be proposed by him to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4635. Mr. CORKER submitted an amendment intended to be proposed by him to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4636. Mr. KYL (for himself, Mr. CORKER, Mr. SESSIONS, and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4637. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4638. Mr. KYL (for himself and Mr. SESSIONS) submitted an amendment intended to be proposed by him to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4639. Mr. CORNYN (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4640. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4641. Mr. CORKER (for himself and Mr. KYL) submitted an amendment intended to be proposed to amendment SA 4636 submitted by Mr. KYL (for himself, Mr. CORKER, Mr. SESSIONS, and Mr. INHOFE) and intended to be proposed to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4642. Mrs. LINCOLN (for herself and Mr. CRAPO) submitted an amendment intended to be proposed by her to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4643. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4644. Mrs. LINCOLN (for herself and Mr. CRAPO) submitted an amendment intended to be proposed by her to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4645. Mrs. LINCOLN (for herself and Mr. RISCH) submitted an amendment intended to be proposed by her to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4646. Mrs. LINCOLN (for herself and Mr. RISCH) submitted an amendment intended to be proposed by her to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4647. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4648. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4649. Mrs. LINCOLN (for herself and Mr. RISCH) submitted an amendment intended to be proposed by her to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4650. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4651. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4652. Mr. BEGICH (for himself and Mr. ENSIGN) submitted an amendment intended to be proposed by him to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4653. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill H.R. 946, to enhance citizen access to Government information and services by establishing that Government documents issued to the public must be written clearly, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4626. Mr. UDALL of Colorado submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ADVISORY BOARD ON TOXIC SUBSTANCES AND WORKER HEALTH.

(a) ESTABLISHMENT.—Subtitle B of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384l et seq.) is amended by adding at the end the following:

"SEC. 3632. ADVISORY BOARD ON TOXIC SUBSTANCES AND WORKER HEALTH.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this section, the President shall establish and appoint an Advisory Board on Toxic Substances and Worker Health (referred to in this section as the 'Board').

''(2) CONSULTATION ON APPOINTMENTS.—In appointing members to the Board under paragraph (1), the President shall consult with organizations with expertise on worker health issues in order to ensure that the membership of the Board reflects a proper balance among perspectives from the scientific, medical, legal, workers, and worker advocate communities.

''(3) CHAIRPERSON.—The President shall designate a chairperson of the Board from among its members.

''(b) DUTIES.—The Board shall—

''(1) provide advice to the President concerning the review and approval of the Department of Labor site exposure matrix;

''(2) conduct periodic peer reviews of, and approve, medical guidance for part E claims examiners with respect to the weighing of a claimant's medical evidence;

''(3) obtain periodic expert reviews of medical evidentiary requirements for part B claims related to lung diseases;

''(4) provide oversight over consulting physicians and reports to ensure quality, objectivity, and consistency of the consultant physicians' work; and

''(5) coordinate where applicable exchanges of data and findings with the Advisory Board on Radiation and Worker Health (under section 3624).

''(c) STAFF AND POWERS.—

''(1) IN GENERAL.—The President shall appoint a staff to facilitate the work of the Board. The staff of the Board shall be headed by a Director who shall be appointed under subchapter VIII of chapter 33 of title 5, United States Code.

''(2) FEDERAL AGENCY PERSONNEL.—The President may authorize the detail of employees of Federal agencies to the Board as necessary to enable the Board to carry out its duties under this section. The detail of such personnel may be on a non-reimbursable basis.

''(3) POWERS.—The Board shall have same powers that the Advisory Board has under section 3624.

''(d) EXPENSES.—The members of the Board, other than full-time employees of the United States, while attending meetings of the Board or while otherwise serving at the request of the President, and while serving away from their homes or regular place of business, shall be allowed travel and meal expenses, including per diem in lieu of subsistence (as authorized by section 5703 of title 5, United States Code) for individuals in the Federal Government serving without pay.

''(e) SECURITY CLEARANCES.—

''(1) REQUIREMENT.—The Secretary of Energy shall ensure that the members and staff of the Board, and the contractors performing work in support of the Board, are afforded the opportunity to apply for a security clearance for any matter for which such a clearance is appropriate. The Secretary should, not later than 180 days after receiving a completed application for such a clearance, make a determination whether or not the individual concerned is eligible for the clearance.

''(2) BUDGET JUSTIFICATION.—For fiscal year 2011, and each fiscal year thereafter, the Secretary of Energy shall include in the budget justification materials submitted to Congress in support of the Department of Energy budget for that fiscal year (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) a report specifying the number of applications for security clearances under this subsection, the number of such applications granted, and the number of such applications denied.

''(f) INFORMATION.—The Secretary of Energy shall, in accordance with law, provide to the Board and the contractors of the Board, access to any information that the Board considers relevant to carry out its responsibilities under this section, including information such as restricted data (as defined in section 2014(y)) and information covered by the Privacy Act.''.

(b) DEPARTMENT OF LABOR RESPONSE TO THE OFFICE OF THE OMBUDSMAN ANNUAL REPORT.—Section 3686 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7385s-15) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g), the following:

''(h) RESPONSE TO REPORT.—Not later than 90 days after the publication of the annual report under subsection (e), the Department of Labor shall submit an answer in writing on whether the Department agrees or disagrees with the specific issues raised by the Ombudsman, if the Department agrees, on the actions to be taken to correct the problems identified by the Ombudsman, and if the Department does not agree, on the reasons therefore. The Department of Labor shall post such answer on the public Internet website of the Department.''.

SA 4627. Mrs. MURRAY (for herself, Mr. BROWNBACK, Ms. CANTWELL, and Mr. GRAHAM) submitted an amendment intended to be proposed by her to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title VIII, add the following:

SEC. 858. CONSIDERATION OF UNFAIR COMPETITIVE ADVANTAGE IN EVALUATION OF OFFERS FOR KC–X AERIAL REFUELING AIRCRAFT PROGRAM.

(a) REQUIREMENT TO CONSIDER UNFAIR COMPETITIVE ADVANTAGE.—In awarding a contract for the KC–X aerial refueling aircraft

program (or any successor to that program), the Secretary of Defense shall, in evaluating any offers submitted to the Department of Defense in response to a solicitation for offers for such program, consider any unfair competitive advantage that an offeror may possess.

(b) REPORT.—Not later than 60 days after submission of offers in response to any such solicitation, the Secretary of Defense shall submit to the congressional defense committees a report on any unfair competitive advantage that any offeror may possess.

(c) REQUIREMENT TO TAKE FINDINGS INTO ACCOUNT IN AWARD OF CONTRACT.—In awarding a contract for the KC–X aerial refueling aircraft program (or any successor to that program), the Secretary of Defense shall take into account the findings of the report submitted under subsection (b).

(d) UNFAIR COMPETITIVE ADVANTAGE.—In this section, the term ''unfair competitive advantage'', with respect to an offer for a contract, means a situation in which the cost of development, production, or manufacturing is not fully borne by the offeror for such contract.

SA 4628. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 648, between lines 10 and 11, insert the following:

SEC. 3133. OIL AND GAS PRODUCTION ON DEPARTMENT OF DEFENSE LAND.

Section 35 of the Mineral Leasing Act (30 U.S.C. 191) is amended—

(1) in the first sentence of subsection (a), by striking ''All money received'' and inserting ''Subject to subsection (d), all money received''; and

(2) by adding at the end the following:

''(d) CERTAIN SALES, BONUSES, AND ROYALTIES.—

''(1) IN GENERAL.—The Secretary of the Treasury shall transfer to the Secretary of Defense the amounts received under subsection (a) from oil and gas production carried out on land that is occupied by, or title to which is held by, a military installation.

''(2) USE OF FUNDS.—Any amount received by the Secretary of Defense under paragraph (1) shall be used to offset costs of military installations for—

''(A) administrative operations; and

''(B) the maintenance and repair of facilities and infrastructure of military installations.''.

SA 4629. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division A, add the following:

TITLE XVI—PREVENTION AND RESPONSE TO SEXUAL OFFENSES IN THE ARMED FORCES

SEC. 1601. ENHANCEMENT OF PROCEDURES FOR COMMUNICATIONS BY MEMBERS OF THE ARMED FORCES REGARDING ALLEGATIONS OF SEXUAL ASSAULT AND OTHER SEXUAL OFFENSES.

(a) JUDGE ADVOCATES TO BE RECIPIENTS OF RESTRICTED REPORTING OF ALLEGATIONS WITHOUT TRIGGERING OFFICIAL INVESTIGATIVE PROCESS.—The officials who are authorized to receive a restricted reporting by a member of the Armed Forces of an allegation of a sexual offense without resulting in the initiation of an official investigative process with respect to the allegation shall include judge advocates.

(b) PRIVILEGED NATURE OF COMMUNICATIONS BETWEEN MEMBERS AND VICTIM ADVOCATES.—

(1) IN GENERAL.—The Secretary of Defense shall modify the Military Rules of Evidence to provide that a member of the Armed Forces who alleges a sexual offense shall have the privilege to refuse to disclose, and to prevent any other person from disclosing, a confidential communication made between the member and a Victim Advocate (VA), in a case arising under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), or chapter 47A of title 10, United States Code (relating to military commissions), if the communication was made for the purpose of facilitating victim advocacy for the member with respect to the allegation. The privilege shall be similar in scope and exceptions, and the privilege shall be administered in a manner similar, to the psychotherapist-patient privilege under Rule 513 of the Military Rules of Evidence.

(2) CONFIDENTIAL DEFINED.—In this subsection, the term ''confidential'', in the case of a communication, means not intended to be disclosed to third persons other than those to whom disclosure is in furtherance of victim advocacy or those reasonably necessary for the transmission of the communication.

(c) OTHER DEFINITIONS.—In this section, the terms ''official investigative process'', ''restricted reporting'', and ''unrestricted reporting'' have the meaning given such terms in Department of Defense Directive 6495.01, dated October 6, 2005 (as amended).

SEC. 1602. PROVISION TO VICTIMS OF RECORDS OF PROCEEDINGS OF COURT-MARTIAL INVOLVING SEXUAL ASSAULT OR OTHER SEXUAL OFFENSES.

(a) PROVISION ON REQUEST.—A member of the Armed Forces who testifies as a victim thereof in a court-martial involving a sexual offense shall, upon request, be provided a copy of the prepared record of proceedings of the court-martial as soon as is practicable after the authentication of such record. The record shall be provided the member without charge to the member.

(b) NOTICE OF OPPORTUNITY TO REQUEST RECORD.—Each member who testifies as a victim in a court-martial described in subsection (a) shall be informed, in writing, of the opportunity to request a record of proceedings of the court-martial pursuant to that subsection.

SEC. 1603. EXPEDITED CONSIDERATION OF APPLICATION FOR PERMANENT CHANGE OF STATION OR UNIT TRANSFER FOR VICTIMS OF SEXUAL ASSAULT OR OTHER SEXUAL OFFENSES.

(a) IN GENERAL.—Under such regulations as the Secretary of the military department concerned shall prescribe, such Secretary shall, to the maximum extent practicable, ensure the expedited consideration of an application of a member of the Armed Forces described in subsection (b) for a permanent change or station or unit transfer.

(b) COVERED MEMBERS.—A member described in this subsection is a member of the Armed Forces on active duty who is the victim of a sexual offense committed by another member of the Armed Forces.

SEC. 1604. REQUIREMENTS AND LIMITATIONS REGARDING SEXUAL ASSAULT RESPONSE COORDINATORS AND VICTIM ADVOCATES.

(a) PERSONNEL DISCHARGING SARC FUNCTIONS.—

(1) IN GENERAL.—Each Sexual Assault Response Coordinator (SARC) shall be a member of the Armed Forces on active duty or a full-time civilian employee of the Department of Defense.

(2) PROHIBITION ON DISCHARGE BY CONTRACTOR PERSONNEL.—A contractor or employee of a contractor of the Federal Government may not serve or act as, or discharge the functions of, a Sexual Assault Response Coordinator.

