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105TH CONGRESS
2D SESSION

S. 2571

To reduce errors and increase accuracy and efficiency in the administration of Federal benefit programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 7 (legislative day, OCTOBER 2), 1998

Mr. LIEBERMAN introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To reduce errors and increase accuracy and efficiency in the administration of Federal benefit programs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION. 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Benefit Ver-
5 ification and Integrity Act”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are the following:

8 (1) To reduce errors in Federal benefit pro-
9 grams that lead to waste, fraud, or abuse and en-

1 courage agencies to work together to identify com-
2 mon sources of errors.

3 (2) To identify solutions to common problems
4 that will save money for the taxpayer and dem-
5 onstrate the Government's ability to deliver Federal
6 benefits to the right person, at the right time, for
7 the right amount.

8 (3) To focus on increasing accuracy and effi-
9 ciency for Federal benefit program eligibility, finan-
10 cial and program management, and debt collection.

11 (4) To improve the coordination of Government
12 information resources across Government agencies to
13 strengthen the delivery of Federal benefits.

14 (5) To balance the need for data in verifying
15 eligibility with the paperwork burden and privacy in-
16 trusion that data sharing imposes.

17 (6) To emphasize deterring and preventing
18 fraud in the provision of Federal benefits, rather
19 than seeking to detect fraud after Federal benefits
20 have been provided.

21 (7) To ensure that agencies administering fed-
22 erally funded benefit programs inform applicants ap-
23 plying for benefits under those programs that their
24 data can be shared to verify their eligibility for those
25 benefits.

1 (8) To encourage individuals to provide accu-
2 rate information when applying for benefits under
3 federally funded benefit programs.

4 **SEC. 3. DEFINITIONS.**

5 In this Act:

6 (1) BOARD.—The term “Board” means the
7 Federal Benefit Verification and Payment Integrity
8 Board established under this Act.

9 (2) FEDERAL BENEFIT PROGRAM.—The term
10 “Federal benefit program” means any program ad-
11 ministered or funded by the Federal Government, or
12 by any agent or State on behalf of the Federal Gov-
13 ernment, providing cash assistance or in-kind assist-
14 ance in the form of payments, grants, loans, or loan
15 guarantees to or for the benefit of any person.

16 **TITLE I—NOTIFICATION OF FED-**
17 **ERAL BENEFIT RECIPIENTS**
18 **REGARDING DATA VERIFICA-**
19 **TION**

20 **SEC. 101. PROGRAM AGENCY RESPONSIBILITY TO PROVIDE**
21 **CORRECT INFORMATION.**

22 (a) IN GENERAL.—An agency that administers a
23 Federal benefit payment program shall provide notice in-
24 forming applicants under the program, in information ma-
25 terial and instructions accompanying program application

1 forms, that applicants' data may be verified to the extent
2 permitted by law.

3 (b) AGENCY COMPLIANCE.—An agency may comply
4 with subsection (a) by modifying program materials and
5 applications to include such notice as part of their normal
6 reissuance cycle for reprinting forms, but in no case later
7 than December 31, 2000.

8 (c) RECORD OF ACKNOWLEDGMENTS.—The head of
9 each agency that administers a Federal benefit program
10 shall maintain a record of each applicant's acknowledg-
11 ment that the applicant has received notice of the uses
12 and disclosures to be made of the applicant's information,
13 for as long as the applicant receives benefits from or owes
14 a debt to the Government under the program.

15 **TITLE II—FEDERAL BENEFIT**
16 **PROGRAM MANAGEMENT IM-**
17 **PROVEMENT TESTS**

18 **SEC. 201. TESTS OF PRACTICES AND TECHNIQUES FOR IM-**
19 **PROVING FEDERAL BENEFIT PROGRAM MAN-**
20 **AGEMENT.**

21 (a) AUTHORITY TO CONDUCT TESTS.—

22 (1) IN GENERAL.—A Federal agency that ad-
23 ministers a Federal benefit program may conduct a
24 test of information technology practices or tech-
25 niques to improve income verification, debt collec-

1 tion, data privacy and integrity protection, and iden-
2 tification authentication in the administration of the
3 program, in accordance with a proposal approved by
4 the Federal Benefit Verification and Payment Integ-
5 rity Board established by this title.

6 (2) WAIVER OF REGULATIONS.—Upon the re-
7 quest of the Board, the head of an agency may
8 waive the enforcement of any regulation of the agen-
9 cy for the purposes of carrying out a test under this
10 section.

