librarian of Congress shall prescribe the regulations described in subsection (a) with respect to employees of the Library of Congress. The regulations prescribed under this subsection shall, to the extent appropriate, be consistent with the regulations prescribed by the Secretary under subsection (a).

(c) CERTAIN PUBLIC AGENCY EMPLOYERS.—The Office of Personnel Management shall prescribe the regulations described in subsection (a) with respect to individuals described in subparagraph (A) or (B) of section 3(e)(2) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)(2)) (other than an individual employed by an entity of the legislative branch of the Federal Government). The regulations prescribed under this subsection shall, to the extent appropriate, be consistent with the regulations prescribed by the Secretary under subsection (a).

(d) PUBLIC AGENCIES PROVIDING PUBLIC ASSISTANCE.—The President shall prescribe the regulations described in subsection (a) with respect to applicants for and recipients of public assistance, in the case of violations of section 102(f)(1)(C), or section 102(f)(2) due to discrimination described in section 102(f)(1)(C). The regulations prescribed under this subsection shall, to the extent appropriate, be consistent with the regulations prescribed by the Secretary under subsection (a).

SEC. 107. CONFORMING AMENDMENT.

Section 1003(a)(1) of the Rehabilitation Act Amendments of 1986 (42 U.S.C. 2000d–7(a)(1)) is amended by inserting ''title I or III of the Security and Financial Empowerment Act,'' before ''or the provisions''.

SEC. 108. EFFECTIVE DATE.

This title and the amendment made by this title take effect 180 days after the date of enactment of this Act.

TITLE II—ENTITLEMENT TO UNEMPLOYMENT COMPENSATION FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

SEC. 201. PURPOSES.

The purposes of this title are, pursuant to the affirmative power of Congress to enact legislation under the portions of section 8 of article I of the Constitution relating to laying and collecting taxes, providing for the general welfare, and regulation of commerce among the several States, and under section 5 of the 14th amendment to the Constitution—

(1) to promote the national interest in reducing domestic violence, dating violence, sexual assault, and stalking by enabling victims of domestic violence, dating violence, sexual assault, or stalking to maintain the financial independence necessary to leave abusive situations, achieve safety, and minimize the physical and emotional injuries from domestic violence, dating violence, sexual assault, or stalking, and to reduce the devastating economic consequences of domestic violence, dating violence, sexual assault, or stalking to employers and employees;

(2) to promote the national interest in ensuring that victims of domestic violence, dating violence, sexual assault, or stalking can recover from and cope with the effects of such victimization and participate in the criminal and civil justice processes without fear of adverse economic consequences;

(3) to minimize the negative impact on interstate commerce from dislocations of employees and harmful effects on productivity, loss of employment, health care costs, and employer costs, caused by domestic violence, dating violence, sexual assault, or stalking, including intentional efforts to frustrate the ability of women to participate in employment and interstate commerce;

(4) to promote the purposes of the 14th amendment to the Constitution by preventing sex-based discrimination and discrimination against victims of domestic violence, dating violence, sexual assault, or stalking in unemployment insurance, by addressing the failure of existing laws to protect the employment rights of victims of domestic violence, dating violence, sexual assault, or stalking, by protecting their civil and economic rights, and by furthering the equal opportunity of women for economic self-sufficiency and employment free from discrimination; and

(5) to accomplish the purposes described in paragraphs (1) through (4) by providing unemployment insurance to those who are separated from their employment as a result of domestic violence, dating violence, sexual assault, or stalking, in a manner that accommodates the legitimate interests of employers and protects the safety of all persons in the workplace.

SEC. 202. UNEMPLOYMENT COMPENSATION AND TRAINING PROVISIONS.

(a) UNEMPLOYMENT COMPENSATION.—Section 3304 of the Internal Revenue Code of 1986 (relating to approval of State unemployment compensation laws) is amended—

(1) in subsection (a)—

(A) in paragraph (18), by striking ''and'' at the end;

(B) by redesignating paragraph (19) as paragraph (20); and

(C) by inserting after paragraph (18) the following new paragraph:

''(19) compensation shall not be denied where an individual is separated from employment due to circumstances resulting

from the individual's experience of domestic violence, dating violence, sexual assault, or stalking, nor shall States impose additional conditions that restrict the individual's eligibility for or receipt of benefits beyond those required of other individuals who are forced to leave their jobs or are deemed to have good cause for voluntarily separating from a job in the State; and''; and

(2) by adding at the end the following new subsection:

''(g) CONSTRUCTION.—For purposes of subsection (a)(19)—

''(1) DOCUMENTATION.—In determining eligibility for compensation due to circumstances resulting from an individual's experience of domestic violence, dating violence, sexual assault, or stalking—

''(A) States shall adopt, or have adopted, by statute, regulation, or policy a list of forms of documentation that may be presented to demonstrate eligibility; and

''(B) presentation of any one of such forms of documentation shall be sufficient to demonstrate eligibility, except that a State may require the presentation of a form of identification in addition to the written statement of claimant described in paragraph (2)(G).

''(2) LIST OF FORMS OF DOCUMENTATION.—The list referred to in paragraph (1)(A) shall include not less than 3 of the following forms of documentation:

''(A) An order of protection or other documentation issued by a court.

''(B) A police report or criminal charges documenting the domestic violence, dating violence, sexual assault, or stalking.

''(C) Documentation that the perpetrator has been convicted of the offense of domestic violence, dating violence, sexual assault, or stalking.

''(D) Medical documentation of the domestic violence, dating violence, sexual assault, or stalking.

''(E) Evidence of domestic violence, dating violence, sexual assault, or stalking from a counselor, social worker, health worker, or domestic violence shelter worker.

''(F) A written statement that the applicant or the applicant's minor child is a victim of domestic violence, dating violence, sexual assault, or stalking, provided by a social worker, member of the clergy, shelter worker, attorney at law, or other professional who has assisted the applicant in dealing with the domestic violence, dating violence, sexual assault, or stalking.

''(G) A written statement of the claimant.

''(3) DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING DEFINED.—The terms 'domestic violence', 'dating violence', 'sexual assault', and 'stalking' have the meanings given such terms in section 3 of the Security and Financial Empowerment Act.''.

(b) UNEMPLOYMENT COMPENSATION PERSONNEL TRAINING.—Section 303(a) of the Social Security Act (42 U.S.C. 503(a)) is amended—

(1) by redesignating paragraphs (4) through (10) as paragraphs (5) through (11), respectively; and

(2) by inserting after paragraph (3) the following new paragraph:

''(4) Such methods of administration as will ensure that—

''(A) applicants for unemployment compensation and individuals inquiring about such compensation are adequately notified of the provisions of subsections (a)(19) and (g) of section 3304 of the Internal Revenue Code of 1986 (relating to the availability of unemployment compensation for victims of domestic violence, dating violence, sexual assault, or stalking); and

''(B) claims reviewers and hearing personnel are adequately trained in—

''(i) the nature and dynamics of domestic violence, dating violence, sexual assault, or stalking (as such terms are defined in section 3 of the Security and Financial Empowerment Act); and

''(ii) methods of ascertaining and keeping confidential information about possible experiences of domestic violence, dating violence, sexual assault, or stalking (as so defined) to ensure that—

''(I) requests for unemployment compensation based on separations stemming from domestic violence, dating violence, sexual assault, or stalking (as so defined) are reliably screened, identified, and adjudicated; and

''(II) full confidentiality is provided for the individual's claim and submitted evidence; and''.

(c) TANF PERSONNEL TRAINING.—Section 402(a) of the Social Security Act (42 U.S.C. 602(a)) is amended by adding at the end the following new paragraph:

''(8) CERTIFICATION THAT THE STATE WILL PROVIDE INFORMATION TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING.—A certification by the chief officer of the State that the State has established and is enforcing standards and procedures to—

''(A) ensure that applicants for assistance under the program and individuals inquiring about such assistance are adequately notified of—

''(i) the provisions of subsections (a)(19) and (g) of section 3304 of the Internal Revenue Code of 1986 (relating to the availability of unemployment compensation for victims of domestic violence, dating violence, sexual assault, or stalking); and

''(ii) assistance made available by the State to victims of domestic violence, dating violence, sexual assault, or stalking (as such terms are defined in section 3 of the Security and Financial Empowerment Act);

''(B) ensure that case workers and other agency personnel responsible for administering the State program funded under this part are adequately trained in—

''(i) the nature and dynamics of domestic violence, dating violence, sexual assault, or stalking (as so defined);

''(ii) State standards and procedures relating to the prevention of, and assistance for individuals who experience, domestic violence, dating violence, sexual assault, or stalking (as so defined); and

''(iii) methods of ascertaining and keeping confidential information about possible experiences of domestic violence, dating violence, sexual assault, or stalking (as so defined);

''(C) if a State has elected to establish and enforce standards and procedures regarding the screening for and identification of domestic violence pursuant to paragraph (7), ensure that—

''(i) applicants for assistance under the program and individuals inquiring about such assistance are adequately notified of options available under such standards and procedures; and

''(ii) case workers and other agency personnel responsible for administering the State program funded under this part are provided with adequate training regarding such standards and procedures and options available under such standards and procedures; and

''(D) ensure that the training required under subparagraphs (B) and, if applicable, (C)(ii) is provided through a training program operated by an eligible entity (as defined in section 202(d)(2) of the Security and Financial Empowerment Act).''.

(d) DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING TRAINING GRANT PROGRAM.—

(1) GRANTS AUTHORIZED.—The Secretary of Health and Human Services (in this subsection referred to as the ''Secretary'') is authorized to award—

(A) a grant to a national victim services organization in order for such organization to—

(i) develop and disseminate a model training program (and related materials) for the training required under section 303(a)(4)(B) of the Social Security Act, as added by subsection (b), and under subparagraphs (B) and, if applicable, (C)(ii) of section 402(a)(8) of the such Act, as added by subsection (c); and

(ii) provide technical assistance with respect to such model training program; and

(B) grants to State, tribal, or local agencies in order for such agencies to contract with eligible entities to provide State, tribal, or local case workers and other State, tribal, or local agency personnel responsible for administering the temporary assistance to needy families program established under part A of title IV of the Social Security Act in a State or Indian reservation with the training required under subparagraphs (B) and, if applicable, (C)(ii) of such section 402(a)(8).

(2) ELIGIBLE ENTITY DEFINED.—For purposes of paragraph (1)(B), the term ''eligible entity'' means an entity—

(A) that is—

(i) a State or tribal domestic violence coalition or sexual assault coalition;

(ii) a State or local victim services organization with recognized expertise in the dynamics of domestic violence, dating violence, sexual assault, or stalking whose primary mission is to provide services to victims of domestic violence, dating violence, sexual assault, or stalking, such as a rape crisis center or domestic violence program; or

(iii) an organization with demonstrated expertise in State or county welfare laws and implementation of such laws and experience with disseminating information on such laws and implementation, but only if such organization will provide the required training in partnership with an entity described in clause (i) or (ii); and

(B) that—

(i) has demonstrated expertise in both domestic violence and sexual assault, such as a joint domestic violence and sexual assault coalition; or

(ii) will provide the required training in partnership with an entity described in clause (i) or (ii) of subparagraph (A) in order to comply with the dual domestic violence and sexual assault expertise requirement under clause (i).

(3) APPLICATION.—An entity seeking a grant under this subsection shall submit an application to the Secretary at such time, in such form and manner, and containing such information as the Secretary specifies.

(4) REPORTS.—

(A) REPORTS TO CONGRESS.—The Secretary shall annually submit a report to Congress on the grant program established under this subsection.

(B) REPORTS AVAILABLE TO PUBLIC.—The Secretary shall establish procedures for the dissemination to the public of each report submitted under subparagraph (A). Such procedures shall include the use of the Internet to disseminate such reports.

(5) AUTHORIZATION OF APPROPRIATIONS.—

(A) AUTHORIZATION.—There are authorized to be appropriated—

(i) $1,000,000 for fiscal year 2007 to carry out the provisions of paragraph (1)(A); and

(ii) $12,000,000 for each of fiscal years 2008 through 2010 to carry out the provisions of paragraph (1)(B).

(B) THREE-YEAR AVAILABILITY OF GRANT FUNDS.—Each recipient of a grant under this subsection shall return to the Secretary any

unused portion of such grant not later than 3 years after the date the grant was awarded, together with any earnings on such unused portion.

(C) AMOUNTS RETURNED.—Any amounts returned pursuant to subparagraph (B) shall be available without further appropriation to the Secretary for the purpose of carrying out the provisions of paragraph (1)(B).

(e) EFFECT ON EXISTING LAWS, ETC.—

(1) MORE PROTECTIVE LAWS, AGREEMENTS, PROGRAMS, AND PLANS.—Nothing in this title shall be construed to supersede any provision of any Federal, State, or local law, collective bargaining agreement, or employment benefits program or plan that provides greater unemployment insurance benefits for victims of domestic violence, dating violence, sexual assault, or stalking than the rights established under this title.

(2) LESS PROTECTIVE LAWS, AGREEMENTS, PROGRAMS, AND PLANS.—The rights established for victims of domestic violence, dating violence, sexual assault, or stalking under this title shall not be diminished by any more restrictive State or local law, collective bargaining agreement, or employment benefits program or plan.

(f) EFFECTIVE DATE.—

(1) UNEMPLOYMENT AMENDMENTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B) and paragraph (2), the amendments made by this section shall apply in the case of compensation paid for weeks beginning on or after the expiration of 180 days from the date of enactment of this Act.

(B) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—

(i) IN GENERAL.—If the Secretary of Labor identifies a State as requiring a change to its statutes, regulations, or policies in order to comply with the amendments made by this section (excluding the amendment made by subsection (c)), such amendments shall apply in the case of compensation paid for weeks beginning after the earlier of—

(I) the date the State changes its statutes, regulations, or policies in order to comply with such amendments; or

(II) the end of the first session of the State legislature which begins after the date of enactment of this Act or which began prior to such date and remained in session for at least 25 calendar days after such date;

except that in no case shall such amendments apply before the date that is 180 days after the date of enactment of this Act.

(ii) SESSION DEFINED.—In this subparagraph, the term ''session'' means a regular, special, budget, or other session of a State legislature.

(2) TANF AMENDMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by subsection (c) shall take effect on the date of enactment of this Act.

(B) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under part A of title IV of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendment made by subsection (c), the State plan shall not be regarded as failing to comply with the requirements of such amendment on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

TITLE III—VICTIMS' EMPLOYMENT SUSTAINABILITY

SEC. 301. SHORT TITLE.

This title may be cited as the ''Victims' Employment Sustainability Act''.

SEC. 302. PURPOSES.

The purposes of this title are, pursuant to the affirmative power of Congress to enact legislation under the portions of section 8 of article I of the Constitution relating to providing for the general welfare and to regulation of commerce among the several States, and under section 5 of the 14th amendment to the Constitution—

(1) to promote the national interest in reducing domestic violence, dating violence, sexual assault, and stalking by enabling victims of domestic violence, dating violence, sexual assault, or stalking to maintain the financial independence necessary to leave abusive situations, achieve safety, and minimize the physical and emotional injuries from domestic violence, dating violence, sexual assault, or stalking, and to reduce the devastating economic consequences of domestic violence, dating violence, sexual assault, or stalking to employers and employees;

(2) to promote the national interest in ensuring that victims of domestic violence, dating violence, sexual assault, or stalking can recover from and cope with the effects of domestic violence, dating violence, sexual assault, or stalking, and participate in criminal and civil justice processes, without fear of adverse economic consequences from their employers;

(3) to ensure that victims of domestic violence, dating violence, sexual assault, or stalking can recover from and cope with the effects of domestic violence, dating violence, sexual assault, or stalking, and participate in criminal and civil justice processes, without fear of adverse economic consequences with respect to public benefits;

(4) to promote the purposes of the 14th amendment to the Constitution by preventing sex-based discrimination and discrimination against victims of domestic violence, dating violence, sexual assault, or stalking in employment, by addressing the failure of existing laws to protect the employment rights of victims of domestic violence, dating violence, sexual assault, or stalking, by protecting the civil and economic rights of victims of domestic violence, dating violence, sexual assault, or stalking, and by furthering the equal opportunity of women for economic self-sufficiency and employment free from discrimination;

(5) to minimize the negative impact on interstate commerce from dislocations of employees and harmful effects on productivity, employment, health care costs, and employer costs, caused by domestic violence, dating violence, sexual assault, or stalking, including intentional efforts to frustrate women's ability to participate in employment and interstate commerce; and

(6) to accomplish the purposes described in paragraphs (1) through (5) by prohibiting employers from discriminating against actual or perceived victims of domestic violence, dating violence, sexual assault, or stalking, in a manner that accommodates the legitimate interests of employers and protects the safety of all persons in the workplace.