(b) PERSONNEL DISCHARGING VA FUNCTIONS.—Each Victim Advocate (VA) shall be a member of the Armed Forces on active duty or a full-time civilian employee of the Department of Defense.

(c) MINIMUM NUMBER OF SARCS AND VAS.—Each brigade or similar unit of the Armed Forces shall be assigned the following:

(1) At least one Sexual Assault Response Coordinator.

(2) At least one Victim Advocate.

(d) TRAINING AND CERTIFICATION.—

(1) IN GENERAL.—The Secretary of Defense shall, in consultation with the Office for Victims of Crime of the Department of Justice, carry out a program as follows:

(A) To provide uniform training for all individuals who will serve as Sexual Assault Response Coordinators on matters relating to sexual assault in the Armed Forces.

(B) To provide uniform training for all individuals who will serve as Victim Advocates on matters relating to sexual assault in the Armed Forces

(C) To certify individuals who successfully complete training provided pursuant to subparagraph (A) or (B) as qualified for the discharge of the functions of Sexual Assault Response Coordinator or Victim Advocate, as the case may be.

(2) COMMENCEMENT OF TRAINING AND CERTIFICATION REQUIREMENTS.—Commencing one year after the date of the enactment of this Act, an individual may not serve as a Sexual Assault Response Coordinator or Victim Advocate unless the individual has undergone training provided under subparagraph (A) or (B), as applicable, of paragraph (1) and been certified under subparagraph (C) of that paragraph.

(e) DEFINITIONS.—In this section, the term ''Sexual Assault Response Coordinator'' and ''Victim Advocate'' have the meaning given such terms in Department of Defense Directive 6495.01, dated October 6, 2005 (as amended).

SEC. 1605. REQUIREMENTS FOR THE SEXUAL ASSAULT PREVENTION AND RESPONSE PROGRAM.

(a) SES POSITION FOR DIRECTOR OF SAPRO.—The position of Director of the Sexual Assault Prevention and Response Office (SAPRO) of the Department of Defense shall be a position in the Senior Executive Service (SES).

(b) STANDARDIZATION OF PROGRAM.—The Secretary of Defense shall take appropriate actions to standardize and update programs and activities relating to sexual assault prevention and response across the Armed Forces and the military departments. Such actions shall include the following:

(1) The establishment of common organizational structures for organizations in the Armed Forces and the military departments responsible for sexual assault prevention and

response activities in order to achieve commonality in the structure of such organizations and their discharge of their functions.

(2) The standardization of terminology on sexual assault prevention and response to be utilized by the organizations described in paragraph (1), the Armed Forces, and the military departments.

(3) The establishment of position descriptions for positions in the Armed Forces and the military departments charged with sexual assault prevention and response duties, and the specification of the responsibilities of such positions.

(4) The establishment of minimum standards for programs and activities of the Armed Forces and the military departments relating to sexual assault prevention and response.

(5) Such other actions as the Secretary considers appropriate.

SEC. 1606. DATABASE ON SEXUAL ASSAULT INCIDENTS.

(a) DATABASE REQUIRED.—

(1) IN GENERAL.—Chapter 80 of title 10, United States Code, is amended by inserting after section 1562 the following new section:

''§ 1562a. Database on sexual assault incidents

''(a) DATABASE REQUIRED.—The Secretary of Defense shall maintain a centralized, case-level database for the collection, in a manner consistent with Department of Defense regulations for restricted reporting and maintenance of information regarding sexual assaults involving a member of the armed forces, including information, if available, about the nature of the assault, the victim, the offender, and the outcome of any legal proceedings in connection with the assault.

''(b) AVAILABILITY OF DATABASE.—The database required by subsection (a) shall be available to personnel of the Sexual Assault Prevention and Response Office of the Department of Defense.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 80 of such title is amended by inserting after the item relating to section 1562 the following new item:

''1562a. Database on sexual assault incidents.''.

(b) COMPLETION OF IMPLEMENTATION.—The Secretary of Defense shall complete implementation of the database required by section 1562a of title 10, United States Code (as added by subsection (a)), not later than one year after the date of the enactment of this Act.

SEC. 1607. DEDICATED TELEPHONE LINE FOR REPORTING OF SEXUAL ASSAULT INVOLVING MEMBERS OF THE ARMED FORCES.

(a) TELEPHONE LINE REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall establish a toll-free telephone number (commonly referred to as an ''800 number''), staffed by appropriately trained personnel, through which reports may be made of allegations of a sexual offense as follows:

(1) Allegations by a member of the Armed Forces, regardless of where serving, of being a victim of sexual assault, whether or not committed by another member of the Armed Forces.

(2) Allegations by any person of being a victim of a sexual offense committed by a member of the Armed Forces.

(b) OUTREACH.—The Secretary shall conduct appropriate outreach to inform members of the Armed Forces and the public of the toll-free telephone number required by subsection (a).

SEC. 1608. SEXUAL ASSAULT PREVENTION AND RESPONSE TRAINING IN PROFESSIONAL MILITARY EDUCATION.

The Secretary of Defense shall, in consultation with the Secretaries of the military departments, ensure that training on sexual assault prevention and response is provided to members of the Armed Forces at each level of professional military education (PME) for members of the Armed Forces. Such training shall, to the extent practicable, be uniform across the Armed Forces.

SEC. 1609. ENHANCED TRAINING FOR JUDGE ADVOCATES ON INVESTIGATION AND PROSECUTION OF SEXUAL ASSAULT AND OTHER SEXUAL OFFENSES.

The Secretary of Defense shall provide appropriate enhancements in the training of judge advocates who serve as trial counsel in order to improve the capabilities of such judge advocates in the investigation and prosecution of cases involving a sexual offense.

SEC. 1610. DEFINITIONS.

In this title:

(1) The term ''sexual assault'' has the meaning given that term in Department of Defense Directive 6495.01, dated October 6, 2005 (as amended).

(2) The term ''sexual offense'' means an offense under section 920, 920b, or 920c of title 10, United States Code (article 120, 120b, or 120c of the Uniform Code of Military Justice), as amended by section 561 of this Act.

SA 4630. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title XII, add the following:

SEC. 1205. INCLUSION OF ADDITIONAL COMMITTEES OF CONGRESS IN NOTIFICATION AND REPORTING REQUIREMENTS ON USE OF AUTHORITY FOR SUPPORT OF SPECIAL OPERATIONS TO COMBAT TERRORISM.

Section 1208 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2086), as most recently amended by section 1202 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2511), is further amended—

(1) in subsections (b), (c)(1), and (f), by striking ''congressional defense committees'' and inserting ''committees of Congress specified in subsection (i)''; and

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

''(i) COMMITTEES OF CONGRESS.—The committees of Congress specified in this subsection are the following:

''(1) The congressional defense committees.

''(2) The Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

''(3) The Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.''.

SA 4631. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 209, between lines 5 and 6, insert the following:

SEC. 594. EXCEPTION TO ONE-YEAR PHYSICAL PRESENCE REQUIREMENT FOR ADJUSTMENT OF STATUS FOR ALIENS GRANTED ASYLUM AND EMPLOYED OVERSEAS BY THE FEDERAL GOVERNMENT.

(a) SHORT TITLE.—This section may be cited as the ''Refugee Opportunity Act''.

(b) AMENDMENT.—Section 209 of the Immigration and Nationality Act (8 U.S.C. 1159) is amended—

(1) in subsection (a)(1)(B), by inserting ''(except as provided under subsection (d))'' after ''one year'';

(2) in subsection (b)(2), by inserting ''(except as provided under subsection (d)),'' after ''asylum''; and

(3) by adding at the end the following:

''(d) An alien who does not meet the 1-year physical presence requirement under subsection (a)(1)(B) or (b)(2), but who otherwise meets the requirements under subsection (a) or (b) for adjustment of status to that of an alien lawfully admitted for permanent residence, may be eligible for such adjustment of status if the alien—

''(1)(A) is or was employed by the United States Government or a contractor of the United States Government outside of the United States and performing work on behalf of the United States Government for the entire period of absence, which may not exceed 1 year; or

''(B)(i) is or was employed by the United States Government or a contractor of the United States Government in the alien's country of nationality or last habitual residence for the entire period of absence, which may not exceed 1 year; and

''(ii) was under the protection of the United States Government or a contractor while performing work on behalf of the United States Government during the entire period of such employment; and

''(2) returned immediately to the United States upon the conclusion of such employment.''.

(c) DETERMINATION OF BUDGETARY EFFECTS.—The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

SA 4632. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

DIVISION E—DATA PRIVACY

SEC. 5001. SHORT TITLE.

This division may be cited as the ''Personal Data Privacy and Security Act of 2010''.

SEC. 5002. 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 confidentiality 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 ensure 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. 5003. DEFINITIONS.

In this division, the following definitions shall apply:

(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, or venture established to make a profit, or nonprofit.

(4) IDENTITY THEFT.—The term ''identity theft'' means a violation of section 1028(a)(7) of title 18, United States Code.

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

(6) DATA FURNISHER.—The term ''data furnisher'' means any agency, organization, corporation, trust, partnership, sole proprietorship, unincorporated association, or nonprofit that serves as a source of information for a data broker.

(7) ENCRYPTION.—The term ''encryption''—

(A) means the protection of data in electronic form, in storage or in transit, using an encryption technology that has been adopted by a widely accepted standards setting body or, has been widely accepted as an effective industry practice which renders such data indecipherable in the absence of associated cryptographic keys necessary to enable decryption of such data; and

(B) includes appropriate management and safeguards of such cryptographic keys so as to protect the integrity of the encryption.

(8) PERSONAL ELECTRONIC RECORD.—

(A) IN GENERAL.—The term ''personal electronic record'' means data associated with an individual contained in a database, networked or integrated databases, or other data system that is provided by a data broker to nonaffiliated third parties and includes personally identifiable information about that individual.

(B) EXCLUSIONS.—The term ''personal electronic record'' does not include—

(i) any data related to an individual's past purchases of consumer goods; or

(ii) any proprietary assessment or evaluation of an individual or any proprietary assessment or evaluation of information about an individual.

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

(10) PUBLIC RECORD SOURCE.—The term ''public record source'' means the Congress, any agency, any State or local government agency, the government of the District of Columbia and governments of the territories or possessions of the United States, and Federal, State or local courts, courts martial and military commissions, that maintain personally identifiable information in records available to the public.

(11) SECURITY BREACH.—

(A) IN GENERAL.—The term ''security breach'' means compromise of the security, confidentiality, or integrity of computerized data through misrepresentation or actions—

(i) that result in, or that there is a reasonable basis to conclude has resulted in—

(I) the unauthorized acquisition of sensitive personally identifiable information; and

(II) access to sensitive personally identifiable information that is for an unauthorized purpose, or in excess of authorization; and

(ii) which present a significant risk of harm or fraud to any individual.

(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;

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

(iii) any lawfully authorized investigative, protective, or intelligence activity of a law enforcement or intelligence agency of the United States.

(12) 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 first and last name or first initial and last name in combination with any 1 of the following data elements:

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

(ii) Any 2 of the following:

(I) Home address or telephone number.

(II) Mother's maiden name.

(III) 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 account identifier, electronic identification number, user name, or routing code in combination with any associated security code, access code, or password if the code or password is required for an individual to obtain money, goods, services, or any other thing of value; or

(B) a financial account number or credit or debit card number in combination with any security code, access code, or password that is required for an individual to obtain credit, withdraw funds, or engage in a financial transaction.

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

SEC. 5101. 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 (relating to fraud and related activity in connection with computers) if the act is a felony,'' before ''section 1084''.

SEC. 5102. 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:

''§ 1041. Concealment of security breaches involving sensitive personally identifiable information

''(a) Whoever, having knowledge of a security breach and having the obligation to provide notice of such breach to individuals under title III of the Personal Data Privacy and Security Act of 2010, and having not otherwise qualified for an exemption from providing notice under section 312 of such Act, intentionally and willfully conceals the fact of such security breach and which breach causes economic damage 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' has the same meaning as in section 1030(e)(12) of title 18, United States Code.