11 (3) IDENTIFICATION OF TEST AREAS.—The Di-
12 rector of the Office of Management and Budget and
13 the Chief Information Officers' Council shall each
14 recommend to the Board, within 120 days after the
15 date of enactment of this Act, various information
16 technology practices and techniques that should be
17 tested under this title.

18 (b) APPROVAL OF AGENCY PROPOSALS.—

19 (1) IN GENERAL.—The head of a Federal agen-
20 cy may develop and submit to the Board a proposal
21 for carrying out a test under this section for a spe-
22 cific Federal benefit program administered by the
23 agency. The proposal shall contain specific goals, in-
24 cluding a schedule, for improving customer service

1 and error reduction in the program and other infor-
2 mation requested by the Board.

3 (2) CONTENTS.—The proposal shall provide for
4 the testing of information sharing in an integrated
5 manner where feasible of electronic practices and
6 techniques for improving Federal benefit program
7 management, including the following:

8 (A) Use of encryption and electronic signa-
9 ture technology consistent with techniques ac-
10 ceptable to the National Institute of Standards
11 and Technology, to protect the confidentiality
12 and integrity of information.

13 (B) Use of other security controls and
14 monitoring tools.

15 (C) Use of risk profiles and risk alert tech-
16 nologies, including use of Federal, State, and
17 private databases such as the National Direc-
18 tory of New Hires, Federal and State tax data,
19 and credit bureau data.

20 (D) Establishment of a management
21 framework for exploring and reducing the infor-
22 mation security risks associated with Federal
23 agency operations and technologies, including
24 risk assessments and disaster recovery plan-
25 ning.

1 (3) CONSULTATION.—Any agency whose pro-
2 posals would require access to another agency’s
3 database shall consult with that agency prior to sub-
4 mission of the proposal to the Board, including con-
5 sultation with the appropriate data integrity board.

6 (4) PRIVACY SAFEGUARDS.—A proposal submit-
7 ted to the Board must contain a description of ap-
8 propriate administrative, technical, and physical
9 safeguards to ensure the security and confidentiality
10 of records and to protect against any anticipated
11 threats or hazards to their security or integrity
12 which could result in substantial harm, embarrass-
13 ment, inconvenience, or unfairness to any individual
14 with respect to whom information is maintained.
15 The proposal shall include, in particular, prohibi-
16 tions on duplication and redisclosure of records pro-
17 vided by the source agency within or outside the re-
18 cipient entity, except where required by law or essen-
19 tial to the conduct of the test.

20 (5) AGENCY REIMBURSEMENT.—The proposal
21 shall include an estimate for reimbursement that
22 may be charged by a Federal agency to another
23 agency in conducting tests under the proposal.

24 (6) REVIEW OF PROPOSALS.—Not later than 60
25 days after the date of receipt of a proposal under

1 this subsection, the Board shall review and rec-
2 ommend disposition of the proposal to the heads of
3 the data sharing agencies under the proposal. The
4 head of the agency shall respond to the Board within
5 90 days. Such a response shall include findings as
6 appropriate by the data integrity board.

7 (c) COOPERATIVE AGREEMENTS AND CONTRACTS.—
8 The head of an agency participating in a test under this
9 section, in consultation with the Board, may enter into
10 a cooperative agreement with a State or contract with a
11 private entity under which the State or private entity, re-
12 spectively, may provide services on behalf of the Federal
13 agency in carrying out the test.

14 (d) GENERAL IMPLEMENTATION PLAN.—The Board
15 shall prepare a plan for the implementation of this section,
16 including for the coordination of the conduct of tests
17 under this title and the procedures for submission of pro-
18 posals for those tests.

19 (e) REPORTS ON RESULTS OF TESTS.—

20 (1) ANNUAL REPORT.—Beginning not later
21 than 1 year after the date of enactment of this Act,
22 the Board shall submit annually to the Congress a
23 report on the tests conducted under this section.

24 (2) CONTENT.—The report shall include—

1 (A) an estimate of potential cost savings
2 and other impacts demonstrated by the tests;

3 (B) an analysis of the feasibility of apply-
4 ing the practices and techniques demonstrated
5 in each test within the Federal Government, in-
6 cluding analysis of what was the least amount
7 of information that was necessary to verify eli-
8 gibility of applicants under each Federal benefit
9 program that participated in the tests;

10 (C) an assessment of the value of State
11 data in those tests. and

12 (D) such recommendations as the Board
13 considers appropriate.

