

progress that can be made with the other body, we would not want to discount the possibility of dealing with such bills as those, as well.

Ms. PELOSI. Will we have votes the week of November 18, the week before Thanksgiving?

Mr. ARMEY. Again, let me thank the gentlewoman for her inquiry. If she would continue to yield, Mr. Speaker, it is anticipated that we would complete work from November 12 through that week, and we could not anticipate being in the week before Thanksgiving.

Ms. PELOSI. So we would only be in the week of November 12 and not the following week, the week before Thanksgiving, just to confirm?

Mr. ARMEY. Again, I appreciate that. The gentlewoman may herself be one who is planning to go to such meetings, the NATO summit and such, and schedules that will carry many Members abroad on important business. We will do everything possible to avoid meeting during that week in deference to those travel plans.

I would say at this time only the most dire emergency would cause us to interrupt these trips. They have been planned for a long time, and they are important trips having to do with our relationship with our allied nations.

If the gentlewoman would permit me, I would attach the lowest probabilities to any meeting of this body during the week of November 22.

Ms. PELOSI. I appreciate the gentleman's information about that week. I have no intention to be on any of those trips. I intend to be here planning for a Democratic majority for the 108th Congress.

Mr. Speaker, will the gentleman tell us, will we be here in December planning for that Democratic majority?

Mr. ARMEY. Again, if the gentlewoman will continue to yield, I think for now and for whatever our purposes as we discuss with the other body, it would be imprudent for me to make any projections of time beyond that week of November 12.

Ms. PELOSI. I know Members will be eager to know, not because of trips but because of the work that is unfinished. I thank the gentleman and I wish him well and thank him for the information.

It is my firm hope and desire that the next time we meet to discuss the schedule, we will have a Democratic majority in the House, and we will be preparing for that. Unless the gentleman had any other information on the schedule?

Mr. ARMEY. If the gentlewoman will yield, I would just say again, the gentlewoman has brought wit and charm to the minority whip's position, and this gentleman is committed to the gentlewoman retaining that position for as long as she desires.

Ms. PELOSI. I wish the gentleman well in all of the endeavors that he pursues outside of this body and outside the political arena. I know we will probably have another colloquy; but

just until we meet again, I want to thank the gentleman for his service to the Congress, but I am sure we will have some more opportunities to do that.

Mr. Speaker, I reclaim my time only to say that it is with a level of sadness, not only because of the gentleman's departure from the Congress, but because of the unfinished business of this Congress. The American people expect and deserve for us to have a stimulus package. That remains unfinished business for this Congress, along with unfinished business relating to our children's education with the education bill, the prescription benefit for all seniors, the Patients' Bill of Rights, the threat of privatization of Social Security, and the list goes on and on. Unemployment insurance is expiring for America's unemployed workers, and we have not attended to that business.

So I have said on a number of occasions at the end of these colloquies that our work seems irrelevant to the American people because of the challenges that they face economically, healthwise, and otherwise. But now we are less than irrelevant; we are missing in action. I am very sorry. I think that when the Democrats are in the majority that we will be able to account for our responsibilities in a better way.

#### DISPOSING OF VARIOUS LEGISLATIVE MEASURES

Mr. ARMEY. Mr. Speaker, I send a unanimous consent request to the desk.

The SPEAKER pro tempore (Mr. SIMPSON). The Clerk will report the unanimous consent request.

The Clerk read as follows:

Mr. ARMEY asks unanimous consent that the House

1. Be considered to have discharged from the committee and passed H.R. 5647, S. 1646, S. 1270, H.R. 5603, H.R. 5651, H.R. 5640, and S. 1210;

2. Be considered to have passed S. 1227;

3. Be considered to have discharged from committee and agreed to House Concurrent Resolution 502, House Resolution 536, House Concurrent Resolution 479, and House Concurrent Resolution 492;

4. Be considered to have discharged from committee, amended, and agreed to House Concurrent Resolution 349 and House Concurrent Resolution 437, in the respective forms placed at the desk;

5. Be considered to have amended and passed H.R. 5200 by the committee amendment as further amended by the form placed at the desk;

6. Be considered to have taken from the Speaker's table and concurred in the respective Senate amendments to H.R. 3801, H.R. 4015, and H.R. 3253;

7. That the committees being discharged be printed in the RECORD, the texts of each measure and any amendment thereto be considered as read and printed in the RECORD, and that the motions to reconsider each of these actions be laid upon the table.

The SPEAKER pro tempore. The Chair will entertain this combined request under the Speaker's guidelines as recorded on page 712 of the House Rules and Manual with assurances that it has

been cleared by the bipartisan floor and all committee leaderships.

The Clerk will report the titles of the various bills and resolutions.