''(c) Any person seeking an exemption under section 312(b) of the Personal Data Privacy and Security Act of 2010 shall be immune from prosecution under this section if the United States Secret Service does not indicate, in writing, that such notice be given under section 312(b)(3) of such Act.''.

(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:

''1041. Concealment of security breaches involving personally identifiable information.''.

(c) ENFORCEMENT AUTHORITY.—

(1) IN GENERAL.—The United States Secret Service shall have the authority to investigate offenses under this section.

(2) NONEXCLUSIVITY.—The authority granted in paragraph (1) shall not be exclusive of any existing authority held by any other Federal agency.

SEC. 5103. PENALTIES FOR FRAUD AND RELATED ACTIVITY IN CONNECTION WITH COMPUTERS.

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

(1) by inserting ''or conspiracy'' after ''or an attempt'' each place it appears, except for paragraph (4);

(2) in paragraph (2)(B)—

(A) in clause (i), by inserting '', or attempt or conspiracy or conspiracy to commit an offense,'' after ''the offense'';

(B) in clause (ii), by inserting '', or attempt or conspiracy or conspiracy to commit an offense,'' after ''the offense''; and

(C) in clause (iii), by inserting ''(or, in the case of an attempted offense, would, if completed, have obtained)'' after ''information obtained''; and

(3) in paragraph (4)—

(A) in subparagraph (A)—

(i) by striking clause (ii);

(ii) by striking ''in the case of—'' and all that follows through ''an offense under subsection (a)(5)(B)'' and inserting ''in the case of an offense, or an attempt or conspiracy to commit an offense, under subsection (a)(5)(B)'';

(iii) by inserting ''or conspiracy'' after ''if the offense'';

(iv) by redesignating subclauses (I) through (VI) as clauses (i) through (vi), respectively, and adjusting the margin accordingly; and

(v) in clause (vi), as so redesignated, by striking ''; or'' and inserting a semicolon;

(B) in subparagraph (B)—

(i) by striking clause (ii);

(ii) by striking ''in the case of—'' and all that follows through ''an offense under subsection (a)(5)(A)'' and inserting ''in the case of an offense, or an attempt or conspiracy to commit an offense, under subsection (a)(5)(A)'';

(iii) by inserting ''or conspiracy'' after ''if the offense''; and

(iv) by striking ''; or'' and inserting a semicolon;

(C) in subparagraph (C)—

(i) by striking clause (ii);

(ii) by striking ''in the case of—'' and all that follows through ''an offense or an attempt to commit an offense'' and inserting ''in the case of an offense, or an attempt or conspiracy to commit an offense,''; and

(iii) by striking ''; or'' and inserting a semicolon;

(D) in subparagraph (D)—

(i) by striking clause (ii);

(ii) by striking ''in the case of—'' and all that follows through ''an offense or an attempt to commit an offense'' and inserting ''in the case of an offense, or an attempt or conspiracy to commit an offense,''; and

(iii) by striking ''; or'' and inserting a semicolon;

(E) in subparagraph (E), by inserting ''or conspires'' after ''offender attempts'';

(F) in subparagraph (F), by inserting ''or conspires'' after ''offender attempts''; and

(G) in subparagraph (G)(ii), by inserting ''or conspiracy'' after ''an attempt''.

SEC. 5104. EFFECTS OF IDENTITY THEFT ON BANKRUPTCY PROCEEDINGS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by redesignating paragraph (27B) as paragraph (27D); and

(2) by inserting after paragraph (27A) the following:

''(27) The term 'identity theft' means a fraud committed or attempted using the personally identifiable information of another person.

''(28) The term 'identity theft victim' means a debtor who, as a result of an identify theft in any consecutive 12-month period during the 3-year period before the date on which a petition is filed under this title, had claims asserted against such debtor in excess of the least of—

''(A) $20,000;

''(B) 50 percent of all claims asserted against such debtor; or

''(C) 25 percent of the debtor's gross income for such 12-month period.''.

(b) PROHIBITION.—Section 707(b) of title 11, United States Code, is amended by adding at the end the following:

''(8) No judge, United States trustee (or bankruptcy administrator, if any), trustee, or other party in interest may file a motion under paragraph (2) if the debtor is an identity theft victim.''.

TITLE II—DATA BROKERS

SEC. 5201. 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 or use of personally identifiable information.

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

(1) any product or service offered by a data broker engaging in interstate commerce where such product or service is currently subject to, and in compliance with, access and accuracy protections similar to those under subsections (c) through (e) of this section under the Fair Credit Reporting Act (Public Law 91–508);

(2) any data broker that is subject to regulation under the Gramm-Leach-Bliley Act (Public Law 106–102);

(3) any data broker currently subject to and in compliance with the data security requirements for such entities under the Health Insurance Portability and Accountability Act (Public Law 104–191), and its implementing regulations;

(4) any data broker subject to, and in compliance with, the privacy and data security requirements under sections 13401 and 13404 of division A of the American Reinvestment and Recovery Act of 2009 (42 U.S.C. 17931 and 17934) and implementing regulations promulgated under such sections;

(5) information in a personal electronic 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 nonaffiliated third parties;

(6) information concerning proprietary methodologies, techniques, scores, or algorithms relating to fraud prevention not normally provided to third parties in the ordinary course of business; and

(7) information that is used for legitimate governmental or fraud prevention purposes that would be compromised by disclosure to the individual.

(c) DISCLOSURES TO INDIVIDUALS.—

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

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

(d) DISCLOSURE TO INDIVIDUALS OF ADVERSE ACTIONS TAKEN BY THIRD PARTIES.—

(1) IN GENERAL.—If a person takes any adverse action with respect to any individual that is based, in whole or in part, on any information contained in a personal electronic record, the person, at no cost to the affected individual, shall provide—

(A) written or electronic notice of the adverse action to the individual;

(B) to the individual, in writing or electronically, the name, address, and telephone number of the data broker (including a toll-free telephone number established by the data broker, if the data broker complies and maintains data on individuals on a nationwide basis) that furnished the information to the person;

(C) a copy of the information such person obtained from the data broker; and

(D) information to the individual on the procedures for correcting any inaccuracies in such information.

(2) ACCEPTED METHODS OF NOTICE.—A person shall be in compliance with the notice requirements under paragraph (1) if such person provides written or electronic notice in the same manner and using the same methods as are required under section 5313(1) of this Act.

(e) ACCURACY RESOLUTION PROCESS.—

(1) INFORMATION FROM A PUBLIC RECORD OR LICENSOR.—

(A) IN GENERAL.—If an individual notifies a data broker of a dispute as to the completeness or accuracy of information disclosed to such individual under subsection (c) that is obtained from a public record source or a license agreement, such data broker shall determine within 30 days whether the information in its system accurately and completely records the information available from the licensor or public record source.

(B) DATA BROKER ACTIONS.—If a data broker determines under subparagraph (A) that the information in its systems does not accurately and completely record the information available from a public record source or licensor, the data broker shall—

(i) correct any inaccuracies or incompleteness, and provide to such individual written notice of such changes; and

(ii) provide such individual with the contact information of the public record or licensor.

(2) INFORMATION NOT FROM A PUBLIC RECORD SOURCE OR LICENSOR.—If an individual notifies a data broker of a dispute as to the completeness or accuracy of information not from a public record or licensor that was disclosed to the individual under subsection (c), the data broker shall, within 30 days of receiving notice of such dispute—

(A) review and consider free of charge any information submitted by such individual that is relevant to the completeness or accuracy of the disputed information; and

(B) correct any information found to be incomplete or inaccurate and provide notice to such individual of whether and what information was corrected, if any.

(3) EXTENSION OF REVIEW PERIOD.—The 30-day period described in paragraph (1) may be extended for not more than 30 additional days if a data broker receives information from the individual during the initial 30-day period that is relevant to the completeness or accuracy of any disputed information.

(4) NOTICE IDENTIFYING THE DATA FURNISHER.—If the completeness or accuracy of any information not from a public record source or licensor that was disclosed to an individual under subsection (c) is disputed by such individual, the data broker shall provide, upon the request of such individual, the contact information of any data furnisher that provided the disputed information.

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

(A) IN GENERAL.—Notwithstanding paragraphs (1) through (3), a data broker may decline to investigate or terminate a review of information disputed by an individual under those paragraphs if the data broker reasonably determines that the dispute by the individual is frivolous or intended to perpetrate fraud.

(B) NOTICE.—A data broker shall notify an individual of a determination under subparagraph (A) within a reasonable time by any means available to such data broker.

SEC. 5202. ENFORCEMENT.

(a) CIVIL PENALTIES.—

(1) PENALTIES.—Any data broker that violates the provisions of section 5201 shall be subject to civil penalties of not more than $1,000 per violation per day while such violations persist, up to a maximum of $250,000 per violation.

(2) INTENTIONAL OR WILLFUL VIOLATION.—A data broker that intentionally or willfully violates the provisions of section 5201 shall be subject to additional penalties in the amount of $1,000 per violation per day, to a maximum of an additional $250,000 per violation, 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) FEDERAL TRADE COMMISSION AUTHORITY.—Any data broker shall have the provisions of this title enforced against it by the Federal Trade Commission.

(c) STATE ENFORCEMENT.—

(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 acts or practices of a data broker that violate 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; or

(C) obtain civil penalties of not more than $1,000 per violation per day while such violations persist, up to a maximum of $250,000 per violation.

(2) NOTICE.—

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

(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 subparagraph (A) 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 Federal Trade Commission as soon after the filing of the complaint as practicable.

(3) FEDERAL TRADE COMMISSION AUTHORITY.—Upon receiving notice under paragraph (2), the Federal Trade Commission 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 Federal Trade Commission has instituted a proceeding or civil action for a violation of this title, no attorney general of a State may, during the pendency of such proceeding or civil action, bring an action under this subsection against any defendant named in such civil action for any violation that is alleged in that civil 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 1391 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. 5203. 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 5201, relating to individual access to, and correction of, personal electronic records held by data brokers.

SEC. 5204. EFFECTIVE DATE.

This title shall take effect 180 days after the date of enactment of this Act.

TITLE III—PRIVACY AND SECURITY OF PERSONALLY IDENTIFIABLE INFORMATION

Subtitle A—A Data Privacy and Security Program

SEC. 5301. 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 security 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 5302 for protecting sensitive personally identifiable information.

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

(1) FINANCIAL INSTITUTIONS.—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 division by a Federal Functional Regulator or State Insurance Authority (as those terms are 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.

(2) HIPPA REGULATED ENTITIES.—

(A) COVERED ENTITIES.—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.

(B) BUSINESS ENTITIES.—A Business entity shall be deemed in compliance with this Act if the business entity—

(i) is acting as a business associate, as that term is defined under the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1301 et seq.) and is in compliance with the requirements imposed under that Act and implementing regulations promulgated under that Act; and

(ii) is subject to, and currently in compliance, with the privacy and data security requirements under sections 13401 and 13404 of division A of the American Reinvestment and Recovery Act of 2009 (42 U.S.C. 17931 and 17934) and implementing regulations promulgated under such sections.

(3) PUBLIC RECORDS.—Public records not otherwise subject to a confidentiality or nondisclosure requirement, or information obtained from a news report or periodical.

(d) SAFE HARBORS.—

(1) IN GENERAL.—A business entity shall be deemed in compliance with the privacy and security program requirements under section 5302 if the business entity complies with or provides protection equal to industry standards or widely accepted as an effective industry practice, 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.

(2) LIMITATION.—Nothing in this subsection shall be construed to permit, and nothing does permit, the Federal Trade Commission to issue regulations requiring, or according greater legal status to, the implementation of or application of a specific technology or technological specifications for meeting the requirements of this title.

SEC. 5302. REQUIREMENTS FOR A PERSONAL DATA PRIVACY AND SECURITY PROGRAM.