14 (f) RECOMMENDATIONS ON IMPLEMENTATION OF
15 ACT.—The Chairperson of the Board shall make rec-
16 ommendations annually to the Director of the Office of
17 Management and Budget regarding how savings resulting
18 from the implementation of the Federal Benefit Verifica-
19 tion and Integrity Act may be used to enhance program
20 integrity in high-risk programs such as Medicare and to
21 reduce the potential of waste, fraud, and erroneous pay-
22 ments.

23 (g) AUTHORITY TO REQUEST TEST.—The Board
24 may request the head of a Federal agency that administers
25 a Federal benefit program to conduct a test under this

1 section, including the preparation and submission of a pro-
2 posal for such a test in accordance with this section. The
3 head of an agency shall respond within 30 days by approv-
4 ing or disapproving such a request of the Board.

5 (h) USE OF TEST INFORMATION.—Information on
6 any individual obtained in the course of a test under this
7 section shall not be used as the exclusive basis of a deci-
8 sion concerning the rights, benefits, or privileges of any
9 individual.

10 **SEC. 202. SHARING OF INFORMATION IN NATIONAL DIREC-**
11 **TORY OF NEW HIRES.**

12 (a) AVAILABILITY OF INFORMATION.—Notwithstand-
13 ing section 453(l) of the Social Security Act (42 U.S.C.
14 653(l)), the Secretary of Health and Human Services may
15 disclose information to another Federal agency from the
16 National Directory of New Hires established pursuant to
17 section 453(i) of that Act (42 U.S.C. 653(i)) based on
18 matches conducted by the Department of Health and
19 Human Services for purposes of conducting a test under
20 this title. In determining whether to disclose such informa-
21 tion to a Federal agency for such a test, the Secretary
22 shall take into consideration the potential negative impact
23 of the disclosure or use of such information on the effec-
24 tive operation of the Federal Parent Locator Service under
25 section 453 of such Act, and of other Federal and State

1 child support enforcement activities under part D of title
2 IV of such Act.

3 (b) FEE.—The head of an agency to which informa-
4 tion is disclosed pursuant to subsection (a) shall reimburse
5 the Secretary of Health and Human Services in accord-
6 ance with section 453(k)(3) of the Social Security Act.

7 (c) AUTHORITY TO DISCLOSE INFORMATION.—The
8 head of an agency to whom information is disclosed under
9 this section may disclose the information to another Fed-
10 eral agency for use by the agency only as specified under
11 a test proposal under this title. The head of a Federal
12 agency to whom information is disclosed under this sub-
13 section may disclose such information to a State agency
14 administering a federally funded benefit program, a public
15 housing authority, or a guaranty agency (as that term is
16 defined in section 435(j) of the Higher Education Act of
17 1965) only for the purpose of conducting the test.

18 (d) REDISCLOSURE LIMITATION.—An entity that re-
19 ceives information for use in a test under this title that
20 it was not otherwise authorized by law to obtain may not
21 redisclose the information or use it for any other purpose.

22 (e) SHARING OF STATE INFORMATION.—The provi-
23 sion of information pursuant to subsection (a) shall not
24 affect any determination of whether a State meets the re-

1 quirements of section 303(h)(1)(C) of the Social Security
2 Act.

3 **SEC. 203. INCREASED PENALTIES AND PUNITIVE DAMAGES**
4 **UNDER PRIVACY ACT.**

5 (a) **INCREASED PENALTIES.**—Section 552a(i) of title
6 5, United States Code, is amended in each of paragraphs
7 (1) and (3) by striking “shall be guilty” and all that fol-
8 lows through the period and inserting “shall be fined not
9 more than \$10,000, imprisoned for not more than one
10 year, or both.”.

11 (b) **PUNITIVE DAMAGES.**—Section 552a(g)(4) of title
12 5, United States Code, is amended—

13 (1) by redesignating subparagraphs (A) and

14 (B) as clauses (i) and (ii), respectively;

15 (2) by inserting “(A)” after “(4)”; and

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

17 “(B) In any such suit in which the court determines that
18 the agency acted in a manner that was willful and inten-
19 tional, the court may award punitive damages in addition
20 to damages and costs referred to in subparagraph (A).”.

21 **SEC. 204. ESTABLISHMENT OF THE FEDERAL BENEFIT VER-**
22 **IFICATION AND PAYMENT INTEGRITY BOARD.**

23 (a) **ESTABLISHMENT.**—There is established the Fed-
24 eral Benefit Verification and Payment Integrity Board.