The Clerk read as follows:

DISCHARGED FROM THE COMMITTEE ON ARMED SERVICES AND PASSED

H.R. 5647, to authorize the duration of the base contract of the Navy-Marine Corps Intranet contract to be more than five years but not more than seven years.

H.R. 5647

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

#### SECTION 1. AUTHORIZED DURATION OF BASE CONTRACT FOR NAVY-MARINE CORPS INTRANET.

Section 814 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, as enacted into law by Public Law 106-398 (114 Stat. 1654A-215) and amended by section 362 of Public Law 107-107 (115 Stat. 1065), is amended—

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

(2) by inserting after subsection (h) the following new subsection (i):

“(i) DURATION OF BASE NAVY-MARINE CORPS INTRANET CONTRACT.—Notwithstanding section 2306c of title 10, United States Code, the base contract of the Navy-Marine Corps Intranet contract may have a term in excess of five years, but not more than seven years.”.

DISCHARGED FROM THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE AND PASSED

S. 1646, to identify certain routes in the States of Texas, Oklahoma, Colorado, and New Mexico as part of the Ports-to-Plains Corridor, a high priority corridor on the National Highway System.

S. 1646

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

#### SECTION 1. IDENTIFICATION OF PORTS-TO- PLAINS HIGH PRIORITY CORRIDOR ROUTES.

Section 1105(c)(38) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032; 114 Stat. 2763A-201) is amended—

(1) in subparagraph (A), by redesignating clauses (i) through (viii) as subclauses (I) through (VIII), respectively;

(2) by redesignating subparagraph (A) as clause (i);

(3) by striking “(38) The” and inserting “(38)(A) The”;

(4) in subparagraph (A) (as designated by paragraph (3))—

(A) in clause (i) (as redesignated by paragraph (2))—

(i) in subclause (VII) (as redesignated by paragraph (1)), by striking “and” at the end;

(ii) in subclause (VIII) (as redesignated by paragraph (1)), by striking the period at the end and inserting “; and”;

(iii) by adding at the end the following:

“(IX) United States Route 287 from Dumas to the border between the States of Texas and Oklahoma, and also United States Route 87 from Dumas to the border between the States of Texas and New Mexico.”; and

(B) by adding at the end the following:

“(ii) In the State of Oklahoma, the Ports-to-Plains Corridor shall generally follow

United States Route 287 from the border between the States of Texas and Oklahoma to the border between the States of Oklahoma and Colorado.

“(iii) In the State of Colorado, the Ports-to-Plains Corridor shall generally follow—

“(I) United States Route 287 from the border between the States of Oklahoma and Colorado to Limon; and

“(II) Interstate Route 70 from Limon to Denver.

“(iv) In the State of New Mexico, the Ports-to-Plains Corridor shall generally follow United States Route 87 from the border between the States of Texas and New Mexico to Raton.”; and

(5) by striking “(B) The corridor designation contained in paragraph (A)” and inserting the following:

“(B) The corridor designation contained in subclauses (I) through (VIII) of subparagraph (A)(i)”.

DISCHARGED FROM THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE AND PASSED

S. 1270, to designate the United States courthouse to be constructed at 8th Avenue and Mill Street in Eugene, Oregon, as the “Wayne Lyman Morse United States Courthouse”.

S. 1270

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

#### SECTION 1. DESIGNATION OF WAYNE LYMAN MORSE UNITED STATES COURTHOUSE.

The United States courthouse to be constructed at 8th Avenue and Mill Street in Eugene, Oregon, shall be known and designated as the “Wayne Lyman Morse United States Courthouse”.

#### SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the Wayne Lyman Morse United States Courthouse.

DISCHARGED FROM THE COMMITTEE ON WAYS AND MEANS AND PASSED

H.R. 5603, to amend the Internal Revenue Code of 1986 to suspend the tax-exempt status of designated terrorist organizations, and for other purposes.

H.R. 5603

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

#### SECTION 1. SUSPENSION OF TAX-EXEMPT STATUS OF DESIGNATED TERRORIST ORGANIZATIONS.

(a) IN GENERAL.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

“(p) SUSPENSION OF TAX-EXEMPT STATUS OF DESIGNATED TERRORIST ORGANIZATIONS.—

“(1) IN GENERAL.—The exemption from tax under subsection (a) with respect to any organization shall be suspended during any period in which the organization is a designated terrorist organization.

“(2) DESIGNATED TERRORIST ORGANIZATION.—For purposes of this subsection, the term ‘designated terrorist organization’ means an organization which—

“(A) is designated as a terrorist organization by an Executive order under the authority of—

“(i) section 212(a)(3) or 219 of the Immigration and Nationality Act,

“(ii) the International Emergency Economic Powers Act, or

“(iii) section 5 of the United Nations Participation Act, or

“(B) is a person listed in or designated by an Executive order as supporting terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989).