(a) PERSONAL DATA PRIVACY AND SECURITY PROGRAM.—A business entity subject to this subtitle shall comply with the following safeguards and any other administrative, technical, or physical safeguards identified by the Federal Trade Commission in a rulemaking process pursuant to section 553 of title 5, United States Code, for the protection 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 sensitive personally identifying information;

(B) protect against any anticipated vulnerabilities to the privacy, security, or integrity of sensitive personally identifying information; and

(C) protect against unauthorized access to use of sensitive personally identifying information that could create a significant risk of harm or fraud 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;

(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; and

(D) assess the vulnerability of sensitive personally identifiable information during destruction and disposal of such information, including through the disposal or retirement of hardware.

(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, record, and preserve information relevant to 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;

(iii) protect sensitive personally identifiable information during use, transmission, storage, and disposal by encryption, redaction, or access controls that are widely accepted as an effective industry practice or industry standard, 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);

(iv) ensure that sensitive personally identifiable information is properly destroyed and disposed of, including during the destruction of computers, diskettes, and other electronic media that contain sensitive personally identifiable information;

(v) trace access to records containing sensitive personally identifiable information so that the business entity can determine who accessed or acquired such sensitive personally identifiable information pertaining to specific individuals; and

(vi) ensure that no third party or customer of the business entity is authorized to access or acquire sensitive personally identifiable information without the business entity first performing sufficient due diligence to ascertain, with reasonable certainty, that such information is being sought for a valid legal purpose.

(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 section 5302, this section, 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 TIMELINE.—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. 5303. ENFORCEMENT.

(a) CIVIL PENALTIES.—

(1) IN GENERAL.—Any business entity that violates the provisions of sections 5301 or 5302 shall be subject to civil penalties of not more than $5,000 per violation per day while such a violation exists, with a maximum of $500,000 per violation.

(2) INTENTIONAL OR WILLFUL VIOLATION.—A business entity that intentionally or willfully violates the provisions of sections 5301 or 5302 shall be subject to additional penalties in the amount of $5,000 per violation per day while such a violation exists, with a maximum of an additional $500,000 per violation.

(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) FEDERAL TRADE COMMISSION AUTHORITY.—Any business entity shall have the provisions of this subtitle enforced against it by the Federal Trade Commission.

(c) STATE ENFORCEMENT.—

(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 acts or practices of a business entity that violate 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; or

(C) obtain civil penalties of not more than $5,000 per violation per day while such violations persist, up to a maximum of $500,000 per violation.

(2) NOTICE.—

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

(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 Federal Trade Commission as soon after the filing of the complaint as practicable.

(3) FEDERAL TRADE COMMISSION AUTHORITY.—Upon receiving notice under paragraph (2), the Federal Trade Commission 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 Federal Trade Commission 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 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 subtitle 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 1391 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 subtitle establishes a private cause of action against a business entity for violation of any provision of this subtitle.

SEC. 5304. RELATION TO OTHER LAWS.

(a) IN GENERAL.—No State may require any business entity subject to this subtitle to comply with any requirements with respect

to administrative, technical, and physical safeguards for the protection of sensitive personally identifying information.

(b) LIMITATIONS.—Nothing in this subtitle shall be construed to modify, limit, or supersede the operation of the Gramm-Leach-Bliley Act or its implementing regulations, including those adopted or enforced by States.

Subtitle B—Security Breach Notification

SEC. 5311. 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 of such information, notify any resident of the United States whose sensitive personally identifiable information has been, or is reasonably believed to have been, accessed, or acquired.

(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 involving such information.

(2) NOTICE BY OWNER, LICENSEE OR OTHER DESIGNATED THIRD PARTY.—Nothing 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 the discovery by the agency or business entity of a security breach.

(2) REASONABLE DELAY.—Reasonable delay under this subsection may include any time necessary to determine the scope of the security breach, prevent further disclosures, conduct the risk assessment described in section 5302(a)(3), and restore the reasonable integrity of the data system and provide notice to law enforcement when required.

(3) BURDEN OF PRODUCTION.—The agency, business entity, owner, or licensee required to provide notice under this subtitle shall, upon the request of the Attorney General, provide records or other evidence of the notifications required under this subtitle, including to the extent applicable, the reasons for any delay of notification.

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

(1) IN GENERAL.—If a Federal law enforcement or intelligence agency determines that the notification required under this section would impede a criminal investigation, such notification shall be delayed upon written notice from such Federal law enforcement or intelligence agency to the agency or business entity that experienced the breach.

(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 Federal law enforcement or intelligence agency provides written notification that further delay is necessary.

(3) LAW ENFORCEMENT IMMUNITY.—No cause of action shall lie in any court against any law enforcement agency for acts relating to the delay of notification for law enforcement purposes under this subtitle.

SEC. 5312. EXEMPTIONS.

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

(1) IN GENERAL.—Section 5311 shall not apply to an agency or business entity if the agency or business entity certifies, in writing, that notification of the security breach as required by section 5311 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.—An agency or business entity 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 an agency or business agency issues a certification under paragraph (1), the certification, accompanied by a description of the factual basis for the certification, shall be immediately provided to the United States Secret Service and the Federal Bureau of Investigation.

(4) SECRET SERVICE AND FBI REVIEW OF CERTIFICATIONS.—

(A) IN GENERAL.—The United States Secret Service or the Federal Bureau of Investigation may review a certification provided by an agency under paragraph (3), and shall review a certification provided by a business entity under paragraph (3), to determine whether an exemption under paragraph (1) is merited. Such review shall be completed not later than 10 business days after the date of receipt of the certification, except as provided in paragraph (5)(C).

(B) NOTICE.—Upon completing a review under subparagraph (A) the United States Secret Service or the Federal Bureau of Investigation shall immediately notify the agency or business entity, in writing, of its determination of whether an exemption under paragraph (1) is merited.

(C) EXEMPTION.—The exemption under paragraph (1) shall not apply if the United States Secret Service or the Federal Bureau of Investigation determines under this paragraph that the exemption is not merited.

(5) ADDITIONAL AUTHORITY OF THE SECRET SERVICE AND FBI.—

(A) IN GENERAL.—In determining under paragraph (4) whether an exemption under paragraph (1) is merited, the United States Secret Service or the Federal Bureau of Investigation may request additional information from the agency or business entity regarding the basis for the claimed exemption, if such additional information is necessary to determine whether the exemption is merited.

(B) REQUIRED COMPLIANCE.—Any agency or business entity that receives a request for additional information under subparagraph (A) shall cooperate with any such request.

(C) TIMING.—If the United States Secret Service or the Federal Bureau of Investigation requests additional information under subparagraph (A), the United States Secret Service or the Federal Bureau of Investigation shall notify the agency or business entity not later than 10 business days after the date of receipt of the additional information whether an exemption under paragraph (1) is merited.

(b) SAFE HARBOR.—An agency or business entity will be exempt from the notice requirements under section 5311, if—

(1) a risk assessment concludes that—

(A) there is no significant risk that a security breach has resulted in, or will result in, harm to the individuals whose sensitive personally identifiable information was subject to the security breach, with the encryption of such information establishing a presumption that no significant risk exists; or

(B) there is no significant risk that a security breach has resulted in, or will result in, harm to the individuals whose sensitive personally identifiable information was subject to the security breach, with the rendering of such sensitive personally identifiable information indecipherable through the use of best practices or methods, such as redaction, access controls, or other such mechanisms, which are widely accepted as an effective industry practice, or an effective industry standard, establishing a presumption that no significant risk exists;

(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 or the Federal Bureau of Investigation, the agency or business entity notifies the United States Secret Service and the Federal Bureau of Investigation, in writing, of—

(A) the results of the risk assessment; and

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

(3) the United States Secret Service or the Federal Bureau of Investigation does not indicate, in writing, within 10 business 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 5311 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 to affected individuals after a security breach that has resulted in fraud or unauthorized transactions.

(2) LIMITATION.—The exemption by this subsection does not apply if—

(A) the information subject to the security breach includes sensitive personally identifiable information, other than a credit card or credit card security code, of any type of the sensitive personally identifiable information identified in section 5003; or

(B) the security breach includes both the individual's credit card number and the individual's first and last name.

SEC. 5313. METHODS OF NOTICE.

An agency or business entity shall be in compliance with section 5311 if it provides both:

(1) INDIVIDUAL NOTICE.—Notice to individuals by 1 of the following means:

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

(B) Telephone notice to the individual personally.

(C) 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.—Notice to major media outlets serving a State or jurisdiction, if the number of residents of such State whose sensitive personally identifiable information

was, or is reasonably believed to have been, accessed or acquired by an unauthorized person exceeds 5,000.

SEC. 5314. CONTENT OF NOTIFICATION.

(a) IN GENERAL.—Regardless of the method by which notice is provided to individuals under section 5313, 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, accessed or 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 what types of sensitive personally identifiable information the agency or business entity maintained about that individual; and

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

(b) ADDITIONAL CONTENT.—Notwithstanding section 5319, a State may require that a notice under subsection (a) shall also include information regarding victim protection assistance provided for by that State.

SEC. 5315. COORDINATION OF NOTIFICATION WITH CREDIT REPORTING AGENCIES.

If an agency or business entity is required to provide notification to more than 5,000 individuals under section 5311(a), the agency or business entity shall also notify 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. Such notice shall be given to the consumer credit reporting agencies without unreasonable delay and, if it will not delay notice to the affected individuals, prior to the distribution of notices to the affected individuals.

SEC. 5316. NOTICE TO LAW ENFORCEMENT.

(a) SECRET SERVICE AND FBI.—Any business entity or agency shall notify the United States Secret Service and the Federal Bureau of Investigation of the fact that a security breach has occurred if—

(1) the number of individuals whose sensitive personally identifying information was, or is reasonably believed to have been accessed or acquired by an unauthorized person exceeds 10,000;

(2) the security breach involves a database, networked or integrated databases, or other data system containing the sensitive personally identifiable information of more than 1,000,000 individuals nationwide;

(3) the security breach involves databases owned by the Federal Government; or

(4) the security breach involves primarily sensitive personally identifiable information of individuals known to the agency or business entity to be employees and contractors of the Federal Government involved in national security or law enforcement.

(b) FTC REVIEW OF THRESHOLDS.—The Federal Trade Commission may review and adjust the thresholds for notice to law enforcement under subsection (a), after notice and the opportunity for public comment, in a manner consistent with this section.

(c) ADVANCE NOTICE TO LAW ENFORCEMENT.—Not later than 48 hours before notifying an individual of a security breach under section 5311, a business entity or agency that is required to provide notice under this section shall notify the United States Secret Service and the Federal Bureau of Investigation of the fact that the business entity or agency intends to provide the notice.

(d) NOTICE TO OTHER LAW ENFORCEMENT AGENCIES.—The United States Secret Service and the Federal Bureau of Investigation shall be responsible for notifying—

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

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

(3) the Federal Trade Commission, if the security breach involves consumer reporting agencies subject to the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), or anticompetitive conduct.

(e) TIMING OF NOTICES.—The notices required under this section shall be delivered as follows:

(1) Notice under subsection (a) shall be delivered as promptly as possible, but not later than 14 days after discovery of the events requiring notice.

(2) Notice under subsection (d) shall be delivered not later than 14 days after the Service receives notice of a security breach from an agency or business entity.

SEC. 5317. ENFORCEMENT.

(a) CIVIL ACTIONS BY THE ATTORNEY GENERAL.—The Attorney General may bring a civil action in the appropriate United States district court against any business entity that engages in conduct constituting a violation of this subtitle and, upon proof of such conduct by a preponderance of the evidence, such business entity shall be subject to a civil penalty of not more than $1,000 per day per individual whose sensitive personally identifiable information was, or is reasonably believed to have been, accessed or acquired by an unauthorized person, up to a maximum of $1,000,000 per violation, unless such conduct is found to be willful or intentional. In determining the amount of a civil penalty under this subsection, the court shall take into account the degree of culpability of the business entity, any prior violations of this subtitle by the business entity, the ability of the business entity to pay, the effect on the ability of the business entity to continue to do business, and such other matters as justice may require.