SEC. 303. PROHIBITED DISCRIMINATORY ACTS.

(a) IN GENERAL.—An employer shall not fail to hire, refuse to hire, discharge, or harass any individual, or otherwise discriminate against any individual with respect to the compensation, terms, conditions, or privileges of employment of the individual (including retaliation in any form or manner), and a public agency shall not deny, reduce, or terminate the benefits of, otherwise sanction, or harass any individual, or otherwise discriminate against any individual with respect to the amount, terms, or conditions of public assistance of the individual (including retaliation in any form or manner), because—

(1) the individual involved—

(A) is or is perceived to be a victim of domestic violence, dating violence, sexual assault, or stalking;

(B) attended, participated in, prepared for, or requested leave to attend, participate in, or prepare for, a criminal or civil court proceeding relating to an incident of domestic violence, dating violence, sexual assault, or stalking of which the individual, or the family or household member of the individual, was a victim; or

(C) requested an adjustment to a job structure, workplace facility, or work requirement, including a transfer, reassignment, or modified schedule, leave, a changed telephone number or seating assignment, installation of a lock, or implementation of a safety procedure, in response to actual or threatened domestic violence, dating violence, sexual assault, or stalking, regardless of whether the request was granted; or

(2) the workplace is disrupted or threatened by the action of a person whom the individual states has committed or threatened to commit domestic violence, dating violence, sexual assault, or stalking against the individual, or the individual's family or household member.

(b) DEFINITIONS.—In this section:

(1) DISCRIMINATE.—The term ''discriminate'', used with respect to the terms, conditions, or privileges of employment or with respect to the terms or conditions of public assistance, includes not making a reasonable accommodation to the known limitations of an otherwise qualified individual—

(A) who is a victim of domestic violence, dating violence, sexual assault, or stalking;

(B) who is—

(i) an applicant or employee of the employer (including a public agency) that employs individuals as described in section 3(e)(2) of the Fair Labor Standards Act of 1938 (29 U.S.C. 603(e)(2)); or

(ii) an applicant for or recipient of public assistance from a public agency; and

(C) whose limitations resulted from circumstances relating to being a victim of domestic violence, dating violence, sexual assault, or stalking;

unless the employer or public agency can demonstrate that the accommodation would impose an undue hardship on the operation of the employer or public agency.

(2) QUALIFIED INDIVIDUAL.—The term ''qualified individual'' means—

(A) in the case of an applicant or employee described in paragraph (1)(B)(i), an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires; or

(B) in the case of an applicant or recipient described in paragraph (1)(B)(ii), an individual who, with or without reasonable accommodation, can satisfy the essential requirements of the program providing the public assistance that the individual receives or desires.

(3) REASONABLE ACCOMMODATION.—The term ''reasonable accommodation'' may include an adjustment to a job structure, workplace facility, or work requirement, including a transfer, reassignment, or modified schedule, leave, a changed telephone number or seating assignment, installation of a lock, or implementation of a safety procedure, in response to actual or threatened domestic violence, dating violence, sexual assault, or stalking.

(4) UNDUE HARDSHIP.—

(A) IN GENERAL.—The term ''undue hardship'' means an action requiring significant difficulty or expense, when considered in light of the factors set forth in subparagraph (B).

(B) FACTORS TO BE CONSIDERED.—In determining whether a reasonable accommodation would impose an undue hardship on the operation of an employer or public agency, factors to be considered include—

(i) the nature and cost of the reasonable accommodation needed under this section;

(ii) the overall financial resources of the facility involved in the provision of the reasonable accommodation, the number of persons employed at such facility, the effect on expenses and resources, or the impact otherwise of such accommodation on the operation of the facility;

(iii) the overall financial resources of the employer or public agency, the overall size of the business of an employer or public agency with respect to the number of employees of the employer or public agency, and the number, type, and location of the facilities of an employer or public agency; and

(iv) the type of operation of the employer or public agency, including the composition, structure, and functions of the workforce of the employer or public agency, the geographic separateness of the facility from the employer or public agency, and the administrative or fiscal relationship of the facility to the employer or public agency.

SEC. 304. ENFORCEMENT.

(a) CIVIL ACTION BY INDIVIDUALS.—

(1) LIABILITY.—Any employer that violates section 303 shall be liable to any individual affected for—

(A) damages equal to the amount of wages, salary, employment benefits, or other compensation denied or lost to such individual by reason of the violation, and the interest on that amount calculated at the prevailing rate;

(B) compensatory damages, including damages for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment or life, and other nonpecuniary losses;

(C) such punitive damages, up to 3 times the amount of actual damages sustained, as the court described in paragraph (2) shall determine to be appropriate; and

(D) such equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(2) RIGHT OF ACTION.—An action to recover the damages or equitable relief prescribed in paragraph (1) may be maintained against any employer in any Federal or State court of competent jurisdiction by any 1 or more individuals described in section 303.

(b) ACTION BY DEPARTMENT OF JUSTICE.—The Attorney General may bring a civil action in any Federal or State court of competent jurisdiction to recover the damages or equitable relief described in subsection (a)(1).

(c) LIBRARY OF CONGRESS.—Notwithstanding any other provision of this section, in the case of the Library of Congress, the authority of the Secretary under this section shall be exercised by the Librarian of Congress.

(d) CERTAIN PUBLIC AGENCY EMPLOYERS.—

(1) AGENCIES.—Notwithstanding any other provision of this subsection, in the case of a public agency that employs individuals as described in subparagraph (A) or (B) of section 3(e)(2) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)(2)) (other than an entity of the legislative branch of the Federal Government), paragraph (2) shall apply.

(2) AUTHORITY.—In the case described in subparagraph (A), the powers, remedies, and procedures provided (in the case of a violation of section 2302(b)(1)(A) of title 5, United States Code) in title 5, United States Code, to an employing agency, the Office of Special Counsel, the Merit Systems Protection Board, or any person alleging a violation of such section 2302(b)(1)(A), shall be the powers, remedies, and procedures this section provides in the case of a violation of section 303 to that agency, that Office, that Board, or any person alleging a violation of section 303, respectively, against an employee who is such an individual.

(e) PUBLIC AGENCIES PROVIDING PUBLIC ASSISTANCE.—Consistent with regulations prescribed under section 306(d), the President shall ensure that any public agency that violates section 303(a) by taking an action prohibited under section 303(a) against any individual with respect to the amount, terms, or conditions of public assistance, shall provide to any individual who receives a less favorable amount, term, or condition of public assistance as a result of the violation—

(1)(A) the amount of any public assistance denied or lost to such individual by reason of the violation; and

(B) the interest on the amount described in clause (i) calculated at the prevailing rate; and

(2) such equitable relief as may be appropriate.

SEC. 305. ATTORNEY'S FEES.

Section 722(b) of the Revised Statutes (42 U.S.C. 1988(b)) is amended by inserting ''the Victims' Employment Sustainability Act,'' after ''title VI of the Civil Rights Act of 1964,''.

SEC. 306. REGULATIONS.

(a) IN GENERAL.—Except as provided in subsections (b), (c), and (d), the Secretary shall issue regulations to carry out this title.

(b) LIBRARY OF CONGRESS.—The Librarian of Congress shall prescribe the regulations described in subsection (a) with respect to employees of the Library of Congress. The regulations prescribed under this subsection shall, to the extent appropriate, be consistent with the regulations prescribed by the Secretary under subsection (a).

(c) CERTAIN PUBLIC AGENCY EMPLOYERS.—The Office of Personnel Management, after consultation under the Office of Special Counsel and the Merit Systems Protection Board, shall prescribe the regulations described in subsection (a) with respect to individuals described in subparagraph (A) or (B) of section 3(e)(2) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)(2)) (other than an individual employed by an entity of the legislative branch of the Federal Government). The regulations prescribed under this subsection shall, to the extent appropriate, be consistent with the regulations prescribed by the Secretary under subsection (a).

(d) PUBLIC AGENCIES PROVIDING PUBLIC ASSISTANCE.—The President shall prescribe the regulations described in subsection (a) with respect to applicants for and recipients of public assistance, in the case of violations of section 303(a) by taking an action prohibited under section 303(a) against any individual with respect to the amount, terms, or conditions of public assistance. The regulations prescribed under this subsection shall, to the extent appropriate, be consistent with the regulations prescribed by the Secretary under subsection (a).

TITLE IV—VICTIMS OF ABUSE INSURANCE PROTECTION

SEC. 401. SHORT TITLE.

This title may be cited as the ''Victims of Abuse Insurance Protection Act''.

SEC. 402. DEFINITIONS.

In this title:

(1) ABUSE.—The term ''abuse'' means the occurrence of 1 or more of the following acts by a current or former household or family member, intimate partner, or caretaker:

(A) Attempting to cause or causing another person bodily injury, physical harm, substantial emotional distress, or psychological trauma.

(B) Attempting to engage in or engaging in rape, sexual assault, or involuntary sexual intercourse.

(C) Engaging in a course of conduct or repeatedly committing acts toward another person, including following the person without proper authority and under circumstances that place the person in reasonable fear of bodily injury or physical harm.

(D) Subjecting another person to false imprisonment or kidnapping.

(E) Attempting to cause or causing damage to property so as to intimidate or attempt to control the behavior of another person.

(2) HEALTH CARRIER.—The term ''health carrier'' means a person that contracts or offers to contract on a risk-assuming basis to provide, deliver, arrange for, pay for, or reimburse any of the cost of health care services, including a sickness and accident insurance company, a health maintenance organization, a nonprofit hospital and health service corporation, or any other entity providing a plan of health insurance, health benefits, or health services.

(3) INSURED.—The term ''insured'' means a party named on a policy, certificate, or health benefit plan, including an individual, corporation, partnership, association, unincorporated organization, or any similar entity, as the person with legal rights to the benefits provided by the policy, certificate, or health benefit plan. For group insurance, the term includes a person who is a beneficiary covered by a group policy, certificate, or health benefit plan. For life insurance, the term refers to the person whose life is covered under an insurance policy.

(4) INSURER.—The term ''insurer'' means any person, reciprocal exchange, inter insurer, Lloyds insurer, fraternal benefit society, or other legal entity engaged in the business of insurance, including agents, brokers, adjusters, and third-party administrators. The term includes employers who provide or make available employment benefits through an employee benefit plan, as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 102(3)). The term also includes health carriers, health benefit plans, and life, disability, and property and casualty insurers.

(5) POLICY.—The term ''policy'' means a contract of insurance, certificate, indemnity, suretyship, or annuity issued, proposed for issuance, or intended for issuance by an insurer, including endorsements or riders to an insurance policy or contract.

(6) SUBJECT OF ABUSE.—The term ''subject of abuse'' means—

(A) a person against whom an act of abuse has been directed;

(B) a person who has prior or current injuries, illnesses, or disorders that resulted from abuse; or

(C) a person who seeks, may have sought, or had reason to seek medical or psychological treatment for abuse, protection, court-ordered protection, or shelter from abuse.

SEC. 403. DISCRIMINATORY ACTS PROHIBITED.

(a) IN GENERAL.—No insurer may, directly or indirectly, engage in any of the following acts or practices on the basis that the applicant or insured, or any person employed by the applicant or insured or with whom the applicant or insured is known to have a relationship or association, is, has been, or may be the subject of abuse or has incurred or may incur abuse-related claims:

(1) Denying, refusing to issue, renew, or reissue, or canceling or otherwise terminating an insurance policy or health benefit plan.

(2) Restricting, excluding, or limiting insurance coverage for losses or denying a claim, except as otherwise permitted or required by State laws relating to life insurance beneficiaries.

(3) Adding a premium differential to any insurance policy or health benefit plan.

(b) PROHIBITION ON LIMITATION OF CLAIMS.—No insurer may, directly or indirectly, deny or limit payment to an insured who is a subject of abuse if the claim for payment is a result of the abuse.

(c) PROHIBITION ON TERMINATION.—

(1) IN GENERAL.—No insurer or health carrier may terminate health coverage for a subject of abuse because coverage was originally issued in the name of the abuser and the abuser has divorced, separated from, or lost custody of the subject of abuse or the abuser's coverage has terminated voluntarily or involuntarily and the subject of abuse does not qualify for an extension of coverage under part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) or section 4980B of the Internal Revenue Code of 1986.

(2) PAYMENT OF PREMIUMS.—Nothing in paragraph (1) shall be construed to prohibit the insurer from requiring that the subject of abuse pay the full premium for the subject's coverage under the health plan if the requirements are applied to all insured of the health carrier.

(3) EXCEPTION.—An insurer may terminate group coverage to which this subsection applies after the continuation coverage period required by this subsection has been in force for 18 months if it offers conversion to an equivalent individual plan.

(4) CONTINUATION COVERAGE.—The continuation of health coverage required by this subsection shall be satisfied by any extension of coverage under part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) or section 4980B of the Internal Revenue Code of 1986 provided to a subject of abuse and is not intended to be in addition to any extension of coverage otherwise provided for under such part 6 or section 4980B.

(d) USE OF INFORMATION.—

(1) LIMITATION.—

(A) IN GENERAL.—In order to protect the safety and privacy of subjects of abuse, no person employed by or contracting with an insurer or health benefit plan may (without the consent of the subject)—

(i) use, disclose, or transfer information relating to abuse status, acts of abuse, abuse-related medical conditions, or the applicant's or insured's status as a family member, employer, associate, or person in a relationship with a subject of abuse for any purpose unrelated to the direct provision of health care services unless such use, disclosure, or transfer is required by an order of an entity with authority to regulate insurance or an order of a court of competent jurisdiction; or

(ii) disclose or transfer information relating to an applicant's or insured's mailing address or telephone number or the mailing address and telephone number of a shelter for subjects of abuse, unless such disclosure or transfer—

(I) is required in order to provide insurance coverage; and

(II) does not have the potential to endanger the safety of a subject of abuse.

(B) RULE OF CONSTRUCTION.—Nothing in this paragraph may be construed to limit or preclude a subject of abuse from obtaining the subject's own insurance records from an insurer.

(2) AUTHORITY OF SUBJECT OF ABUSE.—A subject of abuse, at the absolute discretion of the subject of abuse, may provide evidence of abuse to an insurer for the limited purpose of facilitating treatment of an abuse-related condition or demonstrating that a condition is abuse-related. Nothing in this paragraph shall be construed as authorizing an insurer or health carrier to disregard such provided evidence.

SEC. 404. INSURANCE PROTOCOLS FOR SUBJECTS OF ABUSE.

Insurers shall develop and adhere to written policies specifying procedures to be followed by employees, contractors, producers, agents, and brokers for the purpose of protecting the safety and privacy of a subject of abuse and otherwise implementing this title when taking an application, investigating a claim, or taking any other action relating to a policy or claim involving a subject of abuse.

SEC. 405. REASONS FOR ADVERSE ACTIONS.

An insurer that takes an action that adversely affects a subject of abuse, shall advise the applicant or insured who is the subject of abuse of the specific reasons for the action in writing. For purposes of this section, reference to general underwriting practices or guidelines shall not constitute a specific reason.

SEC. 406. LIFE INSURANCE.

Nothing in this title shall be construed to prohibit a life insurer from declining to issue a life insurance policy if the applicant or prospective owner of the policy is or would be designated as a beneficiary of the policy, and if—

(1) the applicant or prospective owner of the policy lacks an insurable interest in the insured; or

(2) the applicant or prospective owner of the policy is known, on the basis of police or court records, to have committed an act of abuse against the proposed insured.

SEC. 407. SUBROGATION WITHOUT CONSENT PROHIBITED.

Subrogation of claims resulting from abuse is prohibited without the informed consent of the subject of abuse.

SEC. 408. ENFORCEMENT.

(a) FEDERAL TRADE COMMISSION.—Any act or practice prohibited by this title shall be treated as an unfair and deceptive act or practice pursuant to section 5 of the Federal Trade Commission Act (15 U.S.C. 45) and the Federal Trade Commission shall enforce this title in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title, including issuing a cease and desist order granting any individual relief warranted under the circumstances, including temporary, preliminary, and permanent injunctive relief and compensatory damages.

(b) PRIVATE CAUSE OF ACTION.—

(1) IN GENERAL.—An applicant or insured who believes that the applicant or insured has been adversely affected by an act or practice of an insurer in violation of this title may maintain an action against the insurer in a Federal or State court of original jurisdiction.

(2) RELIEF.—Upon proof of such conduct by a preponderance of the evidence in an action described in paragraph (1), the court may award appropriate relief, including temporary, preliminary, and permanent injunctive relief and compensatory and punitive damages, as well as the costs of suit and reasonable fees for the aggrieved individual's attorneys and expert witnesses.