“(3) DENIAL OF DEDUCTION.—No deduction shall be allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 for any contribution to an organization during the period such organization is a designated terrorist organization.

“(4) DENIAL OF ADMINISTRATIVE OR JUDICIAL CHALLENGE OF SUSPENSION OR DENIAL OF DEDUCTION.—Notwithstanding section 7428 or any other provision of law, no organization or other person may challenge a suspension under paragraph (1), a determination or listing under paragraph (2), or a denial of a deduction under paragraph (3) in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person.

“(5) ERRONEOUS DESIGNATION.—

“(A) IN GENERAL.—If a designation of an organization pursuant to 1 or more of the provisions of law described in paragraph (2) is determined to be erroneous pursuant to such law, such designation (and any suspension under paragraph (1) occurring pursuant thereto) shall be treated as having not been made for purposes of this title.

“(B) WAIVER OF LIMITATIONS.—If credit or refund of any overpayment of tax which occurs by operation of subparagraph (A) is prevented at any time before the close of the 1-year period beginning on the date of the determination of such credit or refund by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.”.

(b) NOTICE OF SUSPENSIONS.—If the tax exemption of any organization is suspended under section 501(p) of the Internal Revenue Code of 1986 (as added by subsection (a)), the Internal Revenue Service shall update the listings of tax-exempt organizations and shall publish appropriate notice to taxpayers of such suspension and of the fact that contributions to such organization are not deductible during the period of such suspension.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

DISCHARGED FROM THE COMMITTEE ON ENERGY AND COMMERCE AND PASSED

H.R. 5651, to amend the Federal Food, Drug, and Cosmetic Act to make improvements in the regulation of medical devices, and for other purposes.

H.R. 5651

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

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Medical Device User Fee and Modernization Act of 2002”.

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

Sec. 1. Short title; table of contents.

#### TITLE I—FEES RELATED TO MEDICAL DEVICES

Sec. 101. Findings.

Sec. 102. Establishment of program.

Sec. 103. Annual reports.

Sec. 104. Postmarket surveillance.

Sec. 105. Consultation.

Sec. 106. Effective date.

Sec. 107. Sunset clause.

#### TITLE II—AMENDMENTS REGARDING REGULATION OF MEDICAL DEVICES

Sec. 201. Inspections by accredited persons.

Sec. 202. Third party review of premarket notification.

Sec. 203. Debarment of accredited persons.

Sec. 204. Designation and regulation of combination products.

Sec. 205. Report on certain devices.

Sec. 206. Electronic labeling.

Sec. 207. Electronic registration.

Sec. 208. Intended use.

Sec. 209. Modular review.

Sec. 210. Pediatric expertise regarding classification-panel review of premarket applications.

Sec. 211. Internet list of class II devices exempted from requirement of premarket notification.

Sec. 212. Study by Institute of Medicine of postmarket surveillance regarding pediatric populations.

Sec. 213. Guidance regarding pediatric devices.

Sec. 214. Breast implants; study by Comptroller General.

Sec. 215. Breast implants; research through National Institutes of Health.

#### TITLE III—ADDITIONAL AMENDMENTS

Sec. 301. Identification of manufacturer of medical devices.

Sec. 302. Single-use medical devices.

Sec. 303. MedWatch.

#### TITLE I—FEES RELATED TO MEDICAL DEVICES

##### SEC. 101. FINDINGS.

The Congress finds that—

(1) prompt approval and clearance of safe and effective devices is critical to the improvement of the public health so that patients may enjoy the benefits of devices to diagnose, treat, and prevent disease;

(2) the public health will be served by making additional funds available for the purpose of augmenting the resources of the Food and Drug Administration that are devoted to the process for the review of devices and the assurance of device safety and effectiveness so that statutorily mandated deadlines may be met; and

(3) the fees authorized by this title will be dedicated to meeting the goals identified in the letters from the Secretary of Health and Human Services to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, as set forth in the Congressional Record.

##### SEC. 102. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—Subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379f et seq.) is amended by adding at the end the following part:

##### “PART 3—FEES RELATING TO DEVICES

###### “SEC. 737. DEFINITIONS.

“For purposes of this subchapter:

“(1) The term ‘premarket application’ means—

“(A) an application for approval of a device submitted under section 515(c) or section 351 of the Public Health Service Act; or

“(B) a product development protocol described in section 515(f).

Such term does not include a supplement, a premarket report, or a premarket notification submission.

“(2) The term ‘premarket report’ means a report submitted under section 515(c)(2).

“(3) The term ‘premarket notification submission’ means a report submitted under section 510(k).

“(4)(A) The term ‘supplement’, with respect to a panel-track supplement, a 180-day

supplement, a real-time supplement, or an efficacy supplement, means a request to the Secretary to approve a change in a device for which—

“(i) an application or report has been approved under section 515(d), or an application has been approved under section 351 of the Public Health Service Act; or

“(ii) a notice of completion has become effective under section 515(f).