(b) INJUNCTIVE ACTIONS BY THE ATTORNEY GENERAL.—

(1) IN GENERAL.—If it appears that a business entity has engaged, or is engaged, in any act or practice constituting a violation of this subtitle, the Attorney General may petition an appropriate district court of the United States for an order—

(A) enjoining such act or practice; or

(B) enforcing compliance with this subtitle.

(2) ISSUANCE OF ORDER.—A court may issue an order under paragraph (1), if the court finds that the conduct in question constitutes a violation of this subtitle.

(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’’.

SEC. 5318. 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 a business entity in a practice that is prohibited under this subtitle, 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; or

(C) civil penalties of not more than $1,000 per day per individual whose sensitive personally identifiable information was, or is reasonably believed to have been, accessed or acquired by an unauthorized person, up to a maximum of $1,000,000 per violation, unless such conduct is found to be willful or intentional.

(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) initiate an action in the appropriate United States district court under section 5317 and move to consolidate all pending actions, including State actions, in such court;

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

(4) 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 business entity for violation of any provision of this subtitle.

SEC. 5319. 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 by a business entity engaged in interstate commerce or an agency of a security breach, except as provided in section 5314(b).

SEC. 5320. 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. 5321. REPORTING ON RISK ASSESSMENT EXEMPTIONS.

The United States Secret Service and the Federal Bureau of Investigation 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—

(1) the number and nature of the security breaches described in the notices filed by those business entities invoking the risk assessment exemption under section 5312(b) and the response of the United States Secret Service and the Federal Bureau of Investigation to such notices; and

(2) the number and nature of security breaches subject to the national security and law enforcement exemptions under section 5312(a), provided that such report may not disclose the contents of any risk assessment provided to the United States Secret Service and the Federal Bureau of Investigation pursuant to this subtitle.

SEC. 5322. 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 IV—GOVERNMENT ACCESS TO AND USE OF COMMERCIAL DATA

SEC. 5401. 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 security 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 III; 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 III 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 and maintain appropriate measures designed to meet the objectives and requirements in title III.

(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 or licensor.

SEC. 5402. 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 5003 of the Personal Data Privacy and Security Act of 2010) and ensuring remedial action to address any significant deficiencies.''.

SEC. 5403. 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 5003 of the Personal Data Privacy and Security Act of 2010).''.

(b) LIMITATION.—Notwithstanding any other provision of law, commencing 1 year after the date of enactment of this Act, no Federal 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 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 III; 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; and

(B) requiring a data broker that engages service providers not subject to subtitle A of title III 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 and maintain appropriate measures designed to meet the objectives and requirements in title III.

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

(d) 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 actions to address the recommendations in the Government Accountability Office's April 2006 report on agency adherence to key privacy principles in using data brokers or commercial databases containing personally identifiable information.

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

SA 4633. Mr. SHELBY (for himself and Mr. SESSIONS) submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 324, between lines 6 and 7, insert the following:

SEC. 858. CONSISTENCY OF ACTIONS WITH RESPECT TO THE KC-X AERIAL REFUELING TANKER AIRCRAFT PROGRAM WITH WTO OBLIGATIONS.

The Secretary of Defense shall not undertake any action with respect to the KC-X Aerial Refueling Tanker Aircraft Program (or any successor to that program) that is inconsistent with the obligations and commitments of the United States to WTO members (as defined in section 2(10) of the Uruguay Round Agreements Act (19 U.S.C. 3501(10))) under the WTO Agreement and the agreements annexed thereto.

SA 4634. Mr. CORKER (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 58, strike line 23 and all that follows through page 61, line 20, and insert the following:

(b) POLICY OF THE UNITED STATES.—It shall be the policy of the United States—

(1) that the Phased Adaptive Approach to missile defense in Europe is an appropriate response to the existing ballistic missile threat from Iran to European territory of North Atlantic Treaty Organization countries, and to potential future ballistic missile capabilities of Iran, and, as indicated by the April 19, 2010, certification by the Under Secretary of Defense for Acquisition, Technology, and Logistics, meets congressional guidance provided in section 235 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2234);

(2) that the Phased Adaptive Approach to missile defense in Europe is not intended to, and will not, provide a missile defense capability relative to the ballistic missile deterrent forces of the Russian Federation, or diminish strategic stability with the Russian Federation;

(3) to support the efforts of the United States Government and the North Atlantic Treaty Organization to pursue cooperation with the Russian Federation on ballistic missile defense relative to Iranian missile threats;

(4) that the Ground-based Midcourse Defense (GMD) system deployed in Alaska and California currently provides adequate defensive capability for the United States against potential and forseeable future long-range ballistic missiles from Iran, and this capability will be enhanced as the system is improved, including by the planned deployment of an AN/TPY–2 radar in southern Europe in 2011;

(5) that the United States should, as stated in its unilateral statement accompanying the New START Treaty, ''continue improving and deploying its missile defense systems in order to defend itself against limited attack and as part of our collaborative approach to strengthening stability in key regions'';

(6) that, as part of this effort, the Department of Defense should pursue the development, testing, and deployment of operationally effective versions of all variants of the Standard Missile–3 for all four phases of the Phased Adaptive Approach to missile defense in Europe;

(7) that the SM–3 Block IIB interceptor missile planned for deployment in Phase 4 of the Phased Adaptive Approach should be capable of addressing the potential future threat of intermediate-range and long-range ballistic missiles from Iran, including intercontinental ballistic missiles that could be capable of reaching the United States;

(8) that there are no constraints contained in the New START Treaty on the development or deployment by the United States of effective missile defenses, including all phases of the Phased Adaptive Approach to missile defense in Europe and further enhancements to the Ground-based Midcourse Defense system, as well as future missile defenses; and

(9) that the Department of Defense should continue the development, testing, and assessment of the two-stage Ground-Based Interceptor in such a manner as to provide a hedge against potential technical challenges with the development of the SM–3 Block IIB interceptor missile as a means of augmenting the defense of Europe and of the homeland against a limited ballistic missile attack from nations such as North Korea or Iran.

(c) CERTIFICATION.—

(1) IN GENERAL.—The President shall submit to Congress a report setting forth a certification whether or not the President has taken all actions, including the provision of adequate budgetary authority, required to achieve the following:

(A) The development and deployment of each stage of the Phased Adaptive Approach on current schedule.

(B) The availability of two-stage Ground-Based Interceptors (GBIs) as a viable technical and strategic hedge if needed to add to the defense of the United States and Europe.

(C) The testing, consistent with the experience of the United States in testing other large solid-rocket motors, and the regular modernization with emerging capabilities, of three-stage Ground-Based Interceptors.

(2) FORM.—The report required by paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(d) NEW START TREATY DEFINED.—In this sec-

SA 4635. Mr. CORKER submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XII, add the following:

Subtitle D—Other Matters

SEC. 1251. SENSE OF CONGRESS REGARDING TACTICAL NUCLEAR WEAPONS.

Recognizing the difficulty the United States has faced in ascertaining with confidence the number of tactical nuclear weapons maintained by the Russian Federation and the security of those weapons, it is the sense of Congress that the President should engage the Russian Federation with the objectives of—

(1) establishing cooperative measures to give each Party to the New START Treaty improved confidence regarding the accurate accounting and security of tactical nuclear weapons maintained by the other Party; and

(2) providing United States or other international assistance to help the Russian Federation ensure the accurate accounting and security of its tactical nuclear weapons.

SA 4636. Mr. KYL (for himself, Mr. CORKER, Mr. SESSIONS, and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title XII, add the following:

SEC. 1239. IMPLEMENTATION OF MODERNIZATION PLAN FOR THE NUCLEAR WEAPONS STOCKPILE, NUCLEAR WEAPONS COMPLEX, AND DELIVERY PLATFORMS DURING THE IMPLEMENTATION PERIOD FOR THE START FOLLOW-ON AGREEMENT.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) further reductions in the nuclear forces of the United States are only prudent and in the national security interest of the United States to the extent that the remaining nuclear forces of the United States are safer, more secure, and more reliable; and

(2) due to the inextricable link between safety, security, and reliability of the nuclear deterrent at lower levels, the security guarantees the United States has made to over 30 countries, which are backed up by the extended deterrent, and the uncertainty of modernization plans of other countries regarding their strategic and non-strategic nuclear weapons, the President should not take any action to retire or dismantle, or to prepare to retire or dismantle, any of the covered nuclear systems unless modernization is occurring as proposed in the plan the President submitted to the Congress pursuant to section 1251 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2549).

(b) ANNUAL REPORT ON THE PLAN FOR THE NUCLEAR WEAPONS STOCKPILE, NUCLEAR WEAPONS COMPLEX, AND DELIVERY PLATFORMS.—Section 1251 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2549) is amended—

(1) in the section heading, by inserting ''annual'' before ''report on the plan'';

(2) in subsection (a)—

(A) in paragraph (1)—

(i) by inserting ''and annually thereafter together with the budget of the President submitted to Congress under section 1105(a) of title 31, United States Code, for each fiscal year in which the New START Treaty remains in effect'' after '', whichever is later,'';

(ii) by inserting ''detailed'' before ''report on the plan''; and

(iii) in subparagraph (C), by inserting ''and modernize'' after ''maintain'';

(B) in paragraph (2)—

(i) by inserting ''detailed'' before ''description'' each place it appears;

(ii) in subparagraph (C), by inserting ''and modernize'' after ''maintain'';

(iii) in subparagraph (D), by striking ''An estimate'' and inserting ''A detailed estimate''; and

(iv) by adding at the end the following new subparagraph:

''(E) A detailed description of the steps taken to implement the plan submitted in the previous year.''; and

(C) by adding at the end the following new paragraph:

''(3) CONSULTATION.—

''(A) IN GENERAL.—In preparing the report required under paragraph (1), the President shall consult with the Secretary of Defense and with the Secretary of Energy, who shall consult with the directors of the nuclear weapons enterprise facilities and laboratories, including the Pantex Plant, the Nevada National Security Site, the Kansas City Plant, the Savannah River Site, Y-12 National Security Complex, Lawrence Livermore National Laboratory, Sandia National Laboratories, and Los Alamos National Laboratory on the implementation of and funding for the plans outlined under subparagraphs (A) and (B) of paragraph (2). The directors shall make their judgments known in unclassified form, with a classified annex as necessary.

''(B) TRANSMISSION TO CONGRESS.—The written judgments received from the directors of the national nuclear weapons enterprise facilities and laboratories pursuant to subparagraph (A) shall be included, unchanged, together with the report submitted under paragraph (1).''; and

(3) in subsection (b)—

(A) in paragraph (2), by striking ''; and'' and inserting a semicolon;

(B) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new paragraph:

''(4) if the modernization plan is not funded consistent with the annual report required under subsection (a), such failure would jeopardizes the supreme interests of the United States and are potential grounds for the withdrawal of the United States from the New START Treaty in accordance with Article XIV of the Treaty.''

(c) LIMITATION ON USE OF FUNDS.—Neither the Secretary of Defense nor the Secretary of Energy may obligate or expend any amounts appropriated or otherwise made available to the Department of Defense or the Department of Energy for any of fiscal years 2011 through 2017 to retire, dismantle, or eliminate any of the covered nuclear systems until one year after the date on which the President submits to the congressional defense committees written notice of such proposed retirement, dismantlement, or elimination.

(d) COVERED NUCLEAR SYSTEMS DEFINED.—In this section, the term ''covered nuclear systems'' means—

(1) B–52H or B2 bomber aircraft, and Nuclear Air Launched Cruise Missiles;

(2) Trident ballistic missile submarines, launch tubes, and Trident D-5 Submarine launched ballistic missiles;

(3) Minuteman III intercontinental ballistic missiles and associated silos; and

(4) nuclear warheads or gravity bombs that can be delivered by the systems specified in paragraphs (1) through (3).