(3) STATUTORY DAMAGES.—With respect to compensatory damages in an action described in paragraph (1), the aggrieved individual may elect, at any time prior to the rendering of final judgment, to recover in lieu of actual damages, an award of statutory damages in the amount of $5,000 for each violation.

SEC. 409. EFFECTIVE DATE.

This title shall apply with respect to any action taken on or after the date of enactment of this Act.

TITLE V—NATIONAL CLEARINGHOUSE AND RESOURCE CENTER ON DOMESTIC AND SEXUAL VIOLENCE IN THE WORKPLACE GRANT

SEC. 501. NATIONAL CLEARINGHOUSE AND RESOURCE CENTER ON DOMESTIC AND SEXUAL VIOLENCE IN THE WORKPLACE GRANT.

(a) AUTHORITY.—The Attorney General may award a grant in accordance with this section to a private, nonprofit entity or tribal organization that meets the requirements of subsection (b), in order to provide for the establishment and operation of a national clearinghouse and resource center to provide information and assistance to employers, labor organizations, and advocates on behalf of victims of domestic violence, dating violence, sexual assault, or stalking, to aid in their efforts to develop and implement appropriate responses to domestic violence, dating violence, sexual assault, or stalking to assist those victims.

(b) APPLICATIONS.—To be eligible to receive a grant under this section, an entity or organization shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require, including—

(1) information that demonstrates that the applicant—

(A) has nationally recognized expertise in the area of domestic violence, dating violence, sexual assault, or stalking and a record of commitment to reducing, and quality responses to reduce, domestic violence, dating violence, sexual assault, or stalking; and

(B) will provide matching funds from non-Federal sources in an amount equal to not less than 10 percent of the total amount of the grant awarded under this section; and

(2) a plan to maximize, to the extent practicable, outreach—

(A) to employers (including private companies, and public entities such as public institutions of higher education and State and local governments) and labor organizations in developing and implementing appropriate responses to assist employees who are victims of domestic violence, dating violence, sexual assault, or stalking; and

(B) to advocates described in subsection (a), in developing and implementing appropriate responses to assist victims of domestic violence, dating violence, sexual assault, or stalking.

(c) USE OF GRANT AMOUNT.—

(1) IN GENERAL.—An entity or organization that receives a grant under this section may use the funds made available through the grant for staff salaries, travel expenses, equipment, printing, and other reasonable expenses necessary to develop, maintain, and disseminate to employers, labor organizations, and advocates described in subsection (a), information on and assistance concerning appropriate responses to assist victims of domestic violence, dating violence, sexual assault, or stalking.

(2) RESPONSES.—Responses referred to in paragraph (1) may include—

(A) providing training to promote a better understanding of appropriate assistance to victims of domestic violence, dating violence, sexual assault, or stalking;

By Mr. CORZINE (for himself, Mr. JOHNSON, Mr. LAUTENBERG, and Ms. STABENOW):

S. 1798. A bill to amend titles XI and XVIII of the Social Security Act to prohibit outbound call telemarketing to individuals eligible to receive benefits under title XVIII of such Act; to the Committee on Finance.

Mr. CORZINE. Mr. President, I rise today to introduce legislation, the Medicare Do Not Call Act, to prohibit private insurance companies from telemarketing their Medicare prescription drug and Medicare Advantage plans to Medicare beneficiaries. I am very pleased to be introducing this bill along with my colleagues, Senators JOHNSON and LAUTENBERG. I thank my colleagues for their support of this important legislation.

Beginning this Saturday, October 1, private insurance plans offering Medicare prescription drug coverage will begin marketing their products to Medicare beneficiaries.

Depending on which Medicare region they live in, beneficiaries will be confronted with selecting from as many as 20 stand-alone prescription different plans. In New Jersey, beneficiaries will choose among 17 different plans. Under current law, these plans can both send mail to and call seniors and people with disabilities who are eligible to enroll in the Medicare Part D benefit. As a result, in addition to being flooded with mail, our seniors and disabled will be flooded with phone calls.

I am extremely concerned that permitting plans to telemarket creates great potential for unscrupulous individuals and businesses to defraud this vulnerable population. Even if the plans themselves are honest brokers, it may be difficult for a senior or disabled beneficiary to distinguish between who is honest and who is not.

I am very concerned that such individuals may seize the opportunity to take advantage of this vulnerable population. Unless we act now, there will be an endless potential for fraud and identity theft within the Medicare Part D plan.

Beneficiaries are already confused about what their rights are with respect to the new prescription drug benefit. A senior who is told that she must provide her Social Security or credit card number to a telemarketer in order to obtain Medicare prescription drug coverage may feel compelled to do so, lest she forgo her opportunity to obtain prescription drug coverage.

Concerns about telemarketing fraud against seniors are very real. The Department of Justice estimates that telemarketing crooks cheat one out of six consumers every year, resulting in costs to Americans of $40 billion a year. Americans over 65, our Nation's seniors, are the primary target of these scams.

At a time when identity theft is at an all time high, the Federal government should take every precaution available to protect the American public. We should not permit government-sponsored programs, such as the Medicare prescription drug program, to engage in telemarketing. The best way to prevent such fraud from occurring is to prohibit telemarketing of any and all Medicare sponsored prescription drug products. The Medicare Do Not Call Act will do just that. My legislation imposes serious criminal penalties on unscrupulous individuals and companies that seek to defraud Medicare beneficiaries through telemarketing appeals. We must do everything we can to protect this vulnerable population.

The bottom line is that telemarketing simply is not necessary to educate seniors about their prescription drug options. My legislation permits insurance companies who are contacted by beneficiaries to discuss plan options with them. As beneficiaries talk to trusted friends and organizations and read over the literature about the different drugs plans, they can then contact plans to discuss their options further. My legislation does not stop beneficiaries from speaking to these companies; it simply prohibits these companies from making the initial 'cold call' to beneficiaries.

I deeply believe that the Federal government has a responsibility to do everything in its power to prevent telemarketing fraud. Permitting drug plans to telemarket to seniors and people with disabilities may provide a source of information to these individuals; however, because each plan wants to sell their own products, telemarketers may not provide the most objective information about a beneficiary's options.

There are better ways to educate seniors and disabled about the prescription drug benefit. The Medicare Do Not Call Act provides additional resources—$2 per Medicare beneficiary—to the State Health Insurance Counseling and Assistance Programs (SHIPs) to provide counseling and enrollment assistance services to Medicare beneficiaries. SHIPs provide valuable objective information to beneficiaries and can provide tremendous assistance in helping beneficiaries select the plan that best suits their needs.

I urge all of my colleagues to join me in supporting this legislation. By prohibiting these un-invited calls we can protect seniors and other Medicare beneficiaries from fraudulent intentions and ensure that this complicated transition within the Medicare program be as straightforward, and safe, as possible.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1798

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medicare Do Not Call Act''.

SEC. 2. TELEMARKETING PROHIBITED.

(a) PRESCRIPTION DRUG PLANS.—Section 1860D–4(a) of the Social Security Act (42 U.S.C. 1395w–104(a)) is amended by adding at the end the following new paragraph:

''(5) PROHIBITION ON TELEMARKETING.—

''(A) IN GENERAL.—A PDP sponsor offering a prescription drug plan shall be prohibited from conducting outbound call telemarketing (as defined in subparagraph (B)) for the purpose of soliciting enrollment into such a plan under this part.

''(B) OUTBOUND CALL TELEMARKETING DEFINED.—

''(i) IN GENERAL.—Except as provided in clause (ii), for purposes of this paragraph, the term 'outbound call telemarketing' means a telephone call initiated by a telemarketer—

''(I) to induce the purchase of goods or services; or

''(II) to solicit a charitable contribution.

''(ii) CATALOG MAILINGS NOT INCLUDED IN DEFINITION OF OUTBOUND CALL TELEMARKETING.—Such term does not include—

''(I) the mailing of a catalog; or

''(II) the receipt or return of a telephone call initiated by a customer in response to such mailing.''.

(b) MEDICARE ADVANTAGE ORGANIZATIONS.—Section 1851(h) of the Social Security Act (42 U.S.C. 1395w–21(h)) is amended by adding at the end the following new paragraph:

''(6) PROHIBITION ON TELEMARKETING.—A Medicare Advantage organization offering a Medicare Advantage plan shall be prohibited from conducting outbound call telemarketing (as defined in section 1860D–4(a)(5)(B)) for the purpose of soliciting enrollment into such a plan under this part.''.

(c) CRIMINAL PENALTIES FOR FRAUDULENT TELEMARKETING.—Section 1128B of the Social Security Act (42 U.S.C. 1320a–7b) is amended by adding at the end the following new subsection:

''(g) Whoever knowingly and willfully engages in deceptive or abusive telemarketing acts or practices (as defined in part 310.3 and part 310.4, respectively, of title 16, Code of Federal Regulations), or makes any false statement or representation of a material fact while conducting outbound call telemarketing (as defined in section 1860D–4(a)(5)(B)) with respect to a prescription drug plan offered by a PDP sponsor under part D of title XVIII, a Medicare Advantage plan offered by a Medicare Advantage organization under part C of such title, or who falsely alleges to be conducting outbound call telemarketing (as so defined) with respect to either such a plan, shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

SEC. 3. INCREASED FUNDING FOR STATE HEALTH INSURANCE COUNSELING AND ASSISTANCE PROGRAMS.

(a) IN GENERAL.—There are hereby appropriated to the Secretary of Health and Human Services (in this Act referred to as the ''Secretary'') an amount equal to $2 multiplied by the total number of individuals eligible for benefits under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.). Such funds shall—

(1) be used by the Secretary to award grants to States under section 4360 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1395b–4); and

(2) remain available until expended.

(b) ALLOCATION OF GRANT FUNDS.—The Secretary shall ensure that funds appropriated under this section are allocated to States in an amount equal to the proportion of the number of residents in the State that are eligible for benefits under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) in

relation to the total number of individuals eligible for such benefits under such title.

SEC. 4. INFORMING BENEFICIARIES OF THE HHS TIPS HOT-LINE.

The Secretary shall take appropriate measures to inform individuals eligible for benefits under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) of the availability and confidentiality of the hotline maintained , by the Inspector General of the Department of Health and Human Services for the reporting of fraud, waste, and I abuse in the medicare program.

By Ms. MIKULSKI (for herself, Mr. VOINOVICH, Mr. AKAKA, Mr. BIDEN, Mr. DORGAN, Mr. DURBIN, Mr. HARKIN, Mrs. MURRAY, Mr. SARBANES, Mr. SCHUMER, and Mr. WARNER):

S. 1799. A bill to amend title II of the Social Security Act to provide that the reductions in Social Security benefits which are required in the case of spouses and surviving spouses who are also receiving certain government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation; to the Committee on Finance.

Ms. MIKULSKI. Mr. President, I rise today to talk about an issue that is very important to me, very important to my constituents in Maryland and very important to government workers and retirees across the Nation. I am reintroducing a bill to modify a cruel rule of government that is unfair and prevents current workers from enjoying the benefits of their hard work during retirement. My bill has bipartisan support and had 29 cosponsors last year. With this strong bipartisan support, I hope that we can correct this cruel rule of government this year.

Under current law, a Social Security spousal benefit is reduced or entirely eliminated if the surviving spouse is eligible for a pension from a local, State or Federal Government job that was not covered by Social Security. This policy is known as the Government Pension Offset.

This is how the current law works. Consider a surviving spouse who retires from government service and receives a government pension of $600 a month. She also qualifies for a Social Security spousal benefit of $645 a month. Because of the Pension Offset law, which reduces her Social Security benefit by 2/3 of her government pension, her spousal benefit is reduced to $245 a month. So instead of $1,245, she will receive only $845 a month. That is $400 a month less to pay the rent, purchase a prescription medication, or buy groceries. I think that is wrong.

My bill does not repeal the government pension offset entirely, but it will allow retirees to keep more of what they deserve. It guarantees that those subject to the offset can keep at least $1,200 a month in combined retirement income. With my modification, the 2/3 offset would apply only to the combined benefit that exceeds $1,200 a month. So, in the example above, the surviving spouse would face only a $30 offset, allowing her to keep $1,215 in monthly income.

Unfortunately, the current law disproportionately affects women. Women are more likely to receive Social Security spousal benefits and to have worked in low-paying or short-term government positions while they were raising families. It is also true that women receive smaller government pensions because of their lower earnings, and rely on Social Security benefits to a greater degree. My modification will allow these women who have contributed years of important government service and family service to rely on a larger amount of retirement income.

Why do we punish people who have committed a significant portion of their lives to government service? We are talking about workers who provide some of the most important services to our community—teachers, firefighters, and many others. Some have already retired. Others are currently working and looking forward to a deserved retirement. These individuals deserve better than the reduced monthly benefits that the Pension Offset currently requires.

Government employees work hard in service to our Nation, and I work hard for them. I do not want to see them penalized simply because they have chosen to work in the public sector, rather than for a private employer, and often at lower salaries and sometimes fewer benefits. If a retired worker in the private sector received a pension, and also received a spousal Social Security benefit, they would not be subject to the Offset. I think we should be looking for ways to reward government service, not the other way around. I believe that people who work hard and play by the rules should not be penalized by arcane, legislative technicalities.

Frankly, I would like to repeal the offset altogether. But, I realize that budget considerations make that unlikely. As a compromise, I hope we can agree that retirees who have worked hard all their lives should not have this offset applied until their combined monthly benefit, both government pension and Social Security spousal benefit, exceeds $1,200.

I also strongly believe that we should ensure that retirees buying power keeps up with the cost of living. That's why I have also included a provision in this legislation to index the $1,200 amount to inflation so retirees will see their minimum benefits increase along with the cost of living.

The Social Security Administration recently estimated that enacting the provisions contained in my bill will have a minimal long-term impact on the Social Security Trust Fund—about 0.01 percent of taxable payroll.

I urge my colleagues to join me in this effort and support my legislation to modify the Government Pension Offset. I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1799

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Government Pension Offset Reform Act''.

SEC. 2. LIMITATION ON REDUCTIONS IN BENEFITS FOR SPOUSES AND SURVIVING SPOUSES RECEIVING GOVERNMENT PENSIONS.

(a) INSURANCE BENEFITS.—Section 202(k)(5)(A) of the Social Security Act (42 U.S.C. 402(k)(5)(A)) is amended—

(1) by inserting ''the amount (if any) by which the sum of such benefit (before reduction under this paragraph) and'' after ''two-thirds of ''; and

(2) by inserting ''exceeds the amount described in paragraph (6) for such month,'' before ''if ''.

(b) AMOUNT DESCRIBED.—Section 202(k) of the Social Security Act (42 U.S.C. 402(k)) is amended by adding at the end the following:

''(6) The amount described in this paragraph is, for months in each 12-month period beginning in December of 2005, and each succeeding calendar year, the greater of—

''(A) $1,200; or

''(B) the amount applicable for months in the preceding 12-month period, increased by the cost-of-living adjustment for such period determined for an annuity under section 8340 of title 5, United States Code (without regard to any other provision of law).''.

(c) LIMITATIONS ON REDUCTIONS IN BENEFITS.—Section 202(k) of the Social Security Act (42 U.S.C. 402(k)), as amended by subsection (b), is amended by adding at the end the following:

''(7) For any month after December 2005, in no event shall an individual receive a reduction in a benefit under paragraph (5)(A) for the month that is more than the reduction in such benefit that would have applied for such month under such paragraph as in effect on December 1, 2005.''.

SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 shall apply with respect to monthly insurance benefits payable under title II of the Social Security Act for months after December 2005.

By Ms. SNOWE (for herself, Mr. ROCKEFELLER, and Mr. BUNNING):

S. 1800. A bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit; to the Committee on Finance.

Ms. SNOWE. Mr. President, today I rise to introduce legislation that would re-authorize the New Markets Tax Credit for five additional years. I'd like to thank the Senator from West Virginia, JAY ROCKEFELLER, for cosponsoring this legislation, as well as Senator JIM BUNNING. Their strong support is appreciated, and this program will help revitalize many communities all across America.

The New Markets Tax Credit was enacted in December 2000 as part of the Community Renewal Tax Relief Act and offers a seven-year, 39 percent Federal credit made through investment vehicles known as Community Development Entities (CDEs). CDEs combine private investment dollars with capital

raised through the incentive to make loans to or investments in businesses in low-income communities.

In its brief period of existence, the New Markets Tax Credit has had a tremendous success in strengthening and revitalizing communities. In Maine, Coastal Enterprises, Inc. issued a $31.5 million long-term NMTC loan to Katahdin Forest Management, which provided additional working capital for two large pulp and paper mills. These investments resulted in the direct employment of 650 people and potential jobs for another 200. The Katahdin Project has helped to diversify the area economy through the development of new, high-value wood processing enterprises and recreational tourism.