“(B) The term ‘panel-track supplement’ means a supplement to an approved premarket application or premarket report under section 515 that requests a significant change in design or performance of the device, or a new indication for use of the device, and for which clinical data are generally necessary to provide a reasonable assurance of safety and effectiveness.

“(C) The term ‘180-day supplement’ means a supplement to an approved premarket application or premarket report under section 515 that is not a panel-track supplement and requests a significant change in components, materials, design, specification, software, color additives, or labeling.

“(D) The term ‘real-time supplement’ means a supplement to an approved premarket application or premarket report under section 515 that requests a minor change to the device, such as a minor change to the design of the device, software, manufacturing, sterilization, or labeling, and for which the applicant has requested and the agency has granted a meeting or similar forum to jointly review and determine the status of the supplement.

“(E) The term ‘efficacy supplement’ means a supplement to an approved premarket application under section 351 of the Public Health Service Act that requires substantive clinical data.

“(5) The term ‘process for the review of device applications’ means the following activities of the Secretary with respect to the review of premarket applications, premarket reports, supplements, and premarket notification submissions:

“(A) The activities necessary for the review of premarket applications, premarket reports, supplements, and premarket notification submissions.

“(B) The issuance of action letters that allow the marketing of devices or which set forth in detail the specific deficiencies in such applications, reports, supplements, or submissions and, where appropriate, the actions necessary to place them in condition for approval.

“(C) The inspection of manufacturing establishments and other facilities undertaken as part of the Secretary’s review of pending premarket applications, premarket reports, and supplements.

“(D) Monitoring of research conducted in connection with the review of such applications, reports, supplements, and submissions.

“(E) Review of device applications subject to section 351 of the Public Health Service Act for an investigational new drug application under section 505(i) or for an investigational device exemption under section 520(g) and activities conducted in anticipation of the submission of such applications under section 505(i) or 520(g).

“(F) The development of guidance, policy documents, or regulations to improve the process for the review of premarket applications, premarket reports, supplements, and premarket notification submissions.

“(G) The development of voluntary test methods, consensus standards, or mandatory performance standards under section 514 in connection with the review of such applications, reports, supplements, or submissions and related activities.

“(H) The provision of technical assistance to device manufacturers in connection with

the submission of such applications, reports, supplements, or submissions.

“(I) Any activity undertaken under section 513 or 515(i) in connection with the initial classification or reclassification of a device or under section 515(b) in connection with any requirement for approval of a device.

“(J) Evaluation of postmarket studies required as a condition of an approval of a premarket application under section 515 or section 351 of the Public Health Service Act.

“(K) Compiling, developing, and reviewing information on relevant devices to identify safety and effectiveness issues for devices subject to premarket applications, premarket reports, supplements, or premarket notification submissions.

“(6) The term ‘costs of resources allocated for the process for the review of device applications’ means the expenses incurred in connection with the process for the review of device applications for—

“(A) officers and employees of the Food and Drug Administration, contractors of the Food and Drug Administration, advisory committees, and costs related to such officers, employees, and committees and to contracts with such contractors;

“(B) management of information, and the acquisition, maintenance, and repair of computer resources;

“(C) leasing, maintenance, renovation, and repair of facilities and acquisition, maintenance, and repair of fixtures, furniture, scientific equipment, and other necessary materials and supplies; and

“(D) collecting fees and accounting for resources allocated for the review of premarket applications, premarket reports, supplements, and submissions.

“(7) The term ‘adjustment factor’ applicable to a fiscal year is the Consumer Price Index for all urban consumers (all items; United States city average) for April of the preceding fiscal year divided by such Index for April 2002.

“(8) The term ‘affiliate’ means a business entity that has a relationship with a second business entity if, directly or indirectly—

“(A) one business entity controls, or has the power to control, the other business entity; or

“(B) a third party controls, or has power to control, both of the business entities.

#### “SEC. 738. AUTHORITY TO ASSESS AND USE DEVICE FEES.

“(a) TYPES OF FEES.—Beginning on the date of the enactment of the Medical Device User Fee and Modernization Act of 2002, the Secretary shall assess and collect fees in accordance with this section as follows:

“(1) PREMARKET APPLICATION, PREMARKET REPORT, SUPPLEMENT, AND SUBMISSION FEE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B) and subsection (d), each person who submits any of the following, on or after October 1, 2002, shall be subject to a fee established under subsection (c)(5) for the fiscal year involved in accordance with the following:

“(i) A premarket application.

“(ii) For a premarket report, a fee equal to the fee that applies under clause (i).

“(iii) For a panel track supplement, a fee equal to the fee that applies under clause (i).