SA 4637. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XII, add the following:

Subtitle D—Other Matters

SEC. 1251. SENSE OF CONGRESS ON CHINA NUCLEAR COOPERATION OUTSIDE OF NUCLEAR SUPPLIERS GROUP.

(a) FINDINGS.—Congress makes the following findings:

(1) The Nuclear Suppliers Group (NSG) was established in 1974 to control the international supply of nuclear materials, facilities, and technology for the purpose of preventing the proliferation of nuclear weapons and the capacity to manufacture them.

(2) The effectiveness of the Nuclear Suppliers Group relies upon the willingness of its 46 Participating Governments to voluntarily abide by its unanimously adopted guidelines governing nuclear transfers.

(3) Under these unanimously adopted guidelines, supplier countries may not transfer nuclear materials, facilities, or technology to countries that are not signatories to the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (commonly known as the ''Nuclear Non-Proliferation Treaty'' or ''NPT''), without a unanimous vote by NSG Participating Governments.

(4) On joining the NSG in 2004, the People's Republic of China agreed to abide by all NSG guidelines.

(5) If the Government of China proceeds with a project without unanimous approval by the NSG's Participating Governments, it will be in clear violation of its NSG obligations.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, if the Government of China engages in nuclear cooperation outside of the scope of what is approved of by the Nuclear Suppliers Group or its guidelines—

(1) the Secretary of State should work with other NSG countries to have the People's Republic of China removed from the group;

(2) the Nuclear Regulatory Commission, the Department of Energy, and the Department of Commerce should suspend any and all nuclear cooperation with the People's Republic of China; and

(3) the Secretary of State should certify—

(A) whether it remains in the national security interest of the United States that the civilian nuclear cooperation agreement entered into between the United States and the People's Republic of China pursuant to section 123 of the Atomic Energy Act (42 U.S.C. 2153) remain in force; and

(B) whether the findings of the nonproliferation assessment (NPAS) to Congress accompanying that agreement is still valid.

SA 4638. Mr. KYL (for himself and Mr. SESSIONS) submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title XII, add the following:

SEC. 1239. ANNUAL REPORT ON ACTIVITIES OF THE BILATERAL CONSULTATIVE COMMISSION UNDER THE NEW START TREATY.

(a) ANNUAL REPORT REQUIRED.—

(1) IN GENERAL.—The Secretary of Defense and the Secretary of State shall jointly submit to Congress each year a report on the activities of the Bilateral Consultative Commission established by the New START Treaty during the preceding year.

(2) ELEMENTS.—Each report required by this subsection shall include, for the year covered by such report, a description of any issues raised at the Bilateral Consultative Commission, including the following:

(A) Any discussion by either party regarding the missile defense capabilities or conventional global strike capabilities of the United States.

(B) Any discussion by either party regarding a compliance violation, or potential compliance violation, with respect to the New START Treaty.

(3) FORM.—Each report under this subsection shall be submitted in unclassified form, but may include a classified annex. Any classified annex included with such a report shall include a detailed explanation for the determination to submit the matters covered by such annex in a classified manner.

(b) PROHIBITION ON AVAILABILITY OF FUNDS.—No amount authorized to be appropriated by this Act or any other Act may be obligated or expended to negotiate or agree to the following:

(1) Any limitation on the development or deployment of United States missile defenses.

(2) Any exchange of telemetric information on United States missile defenses and conventional prompt global strike systems.

(3) Any limitation on the development or deployment of a conventional prompt global strike system.

(c) LIMITATION ON AVAILABILITY FUNDS FOR IMPLEMENTATION OF AGREEMENTS.—No amount authorized to be appropriated by this Act or any other Act may be obligated or expended to implement or carry out any agreement of the United States and the Russian Federation entered into through or pursuant to the Bilateral Consultative Commission until the date that is 60 days after the date on which the President submits to the Majority Leader of the Senate, the Minority Leader of the Senate, and the Committee on Foreign Relations of the Senate a notice on such agreement, including a comprehensive description of the terms of such agreement.

(d) NEW START TREATY DEFINED.—In this section, the term ''New START Treaty'' means the Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed on April 8, 2010.

SA 4639. Mr. CORNYN (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1082. CONSTRUCTION OF MAJOR MEDICAL FACILITY IN FAR SOUTH TEXAS.

(a) FINDINGS.—Congress makes the following findings:

(1) The current and future health care needs of veterans residing in the Far South Texas area are not being fully met by the Department of Veterans Affairs.

(2) The Department of Veterans Affairs estimates that more than 117,000 veterans reside in Far South Texas.

(3) In its Capital Asset Realignment for Enhanced Services study, the Department of Veterans Affairs found that fewer than three percent of its enrollees in the Valley-Coastal Bend Market of Veterans Integrated Service Network 17 reside within its acute hospital access standards.

(4) Travel times for veterans from the market referred to in paragraph (3) can exceed six hours from their residences to the nearest Department of Veterans Affairs hospital for acute inpatient health care.

(5) Even with the significant travel times, veterans from Far South Texas demonstrate a high demand for health care services from the Department of Veterans Affairs.

(6) Current deployments involving members of the Texas National Guard and Reservists from Texas will continue to increase demand for medical services provided by the Department of Veterans Affairs.

(b) CONSTRUCTION OF MAJOR MEDICAL FACILITY IN FAR SOUTH TEXAS.—

(1) IN GENERAL.—The Secretary of Veterans Affairs shall carry out the construction of a major medical facility project in Far South Texas consisting of a full service Department of Veterans Affairs hospital.

(2) FACILITY LOCATION.—The facility referred to in paragraph (1) shall be located in a county in Far South Texas that the Secretary determines to be most appropriate to meeting the health care needs of veterans in Far South Texas.

(3) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report identifying and outlining the determination of the Secretary under paragraph (2) and a detailed estimate of the cost of and time necessary for completion of the project required by paragraph (1).

(c) DEFINITION.—In this section, the term ''Far South Texas'' means the following counties of the State of Texas: Aransas, Bee, Brooks, Calhoun, Cameron, Crockett, DeWitt, Dimmit, Duval, Goliad, Hidalgo, Jackson, Jim Hogg, Jim Wells, Kenedy, Kleberg, Nueces, Refugio, San Patricio, Starr, Victoria, Webb, Willacy, and Zapata.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 2011 for the Construction, Major Projects account such sums as may be necessary for the project required by subsection (b).

SA 4640. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title VIII, add the following:

SEC. 819. REPORT ON ALTERNATIVES FOR THE PROCUREMENT OF FIRE-RESISTANT AND FIRE-RETARDANT FIBER AND MATERIALS FOR THE PRODUCTION OF MILITARY PRODUCTS.

(a) FINDINGS.—Congress makes the following findings:

(1) Vehicle and aircraft fires remain a significant force protection and safety threat for the members of the Armed Forces, whether deployed in support of ongoing military operations or while training for future deployment.

(2) Since 2003, the United States Army Institute of Surgical Research, the sole burn center within the Department of Defense, has admitted and treated more than 800 combat casualties with burn injuries. The probability of this type of injury remains extremely high with continued operations in Iraq and the surge of forces into Afghanistan and the associated increase in combat operations.

(3) Advanced fiber products currently in use to protect first responders such as fire fighters and factory and refinery personnel in the United States steel and fuel refinery industries may provide greater protection against burn injuries to members of the Armed Forces.

(b) REPORT.—Not later than February 28, 2011, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on fire-resistant and fire-retardant fibers and materials for the production of military products. The report shall include the following:

(1) An identification of the fire-resistance or fire-retardant properties or capabilities of fibers and materials (whether domestic or foreign) currently used for the production of military products that require such properties or capabilities (including include uniforms, protective equipment, firefighting equipment, lifesaving equipment, and life support equipment), and an assessment of the sufficiency, adequacy, availability, and cost of such fibers and materials for that purpose.

(2) An identification of the fire-resistance or fire-retardant properties or capabilities of fibers and materials (whether domestic or foreign) otherwise available in the United States that are suitable for use in the production of military products that require such properties or capabilities, and an assessment of the sufficiency, adequacy, availability, and cost of such fibers and materials for that purpose.

SA 4641. Mr. CORKER (for himself and Mr. KYL) submitted an amendment intended to be proposed to amendment SA 4636 submitted by Mr. KYL (for himself, Mr. CORKER, Mr. SESSIONS, and Mr. INHOFE) and intended to be proposed to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 6 of the amendment, strike lines 4 through 14 and insert the following:

(c) RESOURCE REQUIREMENTS.—If appropriations are enacted that fail to meet the resource requirements set forth in the plan submitted by the President pursuant to section 1251 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2549), or if at any time more resources are required than estimated in the President's 10-year plan, the President shall submit to the Congress, within 60 days of such enactment or the identification of the requirement for additional resources, a report detailing—

(1) how the President proposes to remedy the resource shortfall and when the resource shortfall will be remedied;

(2) if additional resources are required, the proposed level of funding required and an identification of the stockpile work, campaign, facility, site, asset, program, operation, activity, construction, or project for which additional funds are required;

(3) the impact of the resource shortfall on the safety, reliability, and performance of United States nuclear forces; and

(4) whether and why, in the changed circumstances brought about by the resource shortfall, it remains in the national interest of the United States to remain a party to the New START Treaty.

(d) LIMITATION ON USE OF FUNDS.—Neither the Secretary of Defense nor the Secretary of Energy may obligate or expend any amounts appropriated or otherwise made available to the Department of Defense or the Department of Energy for any of fiscal years 2011 through 2017 to retire, dismantle, or eliminate any of the covered nuclear systems until one year after the date on which the President submits to the congressional defense committees written notice of such proposed retirement, dismantlement, or elimination.

(e) COVERED NUCLEAR SYSTEMS DEFINED.—In this

SA 4642. Mrs. LINCOLN (for herself and Mr. CRAPO) submitted an amendment intended to be proposed by her to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___MILITARY FAMILY-FRIENDLY EMPLOYER AWARD

SEC. _01. SHORT TITLE.

This title may be cited as the ''Military Family-Friendly Employer Award Act''.

SEC. _02. DEFINITIONS.

In this title:

(1) EMPLOYER.—The term ''employer''—

(A) means any person (as defined in section 3(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 202(a))) engaged in commerce or in any industry or activity affecting commerce; and

(B) includes any agency of a State, or political subdivision thereof.

The term does not include the Government of the United States or any agency thereof.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Defense.

SEC. _03. ESTABLISHMENT OF MILITARY FAMILY-FRIENDLY EMPLOYER AWARD.

(a) IN GENERAL.—There is established in the Department of Defense an annual award to be known as the Military Family-Friendly Employer Award (hereafter referred to in this title as the ''Award'') for employers that have developed and implemented workplace flexibility policies and practices—

(1) to assist the working spouses and caregivers of members of the Armed Forces who are deployed away from home, and to assist such members upon their return from deployment, so that the needs of the home may be addressed during and after such deployments; and

(2) that reflect a deep awareness and commitment in response to the needs of the military family unit.

(b) PLAQUE.—The Award shall be evidenced by a plaque bearing the title ''Military Family-Friendly Employer Award''.

(c) APPLICATION.—

(1) IN GENERAL.—An employer desiring consideration for an Award shall submit an application to the Secretary at such time, in such manner, and containing such information as such Secretary may require.

(2) REAPPLICATION.—An employer may reapply for an Award, regardless of whether the employer has been a previous recipient of such Award.

(d) DISPLAY ON WEB SITE.—The Secretary shall make publically available on its Internet website the names of each recipient of the Award.

(e) PRESENTATION OF AWARD.—The Secretary (or the Secretary's designee) shall present annually the Award to employers under this section.

SEC. __04. MILITARY FAMILY-FRIENDLY SPECIAL TASK FORCE.

(a) ESTABLISHMENT.—There is established within the Department of Defense a Military Family-Friendly Special Task Force (hereafter referred to in this title as the ''Task Force'').