CDEs have also invested in a new child care facility on Chicago's west side, the first new supermarket and shopping center in inner-city Cleveland in 30 years and a new aerospace facility in rural Oklahoma.

All of these projects demonstrate the revitalization and strengthening of communities that the Credit is helping to make possible. In only 3 years, CDEs have raised $2 billion of capital for direct investment in economically distressed communities across the Nation. This impressive activity over a short period of time points to the need and opportunity for such investment in low-income communities.

Unfortunately, as effective as the New Markets Tax Credit has been, demand for the incentive has far exceeded supply. In fact, the average demand in the first three rounds was a staggering 10 times the amount of available credits. The Treasury Department awarded the first round of $2.5 billion in tax credits in March 2003, a second round of $3.5 billion in May 2004, and a third round worth $2 billion in May 2005.

Despite the track record of the New Markets Tax Credit and continued demand for the incentive, it will expire at the end of 2007. Congress must reauthorize this Credit to ensure investment capital continues to flow to our most disadvantaged communities. Our bill renews this valuable incentive for 5 additional years, through 2012, with an annual credit volume of $3.5 billion per year, adjusted for inflation.

It is critical that Congress act to renew the New Markets Tax Credit. It is a modest incentive that clearly works for our most vulnerable communities. I look forward to working with Finance Committee Chairman GRASSLEY to re-authorize the Credit and to ensure that it includes all areas of the country, including rural areas underserved by traditional investments.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1800

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''New Markets Tax Credit Reauthorization Act of 2005''.

SEC. 2. EXTENSION OF NEW MARKETS TAX CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Paragraph (1) of section 45D(f) of the Internal Revenue Code of 1986 (relating to new markets tax credit) is amended to read as follows:

''(1) IN GENERAL.—There is a new markets tax credit limitation of $3,500,000,000 for each of calendar years 2008 through 2012.''.

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 45D(f) of such Code is amended by striking ''2014'' and inserting ''2019''.

(b) INFLATION ADJUSTMENT.—Subsection (f) of section 45D of such Code is amended by inserting at the end the following new paragraph:

''(4) INFLATION ADJUSTMENT.—

''(A) IN GENERAL.—In the case of any calendar year beginning after 2008, the dollar amount in paragraph (1) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting 'calendar year 2007' for 'calendar year 1992' in subparagraph (B) thereof.

''(B) ROUNDING RULE.—If a dollar amount in paragraph (1), as increased under subparagraph (A), is not a multiple of $1,000,000, such amount shall be rounded to the nearest multiple of $1,000,000.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

By Mr. REED (for himself, Mr. ALLARD, Ms. COLLINS, Mr. SARBANES, Mr. BOND, Mrs. MURRAY, Mr. CHAFEE, Ms. MIKULSKI, Mr. DODD, Mr. AKAKA, Mr. SCHUMER, Mr. CORZINE, Mrs. CLINTON, and Ms. LANDRIEU):

S. 1801. A bill to amend the McKinney-Vento Homeless Assistance Act to reauthorize the Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. REED. Mr. President, I introduce, along with Senators ALLARD, COLLINS, SARBANES, BOND, MURRAY, CHAFEE, MIKULSKI, DODD, AKAKA, SCHUMER, CORZINE, LANDRIEU, and CLINTON, the Community Partnership to End Homelessness Act of 2005 (CPEHA). This legislation would reauthorize and amend the housing titles of the McKinney-Vento Homeless Assistance Act of 1987. Specifically, our bill would realign the incentives behind the Department of Housing and Urban Development's homelessness assistance programs to accomplish the goals of preventing and ending long-term homelessness.

During the past several weeks, stark pictures of the reality faced by many in the wake of Hurricane Katrina have made more of the country aware of the day-to-day pressures faced by those who are homeless. Unfortunately, as many as 3.5 million Americans experience homelessness each year. Ten to 20 percent are homeless for long periods of time. Many of these Americans have severe disabilities. Many have worn a uniform for our country, with the Veterans Administration estimating that at least 500,000 veterans experience homelessness over the course of a year. Statistics regarding the number of children who experience homelessness are especially troubling. More than one million children experience homelessness each year; that is one in ten poor children in the United States. We have learned that children who are homeless are in poorer health, have developmental delays, and achieve less in school than children who have homes.

Many of those who are homeless have a simple problem—they cannot afford housing. Using the most recent census data, 56 percent of extremely low-income families are paying more than half their income for housing. Between 1990 and 2000, shortages of affordable housing for these families worsened in 44 of the 50 States. In 2000, it was estimated that 4.6 million units of low-income housing would need to be created in order to take care of this problem. As rents have soared and affordable housing units have disappeared from the market during the past five years, even more working Americans have been left unable to afford housing.

So why should the Federal Government work to help prevent and end homelessness? Simply put, we cannot afford not to solve this problem. Homelessness leads to untold costs, including expenses for emergency rooms, jails and shelters, foster care, detoxification, and emergency mental health treatment. It has been almost twenty years since the passage of the McKinney-Vento Homeless Assistance Act of 1987, and we have learned a lot about the problem of homelessness since then.

There is a growing consensus on ways to help communities break the cycle of repeated and prolonged homelessness. If we combine Federal dollars with the right incentives to local communities, we can end long-term homelessness. This bipartisan legislation will do just that. It will reward communities for initiatives that prevent homelessness, promote the development of permanent supportive housing, and optimize self-sufficiency.

The Community Partnership to Help End Homelessness Act of 2005 will set us on the path to meeting an important national goal. I hope my colleagues will join us in supporting this bill and other homelessness prevention efforts.

Mr. President, I ask unanimous consent that the text of the Community Partnership to Help End Homelessness Act of 2005 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1801

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Community Partnership to End Homelessness Act of 2005''.

SEC. 2. FINDINGS AND PURPOSE.

Section 102 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301) is amended to read as follows:

''SEC. 102. FINDINGS AND PURPOSE.

''(a) FINDINGS.—Congress finds that—

''(1) the United States faces a crisis of individuals and families who lack basic affordable housing and appropriate shelter;

''(2) assistance from the Federal Government is an important factor in the success of efforts by State and local governments and the private sector to address the problem of homelessness in a comprehensive manner;

''(3) there are several Federal Government programs to assist persons experiencing homelessness, including programs for individuals with disabilities, veterans, children, and youth;

''(4) homeless assistance programs must be evaluated on the basis of their effectiveness in reducing homelessness, transitioning individuals and families to permanent housing and stability, and optimizing their self-sufficiency;

''(5) States and units of general local government receiving Federal block grant and other Federal grant funds must be evaluated on the basis of their effectiveness in—

''(A) implementing plans to appropriately discharge individuals to and from mainstream service systems; and

''(B) reducing barriers to participation in mainstream programs, as identified in—

''(i) a report by the Government Accountability Office entitled 'Homelessness: Coordination and Evaluation of Programs Are Essential', issued February 26, 1999; or

''(ii) a report by the Government Accountability Office entitled 'Homelessness: Barriers to Using Mainstream Programs', issued July 6, 2000;

''(6) an effective plan for reducing homelessness should provide a comprehensive housing system (including permanent housing and, as needed, transitional housing) that recognizes that, while some individuals and families experiencing homelessness attain economic viability and independence utilizing transitional housing and then permanent housing, others can reenter society directly and optimize self-sufficiency through acquiring permanent housing;

''(7) supportive housing activities include the provision of permanent housing or transitional housing, and appropriate supportive services, in an environment that can meet the short-term or long-term needs of persons experiencing homelessness as they reintegrate into mainstream society;

''(8) homeless housing and supportive services programs within a community are most effective when they are developed and operated as part of an inclusive, collaborative, locally driven homeless planning process that involves as decision makers persons experiencing homelessness, advocates for persons experiencing homelessness, service organizations, government officials, business persons, neighborhood advocates, and other community members;

''(9) homelessness should be treated as a symptom of many neighborhood, community, and system problems, whose remedies require a comprehensive approach integrating all available resources;

''(10) there are many private sector entities, particularly nonprofit organizations, that have successfully operated outcome-effective homeless programs;

''(11) Federal homeless assistance should supplement other public and private funding provided by communities for housing and supportive services for low-income households;

''(12) the Federal Government has a responsibility to establish partnerships with State and local governments and private sector entities to address comprehensively the problems of homelessness; and

''(13) the results of Federal programs targeted for persons experiencing homelessness have been positive.

''(b) PURPOSE.—It is the purpose of this Act—

''(1) to create a unified and performance-based process for allocating and administering funds under title IV;

''(2) to encourage comprehensive, collaborative local planning of housing and services programs for persons experiencing homelessness;

''(3) to focus the resources and efforts of the public and private sectors on ending and preventing homelessness;

''(4) to provide funds for programs to assist individuals and families in the transition from homelessness, and to prevent homelessness for those vulnerable to homelessness;

''(5) to consolidate the separate homeless assistance programs carried out under title IV (consisting of the supportive housing program and related innovative programs, the safe havens program, the section 8 assistance program for single-room occupancy dwellings, the shelter plus care program, and the rural homeless housing assistance program) into a single program with specific eligible activities;

''(6) to allow flexibility and creativity in re-thinking solutions to homelessness, including alternative housing strategies, outcome-effective service delivery, and the involvement of persons experiencing homelessness in decision making regarding opportunities for their long-term stability, growth, well-being, and optimum self-sufficiency; and

''(7) to ensure that multiple Federal agencies are involved in the provision of housing, health care, human services, employment, and education assistance, as appropriate for the missions of the agencies, to persons experiencing homelessness, through the funding provided for implementation of programs carried out under this Act and other programs targeted for persons experiencing homelessness, and mainstream funding, and to promote coordination among those Federal agencies, including providing funding for a United States Interagency Council on Homelessness to advance such coordination.''.

SEC. 3. UNITED STATES INTERAGENCY COUNCIL ON HOMELESSNESS.

Title II of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311 et seq.) is amended—

(1) in section 201 (42 U.S.C. 11311), by striking the period at the end and inserting the following: ''whose mission shall be to develop and coordinate the implementation of a national strategy to prevent and end homelessness while maximizing the effectiveness of the Federal Government in contributing to an end to homelessness in the United States.'';

(2) in section 202 (42 U.S.C. 11312)—

(A) in subsection (a)—

(i) by striking ''(16)'' and inserting ''(19)''; and

(ii) by inserting after paragraph (15) the following:

''(16) The Commissioner of Social Security, or the designee of the Commissioner.

''(17) The Attorney General of the United States, or the designee of the Attorney General.

''(18) The Director of the Office of Management and Budget, or the designee of the Director.'';

(B) in subsection (c), by striking ''annually'' and inserting ''2 times each year''; and

(C) by adding at the end the following:

''(e) ADMINISTRATION.—The Assistant to the President for Domestic Policy within the Executive Office of the President shall oversee the functioning of the United States Interagency Council on Homelessness to ensure Federal interagency collaboration and program coordination to focus on preventing and ending homelessness, to increase access to mainstream programs (as identified in a report by the Government Accountability Office entitled 'Homelessness: Barriers to Using Mainstream Programs', issued July 6, 2000) by persons experiencing homelessness, to eliminate the barriers to participation in those programs, to implement a Federal plan to prevent and end homelessness, and to identify Federal resources that can be expended to prevent and end homelessness.'';

(3) in section 203(a) (42 U.S.C. 11313(a))—

(A) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), (8), (9), and (10), respectively;

(B) by inserting before paragraph (2), as redesignated by subparagraph (A), the following:

''(1) not later than 1 year after the date of enactment of the Community Partnership to End Homelessness Act of 2005, develop and submit to the President and to Congress a National Strategic Plan to End Homelessness;'';

(C) in paragraph (5), as redesignated by subparagraph (A), by striking ''at least 2, but in no case more than 5'' and inserting ''not less than 5, but in no case more than 10''; and

(D) by inserting after paragraph (5), as redesignated by subparagraph (A), the following:

''(6) encourage the creation of State Interagency Councils on Homelessness and the formulation of multi-year plans to end homelessness at State, city, and county levels;

''(7) develop mechanisms to ensure access by persons experiencing homelessness to all Federal, State, and local programs for which the persons are eligible, and to verify collaboration among entities within a community that receive Federal funding under programs targeted for persons experiencing homelessness, and other programs for which persons experiencing homelessness are eligible, including mainstream programs identified by the Government Accountability Office in the 2 reports described in section 102(a)(5)(B);''; and

(4) by striking section 208 (42 U.S.C. 11318) and inserting the following:

''SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

''Of any amounts made available for any fiscal year to carry out subtitles B and C of title IV, $3,000,000 shall be allocated to the Assistant to the President for Domestic Policy within the Executive Office of the President to carry out this title.''.

SEC. 4. HOUSING ASSISTANCE GENERAL PROVISIONS.

Subtitle A of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended—

(1) by striking the subtitle heading and inserting the following:

''Subtitle A—General Provisions'';

(2)(A) by redesignating section 401 (42 U.S.C. 11361) as section 403; and

(B) by redesignating section 402 (42 U.S.C. 11362) as section 406;

(3) by inserting before section 403 (as redesignated in paragraph (2)) the following:

''SEC. 401. DEFINITIONS.

''In this title:

''(1) CHRONICALLY HOMELESS.—

''(A) IN GENERAL.—The term 'chronically homeless', used with respect to an individual or family, means an individual or family who—

''(i) is homeless;

''(ii) has been homeless continuously for at least 1 year or has been homeless on at least 4 separate occasions in the last 3 years; and

''(iii) in the case of a family, has an adult head of household with a disabling condition.

''(B) DISABLING CONDITION.—As used in this paragraph, the term 'disabling condition' means a condition that is a diagnosable substance use disorder, serious mental illness, developmental disability (as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002)), or chronic physical illness or disability, including the co-occurrence of 2 or more of those conditions.

''(2) COLLABORATIVE APPLICANT.—

''(A) IN GENERAL.—The term 'collaborative applicant' means an entity that—

''(i) is a representative community homeless assistance planning body established or designed in accordance with section 402;

''(ii) serves as the applicant for project sponsors who jointly submit a single application for a grant under subtitle C in accordance with a collaborative process; and

''(iii) if the entity is a legal entity and is awarded such grant, receives such grant directly from the Secretary.

''(B) STATE AND LOCAL GOVERNMENTS.—Notwithstanding the requirements of subparagraph (A), the term 'collaborative applicant' includes a State or local government, or a consortium of State or local governments, engaged in activities to end homelessness.

''(3) COLLABORATIVE APPLICATION.—The term 'collaborative application' means an application for a grant under subtitle C that—

''(A) satisfies section 422 (including containing the information described in subsections (a) and (c) of section 426); and

''(B) is submitted to the Secretary by a collaborative applicant.

''(4) CONSOLIDATED PLAN.—The term 'Consolidated Plan' means a comprehensive housing affordability strategy and community development plan required in part 91 of title 24, Code of Federal Regulations.

''(5) ELIGIBLE ENTITY.—The term 'eligible entity' means, with respect to a subtitle, a public entity, a private entity, or an entity that is a combination of public and private entities, that is eligible to receive directly grant amounts under that subtitle.

''(6) GEOGRAPHIC AREA.—The term 'geographic area' means a State, metropolitan city, urban county, town, village, or other nonentitlement area, or a combination or consortia of such, in the United States, as described in section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306).

''(7) HOMELESS INDIVIDUAL WITH A DISABILITY.—

''(A) IN GENERAL.—The term 'homeless individual with a disability' means an individual who is homeless, as defined in section 103, and has a disability that—

''(i)(I) is expected to be long-continuing or of indefinite duration;

''(II) substantially impedes the individual's ability to live independently;

''(III) could be improved by the provision of more suitable housing conditions; and

''(IV) is a physical, mental, or emotional impairment, including an impairment caused by alcohol or drug abuse;

''(ii) is a developmental disability, as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002); or

''(iii) is the disease of acquired immunodeficiency syndrome or any condition arising from the etiologic agency for acquired immunodeficiency syndrome.

''(B) RULE.—Nothing in clause (iii) of subparagraph (A) shall be construed to limit eligibility under clause (i) or (ii) of subparagraph (A).

''(8) LEGAL ENTITY.—The term 'legal entity' means—

''(A) an entity described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of that Code;

''(B) an instrumentality of State or local government; or

''(C) a consortium of instrumentalities of State or local governments that has constituted itself as an entity.

''(9) METROPOLITAN CITY; URBAN COUNTY; NONENTITLEMENT AREA.—The terms 'metropolitan city', 'urban county', and 'nonentitlement area' have the meanings given such terms in section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)).