“(iv) For a 180-day supplement, a fee equal to 21.5 percent of the fee that applies under clause (i), subject to any adjustment under subsection (c)(3).

“(v) For a real-time supplement, a fee equal to 7.2 percent of the fee that applies under clause (i).

“(vi) For an efficacy supplement, a fee equal to the fee that applies under clause (i).

“(vii) For a premarket notification submission, a fee equal to 1.42 percent of the fee that applies under clause (i), subject to any

adjustment under subsection (c)(3) and any adjustment under subsection (e)(2)(C)(ii).

“(B) EXCEPTIONS.—

“(i) HUMANITARIAN DEVICE EXEMPTION.—An application under section 520(m) is not subject to any fee under subparagraph (A).

“(ii) FURTHER MANUFACTURING USE.—No fee shall be required under subparagraph (A) for the submission of a premarket application under section 351 of the Public Health Service Act for a product licensed for further manufacturing use only.

“(iii) STATE OR FEDERAL GOVERNMENT SPONSORS.—No fee shall be required under subparagraph (A) for a premarket application, premarket report, supplement, or premarket notification submission submitted by a State or Federal Government entity unless the device involved is to be distributed commercially.

“(iv) PREMARKET NOTIFICATIONS BY THIRD PARTIES.—No fee shall be required under subparagraph (A) for a premarket notification submission reviewed by an accredited person pursuant to section 523.

“(v) PEDIATRIC CONDITIONS OF USE.—

“(I) IN GENERAL.—No fee shall be required under subparagraph (A) for a premarket application, premarket report, or premarket notification submission if the proposed conditions of use for the device involved are solely for a pediatric population. No fee shall be required under such subparagraph for a supplement if the sole purpose of the supplement is to propose conditions of use for a pediatric population.

“(II) SUBSEQUENT PROPOSAL OF ADULT CONDITIONS OF USE.—In the case of a person who submits a premarket application or premarket report for which, under subclause (I), a fee under subparagraph (A) is not required, any supplement to such application that proposes conditions of use for any adult population is subject to the fee that applies under such subparagraph for a premarket application.

“(C) PAYMENT.—The fee required by subparagraph (A) shall be due upon submission of the premarket application, premarket report, supplement, or premarket notification submission except that invoices for applications submitted between October 1, 2002, and the date of the enactment of the Medical Device User Fee and Modernization Act of 2002 shall be payable on October 30, 2002. Applicants submitting portions of applications pursuant to section 515(c)(3) shall pay such fees upon submission of the first portion of such applications. The fees credited to fiscal year 2003 under this section shall include all fees payable from October 1, 2002, through September 30, 2003.

“(D) REFUNDS.—

“(i) APPLICATION REFUSED FOR FILING.—The Secretary shall refund 75 percent of the fee paid under subparagraph (A) for any application or supplement that is refused for filing.

“(ii) APPLICATION WITHDRAWN BEFORE FILING.—The Secretary shall refund 75 percent of the fee paid under subparagraph (A) for any application or supplement that is withdrawn prior to the filing decision of the Secretary.

“(iii) APPLICATION WITHDRAWN BEFORE FIRST ACTION.—After receipt of a request for a refund of the fee paid under subparagraph (A) for a premarket application, premarket report, or supplement that is withdrawn after filing but before a first action, the Secretary may return some or all of the fee. The amount of refund, if any, shall be based on the level of effort already expended on the review of such application, report, or supplement. The Secretary shall have sole discretion to refund a fee or portion of the fee under this subparagraph. A determination by the Secretary concerning a refund under this paragraph shall not be reviewable.

“(b) FEE REVENUE AMOUNTS.—Except as provided in subsections (c), (d), (e), (g), and (h), the fees under subsection (a) shall be established to generate the following revenue amounts: \$25,125,000 in fiscal year 2003; \$27,255,000 in fiscal year 2004; \$29,785,000 in fiscal year 2005; \$32,615,000 in fiscal year 2006, and \$35,000,000 in fiscal year 2007. If legislation is enacted after the date of the enactment of the Medical Device User Fee and Modernization Act of 2002 requiring the Secretary to fund additional costs of the retirement of Federal personnel, fee revenue amounts under this subsection shall be increased in each year by the amount necessary to fully fund the portion of such additional costs that are attributable to the process for the review of device applications.

“(c) ADJUSTMENTS.—

“(1) INFLATION ADJUSTMENT.—The revenues established in subsection (b) shall be adjusted by the Secretary by notice, published in the Federal Register, for a fiscal year to reflect the greater of—

“(A) the total percentage change that occurred in the Consumer Price Index for all urban consumers (all items; U.S. city average) for the 12 month period ending June 30 preceding the fiscal year for which fees are being established, or

“(B) the total percentage change for the previous fiscal year in basic pay under the General Schedule in accordance with section 5332 of title 5, United States Code, as adjusted by any locality-based comparability payment pursuant to section 5304 of such title for Federal employees stationed in the District of Columbia. The adjustment made each fiscal year by this subsection shall be added on a compounded basis to the sum of all adjustments made each fiscal year after fiscal year 2003 under this subsection.