(b) COMPOSITION.—

(1) IN GENERAL.—The Task Force shall be composed of 9 members to be appointed as follows:

(A) The Secretary shall appoint one individual to serve as the chairperson of the Task Force.

(B) The Secretary, in consultation with the Secretary of Labor and based on recommendations made by the Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the House of Representatives, shall appoint—

(i) two members who shall be work-life experts; and

(ii) two members who shall be representatives of the general business community; and

(C) The Secretary, based on recommendations made by the Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the House of Representatives, shall appoint—

(i) two members who shall be experts on the Armed Forces; and

(ii) two members who shall be representatives of families with one or more members serving in the Armed Forces.

(2) QUALIFICATIONS.—In appointing members of the Task Force the Secretary shall ensure—

(A) that such members are individuals with knowledge and experience in workplace flexibility policies as such policies relate to services in and support for the Armed Forces;

(B) that not more than 2 members appointed under paragraph (1)(B) are from the same political party; and

(C) that not more than 2 members appointed under paragraph (1)(C) are from the same political party.

(3) TERMS.—

(A) IN GENERAL.—Except as provided under subparagraphs (B) and (C), each member of the Task Force shall be appointed for 2 years and may be reappointed.

(B) TERMS OF INITIAL APPOINTEES.—As designated by the Secretary at the time of appointment, of the members of the Task Force first appointed, 4 shall each be appointed for a 1-year term and the remainder shall each be appointed for a 2-year term.

(C) VACANCIES.—Any member of the Task Force appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office.

(4) LIMITATION.—The Secretary may not appoint any Member of Congress to the Task Force.

(c) DUTIES.—The Task Force shall—

(1) develop and review military-centered questions for integration into the award model for determining which applicant employers should receive an Award;

(2) determine how such questions should be weighed in making Award determinations what threshold should be used as the minimum for making such Awards;

(3) review responses to a sample of such questions posed as part of any questionnaire used for purposes of making such Awards;

(4) consider private sector award models such as the Malcolm Baldrige National Quality Award or the Alfred P. Sloan Award for Business Excellence in Workplace Flexibility;

(5) determine criteria for the delivery of the Award; and

(6) carry out any other activities determined appropriate by the Secretary.

(d) OPERATIONS.—

(1) MEETINGS.—

(A) IN GENERAL.—Except for the initial meeting of the Task Force under subparagraph (B), the Task Force shall meet at the call of the chairperson or a majority of its members.

(B) INITIAL MEETING.—The Task Force shall conduct its first meeting not later than 90 days after the appointment of all of its members.

(2) VOTING AND RULES.—A majority of members of the Task Force shall constitute a quorum to conduct business. The Task Force may establish by majority vote any other rules for the conduct of the business of the Task Force, if such rules are not inconsistent with this section or other applicable law.

(3) COMPENSATION AND TRAVEL.—All members of the Task Force shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of duties of the Task Force. The members of the Task Force shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter 1 of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Task Force.

SEC. __05. REGULATIONS.

The Secretary may prescribe regulations to carry out the purposes of this title.

SA 4643. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 460, between lines 15 and 16, insert the following:

SEC. 1082. REPORT ON THE EFFECT OF DEPLOYMENT ON FIRST RESPONDER AGENCIES.

(a) DEFINITION.—In this section—

(1) the term ''active duty'' has the meaning given that term in section 101 of title 10, United States Code;

(2) the term ''first responder agency'' means—

(A) a law enforcement agency or fire service (as defined in section 4 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2203)) of a State or local government; and

(B) a publicly or privately operated ambulance service; and

(3) the term ''reservist'' means a member of a reserve component of the Armed Forces.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense, in consultation with the Administrator of the Federal Emergency Management Agency and appropriate officials having responsibility for the administration of the reserve components of the Armed Forces, including the Chief of the National Guard Bureau with respect to the National Guard, shall submit to Congress a report that evaluates—

(1) the financial and other effects of the employees of first responder agencies being placed on active duty on the first responder agencies, including the ability of the first responder agencies to provide services to the community; and

(2) the effect of reservists being placed on active duty on—

(A) the hiring and retention of reservists by first responder agencies; and

(B) the ability of the reserve components of the Armed Forces to retain reservists who are employed by a first responder agency.

SA 4644. Mrs. LINCOLN (for herself and Mr. CRAPO) submitted an amendment intended to be proposed by her to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title V, add the following:

SEC. 543. MODIFICATION OF BASIS FOR ANNUAL ADJUSTMENTS IN AMOUNTS OF EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE.

(a) IN GENERAL.—Section 16131(b)(2) of title 10, United States Code, is amended by striking ''equal to'' and all that follows and inserting ''not less than the percentage by which—

''(A) the average cost of undergraduate tuition in the United States, as determined by the National Center for Education Statistics, for the last academic year preceding the beginning of the fiscal year for which the increase is made, exceeds

''(B) the average cost of undergraduate tuition in the United States, as so determined, for the academic year preceding the academic year described in subparagraph (A).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2010, and shall apply to adjustments in amounts of educational assistance for members of the Selected Reserve that are made for fiscal years beginning on or after that date.

SA 4645. Mrs. LINCOLN (for herself and Mr. RISCH) submitted an amendment intended to be proposed by her to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title VI, add the following:

SEC. 623. TRAVEL AND TRANSPORTATION ALLOWANCES FOR MEMBERS OF THE RESERVE COMPONENTS FOR LONG DISTANCE AND CERTAIN OTHER TRAVEL TO INACTIVE DUTY TRAINING.

(a) ALLOWANCES REQUIRED.—

(1) IN GENERAL.—Chapter 7 of title 37, United States Code, is amended by inserting after section 411j the following new section:

''§ 411k. Travel and transportation allowances: long distance and certain other travel to inactive duty training performed by members of the reserve components of the armed forces

''(a) ALLOWANCE REQUIRED.—The Secretary concerned shall reimburse a member of a reserve component of the armed forces for transportation expenses, including mileage traveled, incurred in connection with the following:

''(1) Round-trip travel in excess of 100 miles to an inactive duty training location, regardless of the method of transportation.

''(2) Round-trip travel of any distance to an inactive duty training location, if such travel requires a commercial method of transportation other than ground transportation.

''(b) RATES OF REIMBURSEMENT.—

''(1) MILEAGE.—In determining the amount of allowances or reimbursement to be paid for mileage traveled under subsection (a)(1), the Secretary concerned shall use the mileage reimbursement rate for the use of privately owned vehicles by Government employees on official business (when a Government vehicle is available), as prescribed by the Administrator of General Services under section 5707(b) of title 5.

''(2) COMMERCIAL FARE FOR TRAVEL BY COMMON CARRIER.—The amount of reimbursement to be paid under subsection (a)(2) for travel covered by that subsection shall be the reasonable commercial fare expense for such travel by common carrier.

''(c) REGULATIONS.—The Secretary concerned shall prescribe regulations to carry out this section. Regulations prescribed by the Secretary of a military department shall be subject to the approval of the Secretary of Defense.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of such title is amended by inserting after the item relating to section 411j the following new item:

''411k. Travel and transportation allowances: long distance and certain other travel to inactive duty training performed by members of the reserve components of the armed forces.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to travel expenses incurred after the expiration of the 90-day period that begins on the date of the enactment of this Act.

SA 4646. Mrs. LINCOLN (for herself and Mr. RISCH) submitted an amendment intended to be proposed by her to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title VII, add the following:

SEC. 718. REQUIREMENT FOR PROVISION OF MEDICAL AND DENTAL READINESS SERVICES TO CERTAIN MEMBERS OF THE SELECTED RESERVE AND INDIVIDUAL READY RESERVE BASED ON MEDICAL NEED.

(a) IN GENERAL.—Section 1074a(g)(1) of title 10, United States Code, is amended—

(1) by striking ''may provide'' and inserting ''shall provide''; and

(2) by striking ''if the Secretary determines'' and inserting '', as applicable, if a qualified health care professional determines, based on the member's most recent annual medical exam or annual dental exam, as the case may be,''.

(b) FUNDING.—Subject to applicable provisions of appropriations Acts, amounts available to the Department of Defense for Defense Health Program shall be available for the provision of medical and dental services under section 1074a(g)(1) of title 10, United States Code, in accordance with the amendments made by subsection (a).

(c) BUDGETING FOR HEALTH CARE.—In determining the amounts to be required for medical and dental readiness services for members of the Selected Reserve and the Individual Ready Reserve under section 1074a(g)(1) of title 10, United States Code (as amended by subsection (a)), for purposes of the budget of the President for fiscal years after fiscal year 2010, as submitted to Congress pursuant to section 1105 of title 31, United States Code, the Assistant Secretary of Defense for Health Affairs shall consult with appropriate officials having responsibility for the administration of the reserve components of the Armed Forces, including the Chief of the National Guard Bureau with respect to the National Guard.

(d) MEDICAL AND DENTAL SCREENING FOR READY RESERVE MEMBERS ALERTED FOR MOBILIZATION.—Section 1074a(f)(1) of title 10, United States Code, is amended by striking ''may provide'' and inserting ''shall provide''.

SA 4647. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1082. INCREASE IN AMOUNT OF DEPENDENCY AND INDEMNITY COMPENSATION PAYABLE TO SURVIVING SPOUSES.

(a) INCREASE.—Section 1311 of title 38, United States Code, is amended—

(1) in subsection (a)(1), by striking ''of $1,091'' and inserting ''equal to 55 percent of the rate of monthly compensation in effect under section 1114(j) of this title''; and

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

''(g) Notwithstanding any other provision of law (other than section 5304(b)(3) of this title), in the case of an individual who is eligible for dependency and indemnity compensation under this section who is also eligible for benefits under another provision of law by reason of such individual's status as the surviving spouse of a veteran, then, neither a reduction nor an offset in benefits under such provision shall be made by reason of such individual's eligibility for benefits under this section.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to compensation paid under chapter 13 of title 38, United States Code, for months beginning after the date that is 180 days after the date of the enactment of this Act.

SEC. 1083. PHASE-IN OF PAYMENT OF DEPENDENCY AND INDEMNITY COMPENSATION WITH RESPECT TO VETERANS WHO DIE OF NON-SERVICE CONNECTED DISABILITY AFTER ENTITLEMENT TO COMPENSATION FOR SERVICE-CONNECTED DISABILITY RATED AS TOTALLY DISABLING FOR AT LEAST FIVE YEARS.

Section 1318 of title 38, United States Code, is amended—

(1) in subsection (b)(1), by striking ''10 years'' and inserting ''five years'';

(2) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(3) by inserting after subsection (b) the following new subsection (c):

''(c) In the case of a deceased veteran described in subsection (b)(1), benefits under this chapter shall be payable under subsection (a) in amounts as follows:

''(1) If the disability of the veteran described in subsection (b)(1) was continuously rated totally disabling for a period of at least five years, but less than six years, immediately preceding death, at the rate of 50 percent of the benefits otherwise so payable.

''(2) If the disability of the veteran so described was continuously rated totally disabling for a period of at least six years, but less than seven years, immediately preceding death, at the rate of 60 percent of the benefits otherwise so payable.

''(3) If the disability of the veteran so described was continuously rated totally disabling for a period of at least seven years, but less than eight years, immediately preceding death, at the rate of 70 percent of the benefits otherwise so payable.

''(4) If the disability of the veteran so described was continuously rated totally disabling for a period of at least eight years, but less than nine years, immediately preceding death, at the rate of 80 percent of the benefits otherwise so payable.

''(5) If the disability of the veteran so described was continuously rated totally disabling for a period of at least nine years, but less than 10 years, immediately preceding death, at the rate of 90 percent of the benefits otherwise so payable.

''(6) If the disability of the veteran so described was continuously rated totally disabling for a period of at least 10 years immediately preceding death, at the rate otherwise so payable.''.

SEC. 1084. REDUCTION FROM AGE 57 TO AGE 55 OF AGE AFTER WHICH REMARRIAGE OF SURVIVING SPOUSE SHALL NOT TERMINATE DEPENDENCY AND INDEMNITY COMPENSATION.