''(10) NEW.—The term 'new', used with respect to housing, means housing for which no assistance has been provided under this title.

''(11) OPERATING COSTS.—The term 'operating costs' means expenses incurred by a project sponsor operating—

''(A) transitional housing or permanent housing under this title with respect to—

''(i) the administration, maintenance, repair, and security of such housing;

''(ii) utilities, fuel, furnishings, and equipment for such housing; or

''(iii) conducting an assessment under section 426(c)(2); and

''(B) supportive housing, for homeless individuals with disabilities or homeless families that include such an individual, under this title with respect to—

''(i) the matters described in clauses (i), (ii), and (iii) of subparagraph (A); and

''(ii) coordination of services as needed to ensure long-term housing stability.

''(12) OUTPATIENT HEALTH SERVICES.—The term 'outpatient health services' means outpatient health care services, mental health services, and outpatient substance abuse treatment services.

''(13) PERMANENT HOUSING.—The term 'permanent housing' means community-based housing without a designated length of stay, and includes permanent supportive housing for homeless individuals with disabilities and homeless families that include such an individual who is an adult.

''(14) PERMANENT HOUSING DEVELOPMENT ACTIVITIES.—The term 'permanent housing development activities' means activities—

''(A) to construct, lease, rehabilitate, or acquire structures to provide permanent housing;

''(B) involving tenant-based and project-based flexible rental assistance for permanent housing;

''(C) described in paragraphs (1) through (4) of section 423(a) as they relate to permanent housing; or

''(D) involving the capitalization of a dedicated project account from which payments are allocated for rental assistance and operating costs of permanent housing.

''(15) PRIVATE NONPROFIT ORGANIZATION.—The term 'private nonprofit organization' means an organization—

''(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

''(B) that has a voluntary board;

''(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

''(D) that practices nondiscrimination in the provision of assistance.

''(16) PROJECT.—The term 'project', used with respect to activities carried out under subtitle C, means eligible activities described in section 423(a), undertaken pursuant to a specific endeavor, such as serving a particular population or providing a particular resource.

''(17) PROJECT-BASED.—The term 'project-based', used with respect to rental assistance, means assistance provided pursuant to a contract that—

''(A) is between—

''(i) a project sponsor; and

''(ii) an owner of a structure that exists as of the date the contract is entered into; and

''(B) provides that rental assistance payments shall be made to the owner and that the units in the structure shall be occupied by eligible persons for not less than the term of the contract.

''(18) PROJECT SPONSOR.—The term 'project sponsor', used with respect to proposed eligible activities, means the organization directly responsible for the proposed eligible activities.

''(19) RECIPIENT.—Except as used in subtitle B, the term 'recipient' means an eligible entity who—

''(A) submits an application for a grant under section 422 that is approved by the Secretary;

''(B) receives the grant directly from the Secretary to support approved projects described in the application; and

''(C)(i) serves as a project sponsor for the projects; or

''(ii) awards the funds to project sponsors to carry out the projects.

''(20) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

''(21) SERIOUSLY MENTALLY ILL.—The term 'seriously mentally ill' means having a severe and persistent mental illness or emotional impairment that seriously limits a person's ability to live independently.

''(22) STATE.—Except as used in subtitle B, the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(23) SUPPORTIVE HOUSING.—The term 'supportive housing' means housing that—

''(A) helps individuals experiencing homelessness and families experiencing homelessness to transition from homelessness to living in safe, decent, and affordable housing as independently as possible; and

''(B) provides supportive services and housing assistance on either a temporary or permanent basis, as determined by the identified abilities and needs of the program participants.

''(24) SUPPORTIVE SERVICES.—The term 'supportive services'—

''(A) through the end of the final determination year (as described in section 423(a)(6)(C)(iii)), means the services described in section 423(a)(6)(A), for both new projects and projects receiving renewal funding; and

''(B) after that final determination year, means the services described in section 423(a)(6)(B), as permitted under section 423(a)(6)(C), for both new projects and projects receiving renewal funding.

''(25) TENANT-BASED.—The term 'tenant-based', used with respect to rental assistance, means assistance that allows an eligible person to select a housing unit in which such person will live using rental assistance provided under subtitle C, except that if necessary to assure that the provision of supportive services to a person participating in a program is feasible, a recipient or project sponsor may require that the person live—

''(A) in a particular structure or unit for not more than the first year of the participation; and

''(B) within a particular geographic area for the full period of the participation, or the

period remaining after the period referred to in subparagraph (A).

''(26) TRANSITIONAL HOUSING.—The term 'transitional housing' means housing, the purpose of which is to facilitate the movement of individuals and families experiencing homelessness to permanent housing within 24 months or such longer period as the Secretary determines necessary.

''SEC. 402. COLLABORATIVE APPLICANTS.

''(a) ESTABLISHMENT AND DESIGNATION.—A collaborative applicant shall be established for a geographic area by the relevant parties in that geographic area, or designated for a geographic area by the Secretary in accordance with subsection (d), to lead a collaborative planning process to design and evaluate programs, policies, and practices to prevent and end homelessness.

''(b) MEMBERSHIP OF ESTABLISHED COLLABORATIVE APPLICANT.—A collaborative applicant established under subsection (a) shall be composed of persons from a particular geographic area who are—

''(1) persons who are experiencing or have experienced homelessness (with not fewer than 2 persons being individuals who are experiencing or have experienced homelessness);

''(2) persons who act as advocates for the diverse subpopulations of persons experiencing homelessness;

''(3) persons or representatives of organizations who provide assistance to the variety of individuals and families experiencing homelessness; and

''(4) relatives of individuals experiencing homelessness;

''(5) government agency officials, particularly those officials responsible for administering funding under programs targeted for persons experiencing homelessness, and other programs for which persons experiencing homelessness are eligible, including mainstream programs identified by the Government Accountability Office in the 2 reports described in section 102(a)(5)(B);

''(6) 1 or more local educational agency liaisons designated under section 722(g)(1)(J)(ii), or their designees;

''(7) members of the business community;

''(8) members of neighborhood advocacy organizations; and

''(9) members of philanthropic organizations that contribute to preventing and ending homelessness in the geographic area of the collaborative applicant.

''(c) ROTATION OF MEMBERSHIP OF ESTABLISHED OR DESIGNATED COLLABORATIVE APPLICANT.—The parties establishing or designating a collaborative applicant under subsection (a) shall ensure, to the extent practicable, that the collaborative applicant rotates its membership to ensure that representatives of all agencies, businesses, and organizations who are described in paragraphs (1) through (9) of subsection (b) and invested in developing and implementing strategies to prevent and end homelessness are able to participate as decisionmaking members of the collaborative applicant.

''(d) EXISTING PLANNING BODIES.—The Secretary may designate an entity to be a collaborative applicant if such entity—

''(1) prior to the date of enactment of the Community Partnership to End Homelessness Act of 2005, engaged in coordinated, comprehensive local homeless housing and services planning and applied for Federal funding to provide homeless assistance; and

''(2) ensures that its membership includes persons described in paragraphs (1) through (9) of subsection (b).

''(e) TAX EXEMPT ORGANIZATIONS.—An entity may be established or designated to serve as a collaborative applicant under this section without being a legal entity. If a collaborative applicant is a legal entity, the collaborative applicant may only receive funds directly from the Secretary under this title, and may only apply for funds to conduct the activities described in section 423(a)(7).

''(f) REMEDIAL ACTION.—If the Secretary finds that a collaborative applicant for a geographic area does not meet the requirements of this section, the Secretary may take remedial action to ensure fair distribution of grant amounts under subtitle C to eligible entities within that area. Such measures may include designating another body as a collaborative applicant, or permitting other eligible entities to apply directly for grants.

''(g) CONSTRUCTION.—Nothing in this section shall be construed to displace conflict of interest or government fair practices laws, or their equivalent, that govern applicants for grant amounts under subtitles B and C.

''(h) DUTIES.—A collaborative applicant shall—

''(1)(A) design a collaborative process, established jointly and complied with by its members, for evaluating, reviewing, prioritizing, awarding, and monitoring projects and applications submitted by project sponsors under subtitle C, and for evaluating the outcomes of projects for which funds are awarded under subtitle B, in such a manner as to ensure that the entities involved further the goal of preventing and ending homelessness, and optimizing self-sufficiency among individuals and families experiencing homelessness, in the geographic area involved;

''(B)(i)(I) review relevant policies and practices (in place and planned) of public and private entities in the geographic area served by the collaborative applicant to determine if the policies and practices further or impede the goal described in subparagraph (A);

''(II) in conducting the review, give priority to the review of—

''(aa) the discharge planning and service termination policies and practices of publicly funded facilities or institutions (such as health care or treatment facilities or institutions, foster care or youth facilities, or juvenile or adult correctional institutions), and entities carrying out publicly funded programs and systems of care (such as health care or treatment programs, the programs of block grants to States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), child welfare or youth programs, or juvenile or adult correctional programs), to ensure that such a discharge or termination does not result in immediate homelessness for the persons involved;

''(bb) the access and utilization policies and practices of the entities carrying out mainstream programs identified by the Government Accountability Office in the 2 reports described in section 102(a)(5)(B), to ensure that persons experiencing homelessness are able to access and utilize the programs;

''(cc) local policies and practices relating to zoning and enforcement of local statutes, to ensure that the policies and practices allow reasonable inclusion and distribution in the geographic area of special needs populations and families with children and the facilities that serve the populations and families;

''(dd) policies and practices relating to the school selection and enrollment of homeless children and youths (as defined in section 725) to ensure that the homeless children and youths, and their parents, are able to exercise their educational rights under subtitle B of title VII; and

''(ee) local policies and practices relating to the placement of families with homeless children and youths (as so defined) in emergency or transitional shelters, to ensure that the children and youths are placed as close as possible to their school of origin in order to facilitate continuity of, and prevent disruption of, educational services; and

''(III) in conducting the review, determine the modifications and corrective actions that need to be taken, and by whom, to ensure that the relevant policies and practices do not stimulate, or prolong, homelessness in the geographic area;

''(ii) inform the appropriate entities of the determinations described in clause (i); and

''(iii) at least once every 3 years, prepare for inclusion in any application reviewed by the collaborative applicant, and submitted to the Secretary under section 422, the determinations described in clause (i), in the form of an exhibit entitled 'Assessment of Relevant Policies and Practices, and Needed Corrective Actions to End and Prevent Homelessness'; and

''(C) if the collaborative applicant designs and carries out the projects, design and carry out the projects in such a manner as to further the goal described in subparagraph (A);

''(2)(A) require, consistent with the Government Performance and Results Act of 1993 and amendments made by that Act, that recipients and project sponsors who are funded by grants received under subtitle C implement and maintain an outcome-based evaluation of their projects that measures effective and timely delivery of housing or services and whether provision of such housing or services results in preventing or ending homelessness for the persons that such recipients and project sponsors serve; and

''(B) request that States and local governments who distribute funds under subtitle B submit information and comments on the administration of activities under subtitle B, to enable the collaborative applicant to plan and design a full continuum of care for persons experiencing homelessness;

''(3) require, consistent with the Government Performance and Results Act of 1993 and amendments made by that Act, outcome-based evaluation of the homeless assistance planning process of the collaborative applicant to measure the performance of the collaborative applicant in preventing or ending the homelessness of persons in the geographic area of the collaborative applicant;

''(4) participate in the Consolidated Plan for the geographic area served by the collaborative applicant; and

''(5)(A) require each project sponsor who is funded by a grant received under subtitle C to establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds awarded to the project sponsor under subtitle C in order to ensure that all financial transactions carried out under subtitle C are conducted, and records maintained, in accordance with generally accepted accounting principles; and

''(B) arrange for an annual survey, audit, or evaluation of the financial records of each project carried out by a project sponsor funded by a grant received under subtitle C.

''(i) CONFLICT OF INTEREST.—No member of a collaborative applicant may participate in decisions of the collaborative applicant concerning the award of a grant, or provision of other financial benefits, to such member or the organization that such member represents.

''(j) HOMELESS MANAGEMENT INFORMATION SYSTEM.—

''(1) IN GENERAL.—In accordance with standards established by the Secretary, each collaborative applicant shall ensure consistent participation by project sponsors in a

community-wide homeless management information system. The collaborative applicant shall ensure the participation for purposes of collecting unduplicated counts of individuals and families experiencing homelessness, analyzing patterns of use of assistance provided under subtitles B and C for the geographic area involved, implementing an effective information and referral system, and providing information for the needs analyses and funding priorities of collaborative applicants.

''(2) FUNDS.—A collaborative applicant may apply for funds under this title to establish, continue, carry out, or ensure consistent participation by project sponsors in a homeless management information system, if the applicant is a legal entity.'';

(4) by inserting after section 403 (as redesignated in paragraph (2)) the following:

''SEC. 404. TECHNICAL ASSISTANCE.

''(a) TECHNICAL ASSISTANCE FOR PROJECT SPONSORS.—The Secretary shall make effective technical assistance available to private nonprofit organizations and other nongovernmental entities, States, metropolitan cities, urban counties, and counties that are not urban counties that are potential project sponsors, in order to implement effective planning processes for preventing and ending homelessness, to optimize self-sufficiency among individuals experiencing homelessness and to improve their capacity to become project sponsors.

''(b) TECHNICAL ASSISTANCE FOR COLLABORATIVE APPLICANTS.—The Secretary shall make effective technical assistance available to collaborative applicants to improve their ability to carry out the provisions of this title, and to design and execute outcome-effective strategies for preventing and ending homelessness in their geographic areas consistent with the provisions of this title.

''(c) RESERVATION.—The Secretary may reserve not more than 1 percent of the funds made available for any fiscal year for carrying out subtitles B and C, to make available technical assistance under subsections (a) and (b).

''SEC. 405. PERFORMANCE REPORTS AND MONITORING.

''(a) IN GENERAL.—A collaborative applicant shall submit to the Secretary an annual performance report regarding the activities carried out with grant amounts received under subtitles B and C in the geographic area served by the collaborative applicant, at such time and in such manner as the Secretary determines to be reasonable.

''(b) CONTENT.—The performance report described in subsection (a) shall—

''(1) describe the number of persons provided homelessness prevention assistance (including the number of such persons who were discharged or whose services were terminated as described in section 422(c)(1)(B)(ii)(I)(bb)), and the number of individuals and families experiencing homelessness who were provided shelter, housing, or supportive services, with the grant amounts awarded in the fiscal year prior to the fiscal year in which the report was submitted, including measurements of the number of persons experiencing homelessness who—

''(A) entered permanent housing, and the length of time such persons resided in that housing, if known;

''(B) entered transitional housing, and the length of time such persons resided in that housing, if known;

''(C) obtained or retained jobs;

''(D) increased their income, including increasing income through the receipt of government benefits;

''(E) received mental health or substance abuse treatment in an institutional setting and now receive that assistance in a less restrictive, community-based setting;

''(F) received additional education, vocational or job training, or employment assistance services;

''(G) received additional physical, mental, or emotional health care;

''(H) were children under the age of 18 during the year at issue, including the number of—

''(i) children who were not younger than 2 and not older than 4, or were infants or toddlers with disabilities (as defined in section 632 of the Individuals with Disabilities Education Act (20 U.S.C. 1432));

''(ii) children described in clause (i) who were enrolled in preschool or were receiving services under part C of such Act (20 U.S.C. 1431 et seq.);

''(iii) children who were not younger than 5 and not older than 17;

''(iv) children described in clause (iii) who are enrolled in elementary school or secondary school (as such terms are defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)); and

''(v) children under the age of 18 who received child care, health care, mental health care, or supplemental educational services; and

''(I) were reunited with their families;

''(2) estimate the number of persons experiencing homelessness, including children under the age of 18, in the geographic area served by the collaborative applicant who are eligible for, but did not receive, services, housing, or other assistance through the programs funded under subtitles B and C in the prior fiscal year;

''(3) indicate the accomplishments achieved within the geographic area that involved the use of the grant amounts awarded in the prior fiscal year, regarding efforts to coordinate services and programs within the geographic area;

''(4) indicate the accomplishments achieved within the geographic area to—

''(A) increase access by persons experiencing homelessness to programs that are not targeted for persons experiencing homelessness (but for which persons experiencing homelessness are eligible), including mainstream programs identified by the Government Accountability Office in the 2 reports described in section 102(a)(5)(B); and

''(B) prevent the homelessness of persons discharged from publicly funded institutions or systems of care (such as health care facilities, child welfare or other youth facilities or systems of care, institutions or systems of care relating to the program of block grants to States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), and juvenile or adult correctional programs and institutions);

''(5) describe how the collaborative applicant and other involved public and private entities within the geographic area will incorporate their experiences in the prior fiscal year into the programs and process that the collaborative applicant and entities will implement during the next fiscal year, including describing specific strategies to improve their performance outcomes;

''(6) assess the consistency and coordination between the programs funded under subtitles B and C in the prior fiscal year and the Consolidated Plan;

''(7) include updates to the exhibits described in section 402(h)(1)(B)(iii) that were included in applications—

''(A) submitted under section 422 by collaborative applicants; and

''(B) approved by the Secretary;

''(8) for each project sponsor funded by the collaborative applicant through a grant under subtitle C—

''(A) include a performance evaluation (which may include information from the reports described in subsection (a) and section 422(c)(1)(B)(vii)) of each project carried out by the project sponsor, based on the outcome-based evaluation measures described in section 402(h)(2)(A), the measurements described in section 423(a)(7), and the evaluation plan for the project described in section 426(b)(8) and resulting from the monitoring described in sections 402(h)(1)(A) and 426(c)(3); and

''(B) include a report, resulting from a survey, audit or evaluation conducted under section 402(h)(5)(B), detailing whether the project sponsor has carried out the recordkeeping and reporting requirements of section 402(h)(5); and

''(9) provide such other information as the Secretary finds relevant to assessing performance, including performance on success measures that are risk-adjusted to factors related to the circumstances of the population served.