“(2) WORKLOAD ADJUSTMENT.—After the fee revenues established in subsection (b) are adjusted for a fiscal year for inflation in accordance with paragraph (1), the fee revenues shall, beginning with fiscal year 2004, be adjusted further each fiscal year to reflect changes in the workload of the Secretary for the process for the review of device applications. With respect to such adjustment:

“(A) The adjustment shall be determined by the Secretary based on a weighted average of the change in the total number of premarket applications, investigational new device applications, premarket reports, supplements, and premarket notification submissions submitted to the Secretary. The Secretary shall publish in the Federal Register the fee revenues and fees resulting from the adjustment and the supporting methodologies.

“(B) Under no circumstances shall the adjustment result in fee revenues for a fiscal year that are less than the fee revenues for the fiscal year established in subsection (b), as adjusted for inflation under paragraph (1).

“(3) COMPENSATING ADJUSTMENT.—After the fee revenues established in subsection (b) are adjusted for a fiscal year for inflation in accordance with paragraph (1), and for workload in accordance with paragraph (2), the fee revenues shall, beginning with fiscal year 2004, be adjusted further each fiscal year, if necessary, to reflect the cumulative amount by which collections for previous fiscal years, beginning with fiscal year 2003, fell below the cumulative revenue amounts for such fiscal years specified in subsection (b), adjusted for such fiscal years for inflation in accordance with paragraph (1), and for workload in accordance with paragraph (2).

“(4) FINAL YEAR ADJUSTMENT.—For fiscal year 2007, the Secretary may, in addition to adjustments under paragraphs (1) and (2), further increase the fees and fee revenues established in subsection (b) if such adjust-

ment is necessary to provide for not more than three months of operating reserves of carryover user fees for the process for the review of device applications for the first three months of fiscal year 2008. If such an adjustment is necessary, the rationale for the amount of the increase shall be contained in the annual notice establishing fee revenues and fees for fiscal year 2007. If the Secretary has carryover user fee balances for such process in excess of three months of such operating reserves, the adjustment under this paragraph shall not be made.

“(5) ANNUAL FEE SETTING.—The Secretary shall, 60 days before the start of each fiscal year after September 30, 2002, establish, for the next fiscal year, and publish in the Federal Register, fees under subsection (a), based on the revenue amounts established under subsection (b) and the adjustment provided under this subsection and subsection (e)(2)(C)(ii), except that the fees established for fiscal year 2003 shall be based on a premarket application fee of \$154,000.

“(6) LIMIT.—The total amount of fees charged, as adjusted under this subsection, for a fiscal year may not exceed the total costs for such fiscal year for the resources allocated for the process for the review of device applications.

“(d) SMALL BUSINESSES; FEE WAIVER AND FEE REDUCTION REGARDING PREMARKET APPROVAL FEES.—

“(1) IN GENERAL.—The Secretary shall grant a waiver of the fee required under subsection (a) for one premarket application, or one premarket report, where the Secretary finds that the applicant involved is a small business submitting its first premarket application to the Secretary, or its first premarket report, respectively, for review. In addition, for subsequent premarket applications, premarket reports, and supplements where the Secretary finds that the applicant involved is a small business, the fees specified in clauses (i) through (vi) of subsection (a)(1)(A) may be paid at a reduced rate in accordance with paragraph (2)(C).

“(2) RULES RELATING TO PREMARKET APPROVAL FEES.—

“(A) DEFINITION.—

“(i) IN GENERAL.—For purposes of this subsection, the term ‘small business’ means an entity that reported \$30,000,000 or less of gross receipts or sales in its most recent Federal income tax return for a taxable year, including such returns of all of its affiliates, partners, and parent firms.

“(ii) ADJUSTMENT.—The Secretary may adjust the \$30,000,000 threshold established in clause (i) if the Secretary has evidence from actual experience that this threshold results in a reduction in revenues from premarket applications, premarket reports, and supplements that is 16 percent or more than would occur without small business exemptions and lower fee rates. To adjust this threshold, the Secretary shall publish a notice in the Federal Register setting out the rationale for the adjustment, and the new threshold.

“(B) EVIDENCE OF QUALIFICATION.—An applicant shall pay the higher fees established by the Secretary each year unless the applicant submits evidence that it qualifies for a waiver of the fee or the lower fee rate. The applicant shall support its claim that it meets the definition under subparagraph (A) by submission of a copy of its most recent Federal income tax return for a taxable year, and a copy of such returns of its affiliates, partners, and parent firms, which show an amount of gross sales or receipts that is less than the maximum established in subparagraph (A). The applicant, and each of such affiliates, partners, and parent firms, shall certify that the information provided is a true and accurate copy of the actual tax forms they submitted to the Internal Revenue

Service. If no tax forms are submitted for affiliates, partners, or parent firms, the applicant shall certify that the applicant has no affiliates, partners, or parent firms, respectively.