(a) REDUCTION IN AGE.—Section 103(d)(2)(B) of title 38, United States Code, is amended—

(1) in the first sentence, by striking ''age 57'' and inserting ''age 55''; and

(2) by striking the second sentence.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date that is the later of—

(1) the first day of the first month that begins after the date of the enactment of this Act; and

(2) the first day of the fiscal year that begins in the calendar year in which this Act is enacted.

(c) RETROACTIVE BENEFITS PROHIBITED.—No benefit may be paid to any person by reason of the amendment made by subsection (a) for any period before the effective date specified in subsection (b).

(d) APPLICATION FOR BENEFITS.—In the case of an individual who but for having remarried would be eligible for benefits under title 38, United States Code, by reason of the amendment made by subsection (a) and whose remarriage was before the date of the enactment of this Act and after the individual had attained age 55, the individual

shall be eligible for such benefits by reason of such amendment only if the individual submits an application for such benefits to the Secretary of Veterans Affairs not later than the end of the one-year period beginning on the date of the enactment of this Act.

SA 4648. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1082. PROVISION OF VETERANS STATUS UNDER LAW BY HONORING CERTAIN MEMBERS OF THE RESERVE COMPONENTS AS VETERANS.

(a) IN GENERAL.—Chapter 1 of title 38, United States Code, is amended by inserting after section 107 the following new section:

''§ 107A. Honoring as veterans certain persons who performed service in the reserve components

''Any person who is entitled under chapter 1223 of title 10 to retired pay for nonregular service or, but for age, would be entitled under such chapter to retired pay for nonregular service shall be honored as a veteran but shall not be entitled to any benefit solely by reason of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 107 the following new item:

''107A. Honoring as veterans certain persons who performed service in the reserve components.''.

SA 4649. Mrs. LINCOLN (for herself and Mr. RISCH) submitted an amendment intended to be proposed by her to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1082. APPROVAL OF CERTAIN EDUCATIONAL INSTITUTIONS FOR PURPOSES OF THE POST-9/11 EDUCATIONAL ASSISTANCE PROGRAM.

Subsection (b) of section 3313 of title 38, United States Code, is amended to read as follows:

''(b) APPROVED PROGRAMS OF EDUCATION.—A program of education is an approved program of education for purposes of this chapter if the program of education is approved for purposes of chapter 30 of this title (including approval by the State approving agency concerned) and—

''(1) the program of education is offered by an institution offering postsecondary level academic instruction that leads to an associate or higher degree and such institution is an institution of higher learning (as that term is defined in section 3452(f) of this title); or

''(2) the program of education is offered by an institution offering instruction that does not lead to an associate or higher degree and such institution is an educational institution (as that term is defined in section 3452(c) of this title).''.

SA 4650. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 460, between lines 15 and 16, insert the following:

SEC. 1082. COLONEL CHARLES YOUNG HOME SPECIAL RESOURCE STUDY.

(a) STUDY.—The Secretary of the Interior (referred to in this section as the ''Secretary''), in consultation with the Secretary of the Army, shall conduct a special resource study of the Colonel Charles Young Home, a National Historic Landmark in Xenia, Ohio (referred to in this section as the ''Home'').

(b) CONTENTS.—In conducting the study under subsection (a), the Secretary shall—

(1) evaluate any architectural and archeological resources of the Home;

(2) determine the suitability and feasibility of designating the Home as a unit of the National Park System;

(3) consider other alternatives for preservation, protection, and interpretation of the Home by Federal, State, or local governmental entities or private and nonprofit organizations, including the use of shared management agreements with the Dayton Aviation Heritage National Historical Park or specific units of that Park, such as the Paul Laurence Dunbar Home;

(4) consult with the Ohio Historical Society, Central State University, Wilberforce University, and other interested Federal, State, or local governmental entities, private and nonprofit organizations, or individuals; and

(5) identify cost estimates for any Federal acquisition, development, interpretation, operation, and maintenance associated with the alternatives considered under the study.

(c) APPLICABLE LAW.—The study required under subsection (a) shall be conducted in accordance with section 8 of Public Law 91–383 (16 U.S.C. 1a–5).

(d) REPORT.—Not later than 3 years after the date on which funds are first made available for the study under subsection (a), the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that contains—

(1) the results of the study under subsection (a); and

(2) any conclusions and recommendations of the Secretary.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SA 4651. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

In Sec. 4501 of Title XLV, beginning on page 807, strike the following projects in the table entitled ''Military Construction'', and make all conforming changes in Division B—Military Construction Authorizations:

''Air Force, Bahrain Island, SW Asia, North Apron Expansion, $45,000,000'';

''Air Force, Guam, Anderson AFB, PRTC-Red Horse Headquarters/Engineering Facility, $8,000,000'';

''Air Force, Guam, Anderson AFB, Strike Ops Group and Tanker Taskforce Renovation, $9,100,000'';

''Air Force, Guam, Anderson AFB, PRTC-Combat Communications Operations Facility, $9,200,000'';

Air Force, Guam, Anderson AFB, PRTC-Commando Warrior Open Bay Student Barracks, $11,800,000'';

Air Force, Guam, Anderson AFB, Strike South Ramp Utilities, phase 1, $12,200,000'';

Army NG, Guam, Barrigada, Combined Support Maintenance Shop, phase 1, $19,000,000'';

''Army, Germany, Wiesbaden AB, Construct New ACP, $5,100,000'';

''Army, Germany, Sembach AB, Confinement Facility, $9,100,000'';

''Army, Germany, Ansbach, Physical Fitness Center, $13,800,000'';

''Army, Germany, Grafenwoehr, Barracks, $17,500,000'';

''Army, Germany, Ansbach, Vehicle Maintenance Shop, $18,000,000'';

''Army, Germany, Grafenwoehr, Barracks, $19,000,000'';

''Army, Germany, Grafenwoehr, Barracks, $19,000,000'';

''Army, Germany, Grafenwoehr, Barracks, $20,000,000'';

''Army, Germany, Wiesbaden AB, Information Processing Center, $30,400,000'';

''Army, Germany, Rhine Ordnance Barracks, Barracks Complex, $35,000,000'';

''Army, Germany, Wiesbaden AB, Command and Battle Center, Increment 2, $59,500,000'';

''Army, Germany, Wiesbaden AB, Sensitive Compartmented Information Facility, Increment 1, $45,500,000'';

''Navy, Bahrain Island, Operations and Support Facility, $60,002,000'';

''Navy, Bahrain Island, Waterfront Development, phase 3, $63,871,000'';

''Navy, Bahrain Island, NAVCENT Ammunition Magazines, $89,280,000'';

''Navy, Djibouti, Camp Lemonier, Camp Lemonier Headquarters Facility, $12,407,000'';

''Navy, Marshall Islands, Guam, Apra Harbor Wharves Imp. (phase 1, inc), $40,000,000'';

''Navy, Marshall Islands, Guam, Defense Access Road Improvements, $66,730,000'';

''DW, Germany, Vilseck, Health Clinic Add/Alt, $34,800,000'';

''DW, Germany, Katterbach, Health/Dental Clinic Replacement, $37,100,000''; and

''DW, Guam, Agana NAS, Hospital Replacement, Increment 2, $70,000,000''.

SA 4652. Mr. BEGICH (for himself and Mr. ENSIGN) submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title III, add the following:

SEC. 349. SENSE OF CONGRESS REGARDING RED FLAG EXERCISES AT SITES IN ALASKA AND NEVADA.

(a) FINDINGS.—Congress makes the following findings:

(1) Eielson Air Force Base, Alaska, and Nellis Air Force Base, Nevada, host advanced combat training exercises known as Red Flag for the United States Air Force and foreign participants.

(2) The Joint Pacific Alaska Range Complex and Nevada Test and Training Range provide Red Flag participants with realistic, large force complex training sites.

(3) Participation in Red Flag exercises in the states of Nevada and Alaska by foreign allies provides opportunity for building partnerships and strengthening existing partnerships.

(4) The states of Nevada and Alaska provide the Department of the Air Force unique training environments for purposes of Red Flag exercises.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) Red Flag exercises hosted in the states of Alaska and Nevada are critically important to ensuring a ready force and building partner capacity;

(2) the Department of the Air Force should continue to utilize both the Joint Pacific Alaska Range Complex and Nevada Test and Training Range for Red Flag exercises and other training opportunities; and

(3) the Department of the Air Force should make improvements and investments in the Joint Pacific Alaska Range Complex and Nevada Test and Training Range to maximize training opportunities in accordance with the 2025 Air Test and Training Range Enhancement Plan.

SA 4653. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill H.R. 946, to enhance citizen access to Government information and services by establishing that Government documents issued to the public must be written clearly, and for other purposes; which was ordered to lie on the table as follows:

On page 2, line 9, strike ''relevant to'' and insert ''necessary for''.

On page 2, strike lines 21 through 25 and insert the following:

(3) PLAIN WRITING.—The term ''plain writing'' means writing that is clear, concise, well-organized, and follows other best practices appropriate to the subject or field and intended audience.

On page 3, line 18, insert ''as required under paragraph (2)'' after ''website''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on September 21, 2010, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on September 21, 2010, at 10 a.m., to conduct a hearing entitled ''Investing in Infrastructure: Creating Jobs and Growing the Economy.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on September 21, 2010, at 10 a.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Welfare Reform: A New Conversation on Women and Poverty.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on September 21, 2010, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on September 21, 2010, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on September 21, 2010, at 9 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. LEVIN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on September 21, 2010, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that Chas Cannon, a legislative fellow in my office, be granted floor privileges for the remainder of the consideration of S. 3454.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KAUFMAN. I ask unanimous consent Erik Berdy, a legislative fellow in Senator INHOFE's office, be granted the privilege of the floor for the remainder of the year.

The PRESIDING OFFICER. Without objection, it is so ordered.

FREEDOM OF INFORMATION ACT AMENDMENTS

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 567, S. 3717.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3717) to amend the Securities Exchange Act of 1934, the Investment Company Act of 1940, and the Investment Advisers Act of 1940 to provide for certain disclosures under section 552 of title 5, United States Code, (commonly referred to as the Freedom of Information Act), and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, I commend the Senate for promptly taking up the Freedom of Information Act amendments to the Securities Exchange Act, Investment Company Act and Investment Advisers Act of 2010, S. 3717—an important, bipartisan bill to ensure that the Freedom of Information Act FOIA remains an effective tool to provide public access to information about the stability of our financial markets. This bill eliminates several broad FOIA exemptions for Security and Exchange Commission—SEC—records that were recently enacted as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act. The bill will also help ensure that the SEC has access to the information that the Commission needs to carry out its new enforcement activities under the new reforms.

I thank Senators GRASSLEY, CORNYN, and KAUFMAN for cosponsoring this important open government bill, and for working with me to promptly address this issue. I commend the many open government organizations, including OpenTheGovernment.org, the Project on Government Oversight, the American Library Association and the Sunlight Foundation for their support of this bill. I also thank the distinguished chairman of the House Committee on Oversight and Government Reform, Representative EDOLPHUS TOWNS, for introducing a companion bill, H.R. 6086, in the House of Representatives.

I supported the historic Wall Street reform law, because that law takes significant strides toward enhancing transparency and accountability in our financial system. But, I am concerned that the FOIA exemptions in section 9291 of that law, which was originally drafted in the House of Representatives and included in the final legislation, could be interpreted and implemented in a way that undermines this very important goal.

The Freedom of Information Act has long recognized the need to balance the government's legitimate interest in protecting confidential business records, trade secrets and other sensitive information from public disclosure, and preserving the public's right to know. To accomplish this, care must always be taken to ensure that exemptions to FOIA's disclosure requirements are narrowly and properly applied.

When Congress enacted the FOIA exemptions in section 929I, we sought to ensure that the SEC had access to the information that the Commission needed to protect American investors—not to shield information from the public. I