''(c) WAIVER.—The Secretary may grant a waiver to any collaborative applicant that is unable to provide information required by subsection (b). Such collaborative applicant shall submit a plan to provide such information within a reasonable period of time.

''(d) MONITORING BY THE SECRETARY.—

''(1) COLLABORATIVE APPLICANTS.—Each year, the Secretary shall—

''(A) ensure that each collaborative applicant has complied with the requirements of subsection (b)(8) and section 402(h)(5);

''(B) require each collaborative applicant receiving funds under subtitle C to establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds awarded to the collaborative applicant under subtitle C in order to ensure that all financial transactions carried out under subtitle C are conducted, and records maintained, in accordance with generally accepted accounting principles; and

''(C) for a selected sample of collaborative applicants receiving funds under subtitle C—

''(i) ensure that each selected collaborative applicant has satisfactorily carried out the recordkeeping and reporting requirements of subsections (a) and (b), section 426(c)(3), and, if applicable, section 426(c)(6); and

''(ii) survey, audit, or evaluate the financial records of each selected collaborative applicant receiving funds under subtitle C to carry out section 423(a)(7)(A), using Federal auditors.

''(2) PROJECT SPONSORS.—Each year, the Secretary shall select a sample of project sponsors and shall conduct a performance evaluation of each project of each selected project sponsor funded under subtitle C, using the outcome-based evaluation measures developed by the appropriate collaborative applicant in accordance with section 402(h)(2)(A) and including the measurements described in section 423(a)(7).

''(e) ACTION BY SECRETARY.—Based on the information available to the Secretary, including information obtained pursuant to subsections (b) and (d), the Secretary may adjust, reduce, or withdraw amounts made available (or that would otherwise be made available) to collaborative applicants, or take other action as appropriate (including designating another body as a collaborative applicant, or permitting other collaborative entities to apply directly for grants under subtitle C), except that amounts already properly expended on eligible activities under this title may not be recaptured by the Secretary.''; and

(5) by inserting after section 406 (as redesignated in paragraph (2)) the following:

''SEC. 407. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out title II and this title $1,600,000,000 for fiscal year 2006 and such sums as may be necessary for fiscal years 2007, 2008, 2009, and 2010.''.

SEC. 5. EMERGENCY SHELTER GRANTS PROGRAM.

Subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371 et seq.) is amended—

(1) by striking section 412 (42 U.S.C. 11372) and inserting the following:

''SEC. 412. GRANT ASSISTANCE.

''The Secretary shall make grants to States and local governments (and to private nonprofit organizations providing assistance to persons experiencing homelessness, in the case of grants made with reallocated amounts) for the purpose of carrying out activities described in section 414.

''SEC. 412A. AMOUNT AND ALLOCATION OF ASSISTANCE.

''(a) IN GENERAL.—Of the amount made available to carry out this subtitle and subtitle C for a fiscal year, the Secretary shall allocate nationally not more than 15 percent of such amount for activities described in section 414.

''(b) ALLOCATION.—An entity that receives a grant under section 412, and serves an area that includes 1 or more geographic areas (or portions of such areas) served by collaborative applicants that submit applications under subtitle C, shall allocate the funds made available through the grant to carry out activities described in section 414, in consultation with the collaborative applicants.'';

(2) in section 413(b) (42 U.S.C. 11373(b)), by striking ''amounts appropriated'' and all that follows through ''for any'' and inserting ''amounts appropriated under section 407 and made available to carry out this subtitle for any'';

(3) by striking section 414 (42 U.S.C. 11374) and inserting the following:

''SEC. 414. ELIGIBLE ACTIVITIES.

''(a) IN GENERAL.—Assistance provided under section 412 may be used for the following activities:

''(1) The renovation, major rehabilitation, or conversion of buildings to be used as emergency shelters.

''(2) The provision of essential services, including services concerned with employment, health, or education, family support services for homeless youth, alcohol or drug abuse prevention or treatment, or mental health treatment, if such essential services have not been provided by the local government during any part of the immediately preceding 12-month period, or the use of assistance under this subtitle would complement the provision of those essential services.

''(3) Maintenance, operation insurance, provision of utilities, and provision of furnishings.

''(4) Efforts to prevent homelessness, such as the provision of financial assistance to families who have received eviction notices or notices of termination of utility services, if—

''(A) the inability of such a family to make the required payments is due to a sudden reduction in income;

''(B) the assistance is necessary to avoid the eviction or termination of services;

''(C) there is a reasonable prospect that the family will be able to resume the payments within a reasonable period of time; and

''(D) funds appropriated for the assistance will not supplant funding for homelessness prevention activities from other sources (other funds made available under this Act).

''(b) LIMITATION.—Not more than 30 percent of the aggregate amount of all assistance to a State or local government under this subtitle may be used for activities under subsection (a)(4).''; and

(4) by repealing sections 417 and 418 (42 U.S.C. 11377, 11378).

SEC. 6. HOMELESS ASSISTANCE PROGRAM.

Subtitle C of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11381 et seq.) is amended—

(1) by striking the subtitle heading and inserting the following:

''Subtitle C—Homeless Assistance Program'';

(2) by striking sections 421 through 423 (42 U.S.C. 11381 et seq.) and inserting the following:

''SEC. 421. PURPOSES.

''The purposes of this subtitle are—

''(1) to promote the implementation of activities that can prevent vulnerable individuals and families from becoming homeless;

''(2) to promote the development of transitional and permanent housing, including low-demand housing;

''(3) to promote access to and effective utilization of mainstream programs identified by the Government Accountability Office in the 2 reports described in section 102(a)(5)(B) and programs funded with State or local resources; and

''(4) to optimize self-sufficiency among individuals experiencing homelessness.

''SEC. 422. COMMUNITY HOMELESS ASSISTANCE PROGRAM.

''(a) PROJECTS.—The Secretary shall award grants to collaborative applicants to carry out homeless assistance and prevention projects, either directly or by awarding funds to project sponsors to carry out the projects.

''(b) NOTIFICATION OF FUNDING AVAILABILITY.—The Secretary shall release a Notification of Funding Availability for grants awarded under this subtitle for a fiscal year not later than 3 months after the date of enactment of the appropriate Act making appropriations for the Department of Housing and Urban Development for the fiscal year.

''(c) APPLICATIONS.—

''(1) SUBMISSION TO THE SECRETARY.—To receive a grant under subsection (a), a collaborative applicant shall submit an application to the Secretary at such time and in such manner as the Secretary may require, and containing—

''(A) the information described in subsections (a) and (c) of section 426; and

''(B) other information that shall—

''(i) describe the establishment (or designation) and function of the collaborative applicant, including—

''(I) the nomination and selection process, including the names and affiliations of all members of the collaborative applicant; or

''(II) all meetings held by the collaborative applicant in preparing the application, including identification of those meetings that were public; and

''(III) all meetings between representatives of the collaborative applicant, and persons responsible for administering the Consolidated Plan;

''(ii) outline the range of housing and service programs available to persons experiencing homelessness or imminently at risk of experiencing homelessness and describe the unmet needs that remain in the geographic area for which the collaborative applicant seeks funding regarding—

''(I) prevention activities, including providing assistance in—

''(aa) making mortgage, rent, or utility payments; or

''(bb) accessing permanent housing and transitional housing for individuals (and families that include the individuals) who are being discharged from a publicly funded facility, program, or system of care, or whose services (from such a facility, program, or system of care) are being terminated;

''(II) outreach activities to assess the needs and conditions of persons experiencing homelessness, including significant subpopulations of such persons, including individuals with disabilities, veterans, victims of domestic violence, homeless children and youths (as defined in section 725), and chronically homeless individuals and families;

''(III) emergency shelters, including the supportive and referral services the shelters provide;

''(IV) transitional housing with appropriate supportive services to help persons experiencing homelessness who are not yet able or prepared to make the transition to permanent housing and independent living;

''(V) permanent housing to help meet the long-term needs of individuals and families experiencing homelessness; and

''(VI) needed supportive services, including services for children;

''(iii) prioritize the projects for which the collaborative applicant seeks funding according to the unmet needs in the fiscal year for which the applicant submits the application as described in clause (ii);

''(iv) identify funds from private and public sources, other than funds received under subtitles B and C, that the State, units of general local government, recipients, project sponsors, and others will use for homelessness prevention, outreach, emergency shelter, supportive services, transitional housing, and permanent housing, that will be integrated with the assistance provided under subtitles B and C;

''(v) identify funds provided by the State and units of general local government under programs targeted for persons experiencing homelessness, and other programs for which persons experiencing homelessness are eligible, including mainstream programs identified by the Government Accountability Office in the 2 reports described in section 102(a)(5)(B);

''(vi) explain—

''(I) how the collaborative applicant will meet the housing and service needs of individuals and families experiencing homelessness in the applicant's community; and

''(II) how the collaborative applicant will integrate the activities described in the application with the strategy of the State, units of general local government, and private entities in the geographic area over the next 5 years to prevent and end homelessness, including, as part of that strategy, a work plan for the applicable fiscal years;

''(vii) report on the outcome-based performance of the homeless programs within the geographic area served by the collaborative applicant that were funded under this title in the fiscal year prior to the fiscal year in which the application is submitted;

''(viii) include any relevant required agreements under subtitle C;

''(ix) contain a certification of consistency with the Consolidated Plan pursuant to section 403;

''(x) include an exhibit described in section 402(h)(1)(B)(iii) and prepared by the collaborative applicant in accordance with that section; and

''(xi) contain a certification that project sponsors for all projects for which the collaborative applicant seeks funding through the grant will establish policies and practices that are consistent with, and do not restrict the exercise of rights provided by, subtitle B of title VII, and other laws relating to the provision of educational and related services to individuals experiencing homelessness.

''(2) CONSIDERATION.—In outlining the programs and describing the needs referred to in paragraph (1)(A)(ii), the collaborative applicant shall take into account the findings and recommendations of the most recently completed annual assessments, conducted pursuant to section 2034 of title 38, United States Code, of the Department of Veterans Affairs medical centers or regional benefits offices whose service areas include the geographic area described in paragraph (1)(A)(ii).

''(3) ANNOUNCEMENT OF AWARDS.—The Secretary shall announce, within 4 months after the last date for the submission of applications described in this subsection for a fiscal year, the grants conditionally awarded under subsection (a) for that fiscal year.

''(4) OBLIGATION, DISTRIBUTION, AND UTILIZATION OF FUNDS.—

''(A) REQUIREMENTS FOR OBLIGATION.—

''(i) IN GENERAL.—Not later than 9 months after the announcement referred to in paragraph (3), each recipient of a grant announced under paragraph (3) shall, with respect to a project to be funded through such grant, meet, or cause the project sponsor to meet, all requirements for the obligation of funds for such project, including site control, matching funds, and environmental review requirements, except as provided in clause (ii).

''(ii) ACQUISITION, REHABILITATION, OR CONSTRUCTION.—Not later than 15 months after the announcement referred to in paragraph (3), each recipient or project sponsor seeking the obligation of funds for acquisition of housing, rehabilitation of housing, or construction of new housing for a grant announced under paragraph (3) shall meet all requirements for the obligation of those funds, including site control, matching funds, and environmental review requirements.

''(iii) EXTENSIONS.—At the discretion of the Secretary, and in compelling circumstances, the Secretary may extend the date by which a recipient shall meet or cause a project sponsor to meet the requirements described in clause (i) if the Secretary determines that compliance with the requirements was delayed due to factors beyond the reasonable control of the recipient or project sponsor. Such factors may include difficulties in obtaining site control for a proposed project, completing the process of obtaining secure financing for the project, or completing the technical submission requirements for the project.

''(B) OBLIGATION.—Not later than 45 days after a recipient meets or causes a project sponsor to meet the requirements described in subparagraph (A), the Secretary shall obligate the funds for the grant involved.

''(C) DISTRIBUTION.—A recipient that receives funds through such a grant—

''(i) shall distribute the funds to project sponsors (in advance of expenditures by the project sponsors); and

''(ii) shall distribute the appropriate portion of the funds to a project sponsor not later than 45 days after receiving a request for such distribution from the project sponsor.

''(D) EXPENDITURE OF FUNDS.—The Secretary may establish a date by which funds made available through a grant announced under paragraph (3) for a homeless assistance and prevention project shall be entirely expended by the recipient or project sponsors involved. The Secretary shall recapture the funds not expended by such date. The Secretary shall reallocate the funds for another homeless assistance and prevention project that meets the requirements of this subtitle to be carried out, if possible and appropriate, in the same geographic area as the area served through the original grant.

''(d) NOTIFICATION OF PRO RATA ESTIMATED NEED AMOUNTS.—

''(1) NOTICE.—The Secretary shall inform each collaborative applicant, at a time concurrent with the release of the Notice of Funding Availability for the grants, of the pro rata estimated need amount under this subtitle for the geographic area represented by the collaborative applicant.

''(2) AMOUNT.—

''(A) BASIS.—Such estimated need amount shall be based on a percentage of the total funds available, or estimated to be available, to carry out this subtitle for any fiscal year that is equal to the percentage of the total amount available for section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306) for the prior fiscal year that—

''(i) was allocated to all metropolitan cities and urban counties within the geographic area represented by the collaborative applicant; or

''(ii) would have been distributed to all counties within such geographic area that are not urban counties, if the 30 percent portion of the allocation to the State involved (as described in subsection (d)(1) of that section 106) for that year had been distributed among the counties that are not urban counties in the State in accordance with the formula specified in that subsection (with references in that subsection to nonentitlement areas considered to be references to those counties).

''(B) RULE.—In computing the estimated need amount, the Secretary shall adjust the estimated need amount determined pursuant to subparagraph (A) to ensure that—

''(i) 75 percent of the total funds available, or estimated to be available, to carry out this subtitle for any fiscal year are allocated to the metropolitan cities and urban counties that received a direct allocation of funds under section 413 for the prior fiscal year; and

''(ii) 25 percent of the total funds available, or estimated to be available, to carry out this subtitle for any fiscal year are allocated—

''(I) to the metropolitan cities and urban counties that did not receive a direct allocation of funds under section 413 for the prior fiscal year; and

''(II) to counties that are not urban counties.

''(C) COMBINATIONS OR CONSORTIA.—For a collaborative applicant that represents a combination or consortium of cities or counties, the estimated need amount shall be the sum of the estimated need amounts for the cities or counties represented by the collaborative applicant.

''(D) AUTHORITY OF SECRETARY.—The Secretary may increase the estimated need amount for a geographic area if necessary to provide 1 year of renewal funding for all expiring contracts entered into under this subtitle for the geographic area.

''(e) APPEALS.—

''(1) IN GENERAL.—Not later than 3 months after the date of enactment of the Community Partnership to End Homelessness Act of 2005, the Secretary shall establish a timely appeal procedure for grant amounts awarded or denied under this subtitle pursuant to an application for funding.

''(2) PROCESS.—The Secretary shall ensure that the procedure permits appeals submitted by collaborative applicants, entities carrying out homeless housing and services projects (including emergency shelters and homelessness prevention programs), homeless planning bodies not designated by the Secretary as collaborative applicants.

''(f) RENEWAL FUNDING FOR UNSUCCESSFUL APPLICANTS.—The Secretary may renew funding for a specific project previously funded under this subtitle that the Secretary determines is worthy, and was included as part of a total application that met the criteria of subsection (c), even if the application was not selected to receive grant assistance. The Secretary may renew the funding for a period of not more than 1 year, and under such conditions as the Secretary determines to be appropriate.