“(C) REDUCED FEES.—Where the Secretary finds that the applicant involved meets the definition under subparagraph (A), the fees established under subsection (c)(5) may be paid at a reduced rate of 38 percent of the fee established under such subsection for a premarket application, a premarket report, or a supplement.

“(D) REQUEST FOR FEE WAIVER OR REDUCTION.—An applicant seeking a fee waiver or reduction under this subsection shall submit supporting information to the Secretary at least 60 days before the fee is required pursuant to subsection (a). The decision of the Secretary regarding whether an entity qualifies for such a waiver or reduction is not reviewable.

“(e) SMALL BUSINESSES; FEE REDUCTION REGARDING PREMARKET NOTIFICATION SUBMISSIONS.—

“(1) IN GENERAL.—Where the Secretary finds that the applicant involved is a small business, the fee specified in subsection (a)(1)(A)(vii) may be paid at a reduced rate in accordance with paragraph (2)(C).

“(2) RULES RELATING TO PREMARKET NOTIFICATION SUBMISSIONS.—

“(A) DEFINITION.—For purposes of this subsection, the term ‘small business’ means an entity that reported \$30,000,000 or less of gross receipts or sales in its most recent Federal income tax return for a taxable year, including such returns of all of its affiliates, partners, and parent firms.

“(B) EVIDENCE OF QUALIFICATION.—An applicant shall pay the higher fees established by the Secretary each year unless the applicant submits evidence that it qualifies for the lower fee rate. The applicant shall support its claim that it meets the definition under subparagraph (A) by submission of a copy of its most recent Federal income tax return for a taxable year, and a copy of such returns of its affiliates, partners, and parent firms, which show an amount of gross sales or receipts that is less than the maximum established in subparagraph (A). The applicant, and each of such affiliates, partners, and parent firms, shall certify that the information provided is a true and accurate copy of the actual tax forms they submitted to the Internal Revenue Service. If no tax forms are submitted for affiliates, partners, or parent firms, the applicant shall certify that the applicant has no affiliates, partners, or parent firms, respectively.

“(C) REDUCED FEES.—

“(i) IN GENERAL.—Where the Secretary finds that the applicant involved meets the definition under subparagraph (A), the fee for a premarket notification submission may be paid at 80 percent of the fee that applies under subsection (a)(1)(A)(vii), as adjusted under clause (ii) and as established under subsection (c)(5).

“(ii) ADJUSTMENT PER FEE REVENUE AMOUNT.—For fiscal year 2004 and each subsequent fiscal year, the Secretary, in setting the revenue amount under subsection (c)(5) for premarket notification submissions, shall determine the revenue amount that would apply if all such submissions for the fiscal year involved paid a fee equal to 1.42 percent of the amount that applies under subsection (a)(1)(A)(i) for premarket applications, and shall adjust the fee under subsection (a)(1)(A)(vii) for premarket notification submissions such that the reduced fees collected under clause (i) of this subparagraph, when added to fees for such submissions that are not paid at the reduced rate, will equal such revenue amount for the fiscal year.

“(D) REQUEST FOR REDUCTION.—An applicant seeking a fee reduction under this subsection shall submit supporting information to the Secretary at least 60 days before the fee is required pursuant to subsection (a). The decision of the Secretary regarding whether an entity qualifies for such a reduction is not reviewable.

“(f) EFFECT OF FAILURE TO PAY FEES.—A premarket application, premarket report, supplement, or premarket notification submission submitted by a person subject to fees under subsection (a) shall be considered incomplete and shall not be accepted for filing by the Secretary until all fees owed by such person have been paid.

“(g) CONDITIONS.—

“(1) PERFORMANCE GOALS THROUGH FISCAL YEAR 2005; TERMINATION OF PROGRAM AFTER FISCAL YEAR 2005.—With respect to the amount that, under the salaries and expenses account of the Food and Drug Administration, is appropriated for a fiscal year for devices and radiological products:

“(A)(i) For each of the fiscal years 2003 and 2004, the Secretary is expected to meet all of the goals identified for the fiscal year involved in any letter referred to in section 101(3) of the Medical Device User Fee and Modernization Act of 2002 (referred to in this paragraph as ‘performance goals’) if the amount so appropriated for such fiscal year, excluding the amount of fees appropriated for such fiscal year, is equal to or greater than \$205,720,000 multiplied by the adjustment factor applicable to the fiscal year.