1 (b) MEMBERSHIP.—The Board shall be composed of
2 10 members appointed from among Federal or State em-
3 ployees, as follows:

4 (1) 3 members, of whom one shall be appointed
5 by the head of each of 3 Federal agencies designated
6 by the Director of the Office of Management and
7 Budget. The Director shall designate agencies under
8 this paragraph from among the Federal agencies re-
9 sponsible for administering Federal benefit pro-
10 grams.

11 (2) 2 members appointed by the Director of the
12 Office of Management and Budget, of whom at least
13 one shall be a State employee appointed to represent
14 federally funded State administered benefits pro-
15 grams.

16 (3) 1 member appointed by the Secretary of
17 Health and Human Services.

18 (4) 1 member appointed by the Secretary of the
19 Treasury.

20 (5) 1 member appointed by the Commissioner
21 of Social Security.

22 (6) 1 member appointed by the Secretary of
23 Labor.

1 (7) 1 member appointed by the Director of the
2 Office of Management and Budget to address pri-
3 vacy concerns.

4 (c) CHAIRPERSON.—The Director of the Office of
5 Management and Budget shall designate one of the mem-
6 bers of the Board as the chairperson of the Board.

7 (d) ADMINISTRATIVE SUPPORT.—The heads of Fed-
8 eral agencies having a member on the Board may provide
9 to the Board such administrative and other support serv-
10 ices and facilities as the Board may require to perform
11 its functions under this title.

12 (e) TRAVEL EXPENSES.—Members of the Board
13 shall receive travel expenses, including per diem in lieu
14 of subsistence, in accordance with sections 5702 and 5703
15 of title 5, United States Code.

16 (f) REPORTS.—The Board shall periodically report to
17 the Director of the Office of Management and Budget re-
18 garding its activities.

19 **SEC. 205. RECIPIENT BENEFIT ACCESS; IMPLEMENTATION**
20 **OF TESTED INFORMATION TECHNOLOGY**
21 **PRACTICES OR TECHNIQUES.**

22 (a) COMMERCIAL SERVICES FOR ELECTRONIC SUB-
23 MISSIONS.—

24 (1) IN GENERAL.—The Administrator of Gen-
25 eral Services may acquire on behalf of Federal agen-

1 cies commercial services for accepting electronic pay-
2 ments for grants or loans and electronic claims sub-
3 missions from the public. Such services shall be
4 based on accepted commercial practices for elec-
5 tronic identification, authentication, and income ver-
6 ification.

7 (2) AGENCY REGULATIONS.—The head of each
8 Federal agency shall promulgate regulations provid-
9 ing for the use of the services described in para-
10 graph (1) by program recipients.

11 (3) FUNDING.—The Administrator may expend
12 such funds as may be required for the design, test-
13 ing, and pilot of a standard method by which the
14 public may be provided consistent, secure, and con-
15 venient electronic access in applying to Federal
16 agencies for loans and grants and in submitting
17 claims. Beginning in fiscal year 2002, the Adminis-
18 trator may finance the acquisition and management
19 of the commercial services described in paragraph
20 (1).

21 (4) DEFINITION OF ELECTRONIC.—For pur-
22 poses of this subsection, the term “electronic”
23 means through the Internet or telephonically.

24 (b) RECOMMENDATIONS.—If the Board determines
25 that any information technology practice, technique, or in-

1 formation sharing initiative tested under this title was suc-
2 cessfully demonstrated in the test and should be imple-
3 mented in the administration of a Federal benefit pro-
4 gram, the Board shall—

5 (1) recommend regulations or legislation to im-
6 plement that practice, technique, or initiative, if the
7 Board determines that implementation is not other-
8 wise prohibited under another law; or

9 (2) include in its annual report to the Congress
10 under section 201 recommendations for such legisla-
11 tion as may be necessary to authorize that imple-
12 mentation.

13 (e) REQUIREMENTS REGARDING DATA PROCESSING
14 SYSTEMS.—The Board shall include in any recommenda-
15 tion of regulations under subsection (a)—

16 (1) provisions that ensure use of generally ac-
17 cepted data processing system development meth-
18 odology; and

19 (2) provisions that will result in system archi-
20 tecture that will facilitate information exchange, in-
21 crease data sharing, and reduce costs, by elimination
22 of redundancy in development and acquisition of
23 data processing systems.

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