''SEC. 423. ELIGIBLE ACTIVITIES.

''(a) IN GENERAL.—The Secretary may award grants to qualified collaborative applicants under section 422 to carry out homeless assistance and prevention projects that consist of 1 or more of the following eligible activities:

''(1) Construction of new housing units to provide transitional or permanent housing.

''(2) Acquisition or rehabilitation of a structure to provide supportive services or to provide transitional or permanent housing, other than emergency shelter.

''(3) Leasing of property, or portions of property, not owned by the recipient or project sponsor involved, for use in providing transitional or permanent housing, or providing supportive services.

''(4) Provision of rental assistance to provide transitional or permanent housing to eligible persons. The rental assistance may include tenant-based or project-based rental assistance.

''(5) Payment of operating costs for housing units assisted under this subtitle.

''(6)(A) Through the end of the final determination year (as described in subparagraph (C)(iii)), the supportive services described in section 425(c), for both new projects and projects receiving renewal funding.

''(B) After that final determination year, for both new projects and projects receiving renewal funding, services providing job training, case management, outreach services, life skills training, housing counseling services, and other services determined by the Secretary (either at the Secretary's initiative or on the basis of adequate justification by an applicant) to be directly relevant to allowing persons experiencing homelessness to access and retain housing.

''(C)(i) Not later than 30 days after the end of the fiscal year in which the date of enactment of the Community Partnership to End Homelessness Act of 2005 occurs (referred to in this paragraph as the 'initial year'), the Government Accountability Office, after consultation with the congressional committees with jurisdiction over the services referred to in this pararaph, shall determine—

''(I) the amount of Federal funds (other than funds made available under this subtitle) that were made available to fund the supportive services described in section 425(c), other than the services described in subparagraph (B) (referred to in this paragraph as the 'outside supportive services amount') for that initial year; and

''(II) the amount of Federal funds made available under this subtitle to fund the supportive services described in section 425(c), other than the services described in subparagraph (B) (referred to in this paragraph as the 'subtitle B supportive services amount') for that initial year.

''(ii) Not later than 30 days after the end of the third full fiscal year after that date of enactment and of each subsequent fiscal year (referred to in this paragraph as the 'determination year') until the final determination year described in clause (iii), the Government Accountability Office, after consultation with the committees described in clause (i), shall—

''(I) determine the outside supportive services amount for that determination year;

''(II) calculate the increase in the outside supportive services amount, by subtracting

the outside supportive services amount for the initial year from the outside supportive services amount for that determination year;

''(III) make—

''(aa) a positive determination that the increase is greater than or equal to the subtitle B supportive services amount for the initial year; or

''(bb) a negative determination that that increase is less than that amount; and

''(IV) submit a report regarding that determination year, and containing the positive or negative determination, to the Secretary.

''(iii) On receipt of such a report regarding a determination year that contains a positive determination, the Secretary may publish a notice in the Federal Register, containing a proposed order that subparagraph (B) shall apply for subsequent fiscal years, and seeking public comment for a period of not less than 60 days. At the end of the comment period, the Secretary may issue a final order that subparagraph (B) shall apply for subsequent fiscal years. If the Secretary issues that final order, the determination year shall be considered to be the final determination year for purposes of this subparagraph.

''(iv) If the Secretary does not issue a final order under clause (iii), subparagraph (A) shall apply for the fiscal year following the determination year.

''(7)(A) In the case of a collaborative applicant that is a legal entity, payment of administrative costs related to planning, administering grand awards for, monitoring, and evaluating projects, and ensuring compliance with homeless management information system requirements described in section 402(j)(2), for which the collaborative applicant may use not more than 6 percent of the total funds made available through the grant. A project sponsor receiving funds from the collaborative applicant may use not more than an additional 5 percent of the total funds made available through the grant for such administrative costs.

''(B) For purposes of this paragraph, monitoring and evaluating shall include—

''(i) measuring the outcomes of the homeless assistance planning process of a collaborative applicant for preventing and ending homelessness;

''(ii) the effective and timely implementation of specific projects funded under this subtitle, relative to projected outcomes; and

''(iii) in the case of a housing project funded under this subtitle, compliance with appropriate standards of housing quality and habitability as determined by the Secretary.

''(8) Prevention activities (for which a collaborative applicant may use not more than 5 percent of the funds made available through the grant), including—

''(A) providing financial assistance to individuals or families who have received eviction notices, foreclosure notices, or notices of termination of utility services if, in the case of such an individual or family—

''(i) the inability of the individual or family to make the required payments is due to a sudden reduction in income;

''(ii) the assistance is necessary to avoid the eviction, foreclosure, or termination of services; and

''(iii) there is a reasonable prospect that the individual or family will be able to resume the payments within a reasonable period of time;

''(B) carrying out relocation activities (including providing security or utility deposits, rental assistance for a final month at a location, assistance with moving costs, or rental assistance for not more than 3 months) for moving into transitional or permanent housing, individuals, and families that include such individuals—

''(i) who lack housing;

''(ii) who are being discharged from a publicly funded acute care or long-term care facility, program, or system of care, or whose services (from such a facility, program, or system of care) are being terminated; and

''(iii) who have plans, developed collaboratively by the public entities involved and the individuals and families, for securing or maintaining housing after any funding provided under this subtitle is utilized; and

''(C) providing family support services that promote reunification of—

''(i) youth experiencing homelessness, with their families; and

''(ii) children or youth involved with the child welfare or juvenile justice systems, with their parents or guardians.

''(b) ELIGIBILITY FOR FUNDS FOR PREVENTION ACTIVITIES.—To be eligible to receive grant funds under section 422 to carry out the prevention activities described in subsection (a)(8), an applicant shall submit an application to the Secretary under section 422 that shall include a certification in which—

''(1) the relevant public entities in the geographic area involved certify compliance with subsection (c); and

''(2) the publicly funded institutions, facilities, and systems of care in the geographic area certify that the institutions, facilities, and systems of care will take, and fund directly, all reasonable measures to ensure that the institutions, facilities, and systems of care do not discharge individuals into homelessness.

''(c) SUPPLEMENT, NOT SUPPLANT.—Funds appropriated under section 407 and made available for prevention activities described in subsection (a)(8) shall be used to supplement and not supplant other Federal, State, and local public funds used for homelessness prevention.

''(d) USE RESTRICTIONS.—

''(1) ACQUISITION, REHABILITATION, AND NEW CONSTRUCTION.—A project that consists of activities described in paragraph (1) or (2) of subsection (a) shall be operated for the purpose specified in the application submitted for the project under section 422 for not less than 15 years.

''(2) OTHER ACTIVITIES.—A project that consists of activities described in any of paragraphs (3) through (8) of subsection (a) shall be operated for the purpose specified in the application submitted for the project under section 422 for the duration of the grant period involved.

''(3) CONVERSION.—If the recipient or project sponsor carrying out a project that provides transitional or permanent housing submits a request to the collaborative applicant involved to carry out instead a project for the direct benefit of low-income persons, and the collaborative applicant determines that the initial project is no longer needed to provide transitional or permanent housing, the collaborative applicant may recommend that the Secretary approve the project described in the request and authorize the recipient or project sponsor to carry out that project. If the collaborative applicant is the recipient or project sponsor, it shall submit such a request directly to the Secretary who shall determine if the conversion of the project is appropriate.

''(e) INCENTIVES TO CREATE NEW PERMANENT HOUSING STOCK.—

''(1) AWARDS.—

''(A) IN GENERAL.—In making grants to collaborative applicants under section 422, the Secretary shall make awards that provide the incentives described in paragraph (2) to promote the creation of new permanent housing units through the construction, or acquisition and rehabilitation, of permanent housing units, that are owned by a project sponsor or other independent entity who entered into a contract with a recipient or project sponsor, for—

''(i) chronically homeless individuals and chronically homeless families; and

''(ii) nondisabled homeless families.

''(B) LIMITATION.—In awarding funds under this subsection, the Secretary shall not award more than 10 percent of the funds for project sponsors or independent entities that propose to serve nondisabled homeless families.

''(2) ASSISTANCE.—

''(A) INDIVIDUALS WITH DISABILITIES.—A collaborative applicant that receives assistance under section 422 to implement a project that involves the construction, or acquisition and rehabilitation, of new permanent housing units described in paragraph (1), for individuals and families described in paragraph (1)(A)(i), shall also receive, as part of the grant, incentives consisting of—

''(i) funds sufficient to provide not more than 10 years of rental assistance, renewable in accordance with section 428;

''(ii) a bonus in an amount to be determined by the Secretary to carry out activities described in this section; and

''(iii) the technical assistance needed to ensure the financial viability and programmatic effectiveness of the project.

''(B) NONDISABLED HOMELESS FAMILIES.—A collaborative applicant that receives assistance under section 422 to implement a project that involves the construction, or acquisition and rehabilitation, of new permanent housing units described in paragraph (1), for nondisabled homeless families, shall also receive incentives consisting of—

''(i) a bonus in an amount to be determined by the Secretary to carry out activities described in this section; and

''(ii) the technical assistance needed to ensure the financial viability and programmatic effectiveness of the project.

''(3) ELIGIBLE APPLICANTS.—To be eligible to receive a grant under this subtitle to carry out activities to create new permanent housing stock for individuals and families described in paragraph (1), an applicant shall be a collaborative applicant as described in this subtitle, a private nonprofit or for profit organization, a public-private partnership, a public housing agency, or an instrumentality of a State or local government.

''(4) LOCATION.—To the extent practicable, a collaborative applicant that receives a grant under this subtitle to create new permanent housing stock shall ensure that the housing is located in a mixed-income environment.

''(5) DEFINITION.—In this subsection, the term 'nondisabled homeless family' means a homeless family that does not have an adult head of household with a disabling condition, as defined in section 401(1)(B).

''(f) REPAYMENT OF ASSISTANCE AND PREVENTION OF UNDUE BENEFITS.—

''(1) REPAYMENT.—If a recipient (or a project sponsor receiving funds from the recipient) receives assistance under section 422 to carry out a project that consists of activities described in paragraph (1) or (2) of subsection (a) and the project ceases to provide transitional or permanent housing—

''(A) earlier than 10 years after operation of the project begins, the Secretary shall require the recipient (or the project sponsor receiving funds from the recipient) to repay 100 percent of the assistance; or

''(B) not earlier than 10 years, but earlier than 15 years, after operation of the project begins, the Secretary shall require the recipient (or the project sponsor receiving funds from the recipient) to repay 20 percent of the assistance for each of the years in the 15-year period for which the project fails to provide that housing.

''(2) PREVENTION OF UNDUE BENEFITS.—Except as provided in paragraph (3), if any property is used for a project that receives assistance under subsection (a) and consists of activities described in paragraph (1) or (2) of subsection (a), and the sale or other disposition of the property occurs before the expiration of the 15-year period beginning on the date that operation of the project begins, the recipient (or the project sponsor receiving funds from the recipient) who received the assistance shall comply with such terms and conditions as the Secretary may prescribe to prevent the recipient (or a project sponsor receiving funds from the recipient) from unduly benefitting from such sale or disposition.

''(3) EXCEPTION.—A recipient (or a project sponsor receiving funds from the recipient) shall not be required to make the repayments, and comply with the terms and conditions, required under paragraph (1) or (2) if—

''(A) the sale or disposition of the property used for the project results in the use of the property for the direct benefit of very low-income persons; or

''(B) all of the proceeds of the sale or disposition are used to provide transitional or permanent housing meeting the requirements of this subtitle.'';

(3) in section 425 (42 U.S.C. 11385), by striking subsection (c) and inserting the following:

''(c) SERVICES.—Subject to section 423(a)(6), supportive services may include such services as—

''(1) establishing and operating a child care services program for families experiencing homelessness;

''(2) establishing and operating an employment assistance program, including providing job training;

''(3) providing outpatient health services, food, and case management;

''(4) providing assistance in obtaining permanent housing, employment counseling, and nutritional counseling;

''(5) providing outreach services, life skills training, and housing search and counseling services;

''(6) providing assistance in obtaining other Federal, State, and local assistance available for residents of supportive housing (including mental health benefits, employment counseling, and medical assistance, but not including major medical equipment);

''(7) providing legal services for purposes including requesting reconsiderations and appeals of veterans and public benefit claim denials and resolving outstanding warrants that interfere with an individual's ability to obtain and retain housing;

''(8) providing—

''(A) transportation services that facilitate an individual's ability to obtain and maintain employment;

''(B) income assistance;

''(C) health care; and

''(D) other supportive services necessary to obtain and maintain housing; and

''(9) providing other services determined by the Secretary (either at the Secretary's initiative or on the basis of adequate justification by an applicant) to be directly relevant to allowing persons experiencing homelessness to access and retain housing.'';

(4) in section 426 (42 U.S.C. 11386)—

(A) in subsection (a)—

(i) in paragraph (1), by striking ''Applications'' and all that follows through ''shall'' and inserting ''Applications for assistance under section 422 shall'';

(ii) in paragraph (2)—

(I) by striking subparagraph (B) and inserting the following:

''(B) a description of the size and characteristics of the population that would occupy housing units or receive supportive services assisted under this subtitle;''; and

(II) in subparagraph (E), by striking ''in the case of projects assisted under this title that do not receive assistance under such sections,''; and

(iii) in paragraph (3), in the last sentence, by striking ''recipient'' and inserting ''recipient (or a project sponsor receiving funds from the recipient)'';

(B) by striking subsections (b) and (c) and inserting:

''(b) SELECTION CRITERIA.—The Secretary shall award funds to collaborative applicants, and other eligible applicants that have been approved by the Secretary, by a national competition based on criteria established by the Secretary, which shall include—

''(1) the capacity of the applicant based on the past performance and management of the applicant;

''(2) if applicable, previous performance regarding homelessness prevention, housing, and services programs funded in any fiscal year prior to the date of submission of the application;

''(3) the plan by which—

''(A) access to appropriate permanent housing will be secured if the proposed project does not include permanent housing; and

''(B) access to outcome-effective supportive services will be secured for residents or consumers involved in the project who are willing to use the services;

''(4) if applicable, the extent to which an evaluation for the project will—

''(A) use periodically collected information and analysis to determine whether the project has resulted in enhanced stability and well-being of the residents or consumers served by the project;

''(B) include evaluations obtained directly from the individuals or families served by the project; and

''(C) be submitted by the project sponsors for the grant, to the collaborative applicant, for review and use in assessments, conducted by the collaborative applicant, consistent with the duty of the collaborative applicant to ensure effective outcomes that contribute to the goal of preventing and ending homelessness in the geographic area served by the collaborative applicant;

''(5) the need for the type of project proposed in the geographic area to be served and the extent to which prioritized programs meet unmet needs;

''(6) the extent to which the amount of assistance to be provided under this subtitle will be supplemented with resources from other public and private sources, including mainstream programs identified by the Government Accountability Office in the 2 reports described in section 102(a)(5)(B);

''(7) demonstrated coordination with the other Federal, State, local, private, and other entities serving individuals experiencing homelessness in the planning and operation of projects, to the extent practicable;

''(8) the extent to which the membership of the collaborative applicant involved represents the composition described in section 402(b) and the extent of membership involvement in the application process; and

''(9) such other factors as the Secretary determines to be appropriate to carry out this subtitle in an effective and efficient manner.

''(c) REQUIRED AGREEMENTS.—The Secretary may not provide assistance for a proposed project under this subtitle unless the collaborative applicant involved agrees—

''(1) to ensure the operation of the project in accordance with the provisions of this subtitle;

''(2) to conduct an ongoing assessment of access to mainstream programs referred to in subsection (b)(4);

''(3) to monitor and report to the Secretary the progress of the project;

''(4) to develop and implement procedures to ensure—

''(A) the confidentiality of records pertaining to any individual provided family violence prevention or treatment services through the project; and

''(B) that the address or location of any family violence shelter project assisted under this subtitle will not be made public, except with written authorization of the person responsible for the operation of such project;

''(5) to ensure, to the maximum extent practicable, that individuals and families experiencing homelessness are involved, through employment, provision of volunteer services, or otherwise, in constructing, rehabilitating, maintaining, and operating facilities for the project and in providing supportive services for the project;

''(6) if a collaborative applicant receives funds under subtitle C to carry out the payment of administrative costs described in section 423(a)(7), to establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, such funds in order to ensure that all financial transactions carried out with such funds are conducted, and records maintained, in accordance with generally accepted accounting principles; and

''(7) to comply with such other terms and conditions as the Secretary may establish to carry out this subtitle in an effective and efficient manner.'';

(C) in subsection (d), in the first sentence, by striking ''recipient'' and inserting ''recipient or project sponsor'';

(D) by striking subsection (e);

(E) by redesignating subsections (f), (g), and (h), as subsections (e), (f), and (g), respectively;

(F) in subsection (f) (as redesignated in subparagraph (E)), in the first sentence, by striking ''recipient'' each place it appears and inserting ''recipient or project sponsor'';

(G) by striking subsection (i); and

(H) by redesignating subsection (j) as subsection (h);

(5)(A) by repealing section 429 (42 U.S.C. 11389); and

(B) by redesignating sections 427 and 428 (42 U.S.C. 11387, 11388) as sections 431 and 432, respectively; and

(6) by inserting after section 426 the following:

''SEC. 427. ALLOCATION AMOUNTS AND INCENTIVES FOR SPECIFIC ELIGIBLE ACTIVITIES.

''(a) PURPOSE.—The Secretary shall promote—

''(1) permanent housing development activities for—

''(A) homeless individuals with disabilities and homeless families that include such an individual; and

''(B) nondisabled homeless families; and

''(2) prevention activities described in section 423(a)(8).

''(b) DEFINITION.—In this section, the term 'nondisabled homeless family' means a homeless family that does not include a homeless individual with a disability.

''(c) ANNUAL PORTION OF APPROPRIATED AMOUNT AVAILABLE.—

''(1) DISABLED HOMELESS INDIVIDUALS AND FAMILIES.—

''(A) IN GENERAL.—From the amount made available to carry out this subtitle for a fiscal year, a portion equal to not less than 30 percent of the sums made available to carry

out subtitle B and this subtitle for that fiscal year shall be used for activities to develop new permanent housing, in order to help create affordable permanent housing for homeless individuals with disabilities and homeless families that include such an individual who is an adult.

''(B) CALCULATION.—In calculating the portion of the amount described in subparagraph (A) that is used for activities described in subparagraph (A), the Secretary shall not count funds made available to renew contracts for existing projects (in existence as of the date of the renewal) under section 428.

''(2) PREVENTION ACTIVITIES.—From the amount made available to carry out this subtitle for a fiscal year, a portion equal to not more than 5 percent of the sums described in paragraph (1) shall be used for prevention activities described in section 423(a)(8).

''(d) FUNDING FOR ACQUISITION, CONSTRUCTION, AND REHABILITATION OF PERMANENT OR TRANSITIONAL HOUSING.—Nothing in this Act shall be construed to establish a limit on the amount of funding that an applicant may request under this subtitle for acquisition, construction, or rehabilitation activities for the development of permanent housing or transitional housing.

''SEC. 428. RENEWAL FUNDING AND TERMS OF ASSISTANCE FOR PERMANENT HOUSING.

''(a) IN GENERAL.—Of the total amount available for use in connection with this subtitle, such sums as may be necessary shall be designated for the purpose of renewing expiring contracts for permanent housing, within the account referred to as the 'Homeless Assistance Grants Account' on the date of enactment of the Community Partnership to End Homelessness Act of 2005.

''(b) RENEWALS.—Such sums shall be available for the renewal of contracts for a 1-year term for rental assistance and housing operation costs associated with permanent housing projects funded under this subtitle, or under subtitle C or F (as in effect on the day before the date of enactment of the Community Partnership to End Homelessness Act of 2005). The Secretary shall determine whether to renew a contract for such a permanent housing project on the basis of demonstrated need for the project and the compliance of the entity carrying out the project with appropriate standards of housing quality and habitability as determined by the Secretary.

''(c) CONSTRUCTION.—Nothing in this section shall be construed as prohibiting the Secretary from renewing contracts under this subtitle in accordance with criteria set forth in a provision of this subtitle other than this section.

''SEC. 429. MATCHING FUNDING.

''(a) IN GENERAL.—A recipient of a grant (including a renewed grant) under this subtitle shall make available contributions, in cash, in an amount equal to not less than 25 percent of the Federal funds provided under the grant.

''(b) APPLICATION.—Subsection (a) shall not apply in the case of a grant for activities consisting of the payment of operating costs associated with permanent housing renewal grants described in section 428 that fund the operation of permanent housing—

''(1) for individuals or families whose incomes are 50 percent or less of the median income for an individual or family, respectively, in the geographic area involved; and

''(2) that receives no Federal or State funds from a source other than this subtitle.

''SEC. 430. APPEAL PROCEDURE.

''(a) IN GENERAL.—With respect to funding under this subtitle, if certification of consistency with the Consolidated Plan pursuant to section 403 is withheld from an applicant who has submitted an application for that certification, such applicant may appeal such decision to the Secretary.

''(b) PROCEDURE.—The Secretary shall establish a procedure to process the appeals described in subsection (a).

''(c) DETERMINATION.—Not later than 45 days after the date of receipt of an appeal described in subsection (a), the Secretary shall determine if certification was unreasonably withheld. If such certification was unreasonably withheld, the Secretary shall review such application and determine if such applicant shall receive funding under this subtitle.''.

SEC. 7. REPEALS AND CONFORMING AMENDMENTS.

(a) REPEALS.—Subtitles D, E, F, and G of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11391 et seq., 11401 et seq., 11403 et seq., and 11408 et seq.) are repealed.

(b) CONFORMING AMENDMENTS.—

(1) UNITED STATES INTERAGENCY COUNCIL ON HOMELESSNESS.—Section 2066(b)(3)(F) of title 38, United States Code and section 506(a) of the Public Health Service Act (42 U.S.C. 290aa–5(a)) are amended by striking ''Interagency Council on the Homeless'' and inserting ''United States Interagency Council on Homelessness''.

(2) CONSOLIDATED PLAN.—Section 403(1) of the McKinney-Vento Homeless Assistance Act, as redesignated in section 4(2), is amended—

(A) by striking ''current housing affordability strategy'' and inserting ''Consolidated Plan''; and

(B) by inserting before the comma the following: ''(referred to in that section as a 'comprehensive housing affordability strategy')''.

(3) PERSONS EXPERIENCING HOMELESSNESS.—Section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) is amended by adding at the end the following:

''(d) PERSONS EXPERIENCING HOMELESSNESS.—References in this Act to homeless individuals (including homeless persons) or homeless groups (including the homeless) shall be considered to include, and to refer to, individuals experiencing homelessness or groups experiencing homelessness, respectively.''.

SEC. 8. EFFECTIVE DATE.

This Act shall take effect 6 months after the date of enactment of this Act.

Mr. BOND. Mr. President, I rise today to express my support for the Community Partnership to End Homeless Act of 2005. I am proud to be an original co-sponsor of this legislation because I believe that this bill will greatly assist the Nation's efforts on ending the long-standing tragedy of homelessness. I applaud the hard work of the chairman and ranking member of the Senate Banking Committee's Housing and Transportation Subcommittee, Senators ALLARD and REED for developing this important legislation.

As a former member of the Banking Committee, former chair of the VA-HUD and Independent Agencies Appropriations Subcommittee, and now the current chair of the Transportation, Treasury, the Judiciary, HUD, and Related Agencies (TTHUD) Appropriations Subcommittee, the issue of homelessness has been one of my main priorities. During my tenure on those subcommittees, I have learned a great deal about the causes of homelessness. The causes are varied ranging from the lack of affordable housing to mental or physical ailments to unforeseen economic problems.

The good news is that since the Congress first created the McKinney-Vento Homeless Assistance Act in 1987, there has been a great deal of research on homelessness and new approaches have been developed to solve homelessness. The most significant finding is the importance of permanent housing in ending homelessness. Due to this finding, I included a provision in the fiscal year 1999 VA–HUD and Independent Agencies Appropriations Act that required HUD to spend at least 30 percent of the homeless assistance grant funds on permanent housing.

Re-focusing HUD on permanent housing was something that senators on both sides of the aisle strongly and rightfully support. The 30 percent permanent housing set-aside requirement was established because HUD was not producing enough housing for homeless people. This was a problem because HUD is the only federal agency that provides permanent housing.

By 1998, just prior to the enactment of the 30 percent set-aside, only 13 percent of HUD homeless grant funds were being spent on permanent housing. Therefore, the 30 percent set-aside was created to re-balance HUD's homeless programs so that permanent housing was being provided. And, the set-aside has not hurt funding for supportive services since we have continually increased the HUD homeless account and the Administration has worked with other agencies, such as HHS and VA, to ensure that they are providing services to homeless people. In the Senate's fiscal year 2006 TTHUD bill, we have provided a $174 million increase over fiscal year 2005 for the HUD homeless account.

The focus on permanent housing was backed by sound research that demonstrated the cost-effectiveness of this approach. By focusing on permanent housing and especially those who were chronically homeless, HUD's programs became correctly focused on those most needy of this assistance, such as disabled homeless veterans. For those reasons, I am extremely pleased and supportive of the bill's provision that requires HUD to use at least 30 percent of funds for permanent housing activities. This provision is probably the most important piece of this legislation.

In addition to the permanent housing requirement, I strongly support the bill's provisions that require outcome-based performance evaluations, promote access to mainstream resources for supportive services, and consolidate HUD's competitive grant programs. I especially support the bill's efforts to encourage localities and grantees to participate and use the Homeless Management Information System (HMIS), which was initiated by Senator MIKULSKI and me in the fiscal year 2001 VA-HUD and Independent Appropriations Act. I am proud that the vast majority

of continuum-of-care grantees have implemented the HMIS. This system is absolutely critical for developing an unduplicated count of homeless people and an analysis of their patterns of use of federal assistance programs.

This is a strong bill supported by members on both sides of the aisle. I hope that the Senate and the Congress can pass important legislation because this bill will help eliminate the tragedy of homelessness. I urge my colleagues to support this bill.

By Mr. ENZI:

S. 1802. All to provide for appropriate waivers, suspensions, or exemptions from provisions of title I of the Employee Retirement Income Security Act of 1974 with respect to individual account plans affected by Hurricane Katrina or Rita; read the first time.

Mr. ENZI. Mr. President I rise to introduce the Pension Flexibility in Natural Disasters Act of 2005. The bill provides appropriate waivers, suspensions or exemptions from the provisions of title I of the Employee Retirement Income Security Act of 1974, as amended, with respect to individual account plans affected by Hurricane Katrina or Rita.

Hurricanes Katrina and Rita have brought terrible devastation in the gulf coast. Not only have so many homes in Louisiana, Mississippi, Alabama and Texas been destroyed but many businesses have been destroyed as well.

Any business that maintains a pension or retirement plan for their workers is subject to certain reporting, disclosure and fiduciary provisions of ERISA as well as being subject to the pertinent provisions of the Internal Revenue Code. ERISA sets up many requirements and deadlines that businesses simply cannot meet due to the devastation of their businesses and the destruction of all of their records.

This bill postpones reporting requirements for businesses that have been adversely affected by storms in these presidentially-declared disaster areas. It also will facilitate getting individuals access to their retirement savings in the form of hardship loans or distributions by allowing plan fiduciaries flexibility in making those distributions in view of these terrible disasters.

I hope my colleague will join me in supporting this important bill.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1802

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Pension Flexibility in Natural Disasters Act of 2005''.

SEC. 2. AUTHORITY TO THE SECRETARY OF LABOR, SECRETARY OF THE TREASURY, AND THE PENSION BENEFIT GUARANTY CORPORATION.

The Secretary of Labor, the Secretary of the Treasury, and the Executive Director of the Pension Benefit Guaranty Corporation shall exercise their authority under section 518 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1148) and section 7508A of the Internal Revenue Code of 1986 to postpone certain deadlines by reason of the Presidentially declared disaster areas in Louisiana, Mississippi, Alabama, Texas, and elsewhere, due to the effect of Hurricane Katrina or Rita. The Secretaries and the Executive Director of the Corporation shall issue guidance as soon as is practicable to plan sponsors and participants regarding extension of deadlines and rules applicable to these extraordinary circumstances. Nothing in this section shall be construed to relieve any plan sponsor from any requirement to pay benefits or make contributions under the plan of the sponsor.

SEC. 3. AUTHORITY TO PRESCRIBE GUIDANCE BY REASON OF THE PRESIDENTIALLY DECLARED DISASTER CAUSED BY HURRICANE KATRINA OR RITA.

(a) WAIVERS, SUSPENSIONS, OR EXEMPTIONS.—In the case of any pension plan which is an individual account plan, or any participant or beneficiary, plan sponsor, administrator, fiduciary, service provider, or other person with respect to such plan, affected by Hurricane Katrina or Rita, or any service provider or other person dealing with such plan, the Secretary of Labor may, notwithstanding any provision of title I of the Employee Retirement Income Security Act of 1974, prescribe, by notice or otherwise, a waiver, suspension, or exemption from any provision of such title which is under the regulatory authority of such Secretary, or from regulations issued under any such provision, that such Secretary determines appropriate to facilitate the distribution or loan of assets from such plan to participants and beneficiaries of such plan.

(b) EXEMPTION FROM LIABILITY FOR ACTS OR OMISSIONS COVERED BY WAIVER, SUSPENSION, OR EXEMPTION.—No person shall be liable for any violation of title I of the Employee Retirement Income Security Act of 1974, or of any regulations issued under such title, based upon any act or omission covered by a waiver, suspension, or exemption issued under subsection (a) if such act or omission is in compliance with the terms of the waiver, suspension, or exemption.

(c) PLAN TERMS SUBJECT TO WAIVER, SUSPENSION, OR EXEMPTION.—Notwithstanding any provision of the plan to the contrary and to the extent provided in any waiver, suspension, or exemption issued by the Secretary of Labor pursuant to subsection (a), no plan shall be treated as failing to be operated in accordance with its terms solely as a result of acts or omissions which are consistent with such waiver, suspension, or exemption.

(d) EXPIRATION OF AUTHORITY.—This section shall apply only with respect to waivers, suspensions, or exemptions issued by the Secretary of Labor during the 1-year period following the date of the enactment of this Act.

(e) DEFINITIONS.—Terms used in this section shall have the meanings provided such terms in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

SEC. 4. AUTHORITY IN THE EVENT OF PRESIDENTIALLY DECLARED DISASTER OR TERRORISTIC OR MILITARY ACTIONS.

Section 518 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1148) is amended by inserting '', under any regulation issued thereunder, or under any plan provision'' after ''under this Act''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 260—CALLING FOR FREE AND FAIR PARLIAMENTARY ELECTIONS IN THE REPUBLIC OF AZERBAIJAN

Mr. BIDEN (for himself, Mr. MCCAIN, Mr. HAGEL, Mr. LUGAR, and Mr. BROWNBACK) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 260

Whereas the Republic of Azerbaijan is scheduled to hold elections for its parliament, the Milli Majlis, in November 2005;

Whereas Azerbaijan has enjoyed a strong relationship with the United States since its independence from the former Soviet Union in 1991;

Whereas international observers monitoring Azerbaijan's October 2003 presidential election found that the pre-election, election day, and post-election environments fell short of international standards;

Whereas the International Election Observation Mission (IEOM) in Baku, Azerbaijan, deployed by the Organization for Security and Cooperation in Europe (OSCE) and the Council of Europe, found that there were numerous instances of violence by both members of the opposition and government forces;

Whereas the international election observers also found inequality and irregularities in campaign and election conditions, including intimidation against opposition supporters, restrictions on political rallies by opposition candidates, and voting fraud;

Whereas Azerbaijan freely accepted a series of commitments on democracy, human rights, and the rule of law when that country joined the OSCE as a participating State in 1992;

Whereas, following the 2003 presidential election, the Council of Europe adopted Resolution 1358 (2004) demanding that the Government of Azerbaijan immediately implement a series of steps that included the release of political prisoners, investigation of election fraud, and the creation of public service television to allow all political parties to better communicate with the people of Azerbaijan;

Whereas, since the 2003 presidential election, the Government of Azerbaijan has taken some positive steps by releasing some political prisoners and working to create public service television;

Whereas the United States supports the promotion of democracy and transparent, free, and fair elections consistent with the commitments of Azerbaijan as a participating State of the OSCE;

Whereas the United States is working with the Government of Azerbaijan, the political opposition, civil society, the OSCE, the Council of Europe, and other countries to strengthen the electoral process of Azerbaijan through diplomatic efforts and nonpartisan assistance programs, including support for international and domestic election observers, voter education and election information initiatives, training for candidates and political parties, and training for judges and lawyers on the adjudication of election disputes;

Whereas the Government of the United States has awarded a contract to conduct exit polling throughout Azerbaijan;

Whereas a genuinely free and fair election requires that citizens be guaranteed the right and opportunity to exercise their civil and political rights, free from intimidation, undue influence, threats of political retribution, or other forms of coercion by national or local authorities or others;