“(ii) For each of the fiscal years 2003 and 2004, if the amount so appropriated for the fiscal year involved, excluding the amount of fees appropriated for such fiscal year, is less than the amount that applies under clause (i) for such fiscal year, the following applies:

“(I) The Secretary is expected to meet such goals to the extent practicable, taking into account the amounts that are available to the Secretary for such purpose, whether from fees under subsection (a) or otherwise.

“(II) The Comptroller General of the United States shall submit to the Congress a report describing whether and to what extent the Secretary is meeting the performance goals identified for such fiscal year, and whether the Secretary will be able to meet all performance goals identified for fiscal year 2005. A report under the preceding sentence shall be submitted to the Congress not later than July 1 of the fiscal year with which the report is concerned.

“(B)(i) For fiscal year 2005, the Secretary is expected to meet all of the performance goals identified for the fiscal year if the total of the amounts so appropriated for fiscal years 2003 through 2005, excluding the amount of fees appropriated for such fiscal years, is equal to or greater than the sum of—

“(I) \$205,720,000 multiplied by the adjustment factor applicable to fiscal year 2003;

“(II) \$205,720,000 multiplied by the adjustment factor applicable to fiscal year 2004; and

“(III) \$205,720,000 multiplied by the adjustment factor applicable to fiscal year 2005.

“(ii) For fiscal year 2005, if the total of the amounts so appropriated for fiscal years 2003 through 2005, excluding the amount of fees appropriated for such fiscal years, is less than the sum that applies under clause (i) for fiscal year 2005, the following applies:

“(I) The Secretary is expected to meet such goals to the extent practicable, taking into account the amounts that are available to the Secretary for such purpose, whether from fees under subsection (a) or otherwise.

“(II) The Comptroller General of the United States shall submit to the Congress a report describing whether and to what extent the Secretary is meeting the perform-

ance goals identified for such fiscal year, and whether the Secretary will be able to meet all performance goals identified for fiscal year 2006. The report under the preceding sentence shall be submitted to the Congress not later than July 1, 2005.

“(C) For fiscal year 2006, fees may not be assessed under subsection (a) for the fiscal year, and the Secretary is not expected to meet any performance goals identified for the fiscal year, if the total of the amounts so appropriated for fiscal years 2003 through 2006, excluding the amount of fees appropriated for such fiscal years, is less than the sum of—

“(i) \$205,720,000 multiplied by the adjustment factor applicable to fiscal year 2006; and

“(ii) an amount equal to the sum that applies for purposes of subparagraph (B)(i).

“(D) For fiscal year 2007, fees may not be assessed under subsection (a) for the fiscal year, and the Secretary is not expected to meet any performance goals identified for the fiscal year, if—

“(i) the amount so appropriated for the fiscal year, excluding the amount of fees appropriated for the fiscal year, is less than \$205,720,000 multiplied by the adjustment factor applicable to fiscal year 2007; or

“(ii) pursuant to subparagraph (C), fees were not assessed under subsection (a) for fiscal year 2006.

“(2) AUTHORITY.—If the Secretary does not assess fees under subsection (a) during any portion of a fiscal year because of subparagraph (C) or (D) of paragraph (1) and if at a later date in such fiscal year the Secretary may assess such fees, the Secretary may assess and collect such fees, without any modification in the rate for premarket applications, supplements, premarket reports, and premarket notification submissions, and at any time in such fiscal year, notwithstanding the provisions of subsection (a) relating to the date fees are to be paid.

“(h) CREDITING AND AVAILABILITY OF FEES.—

“(1) IN GENERAL.—Fees authorized under subsection (a) shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriation Acts. Such fees are authorized to be appropriated to remain available until expended. Such sums as may be necessary may be transferred from the Food and Drug Administration salaries and expenses appropriation account without fiscal year limitation to such appropriation account for salaries and expenses with such fiscal year limitation. The sums transferred shall be available solely for the process for the review of device applications.

“(2) COLLECTIONS AND APPROPRIATION ACTS.—

“(A) IN GENERAL.—The fees authorized by this section—

“(i) shall be retained in each fiscal year in an amount not to exceed the amount specified in appropriation Acts, or otherwise made available for obligation, for such fiscal year, and

“(ii) shall only be collected and available to defray increases in the costs of the resources allocated for the process for the review of device applications (including increases in such costs for an additional number of full-time equivalent positions in the Department of Health and Human Services to be engaged in such process) over such costs, excluding costs paid from fees collected under this section, for fiscal year 2002 multiplied by the adjustment factor.

“(B) COMPLIANCE.—The Secretary shall be considered to have met the requirements of subparagraph (A)(ii) in any fiscal year if the costs funded by appropriations and allocated

for the process for the review of device applications—

“(i) are not more than 3 percent below the level specified in subparagraph (A)(ii); or

“(ii) are more than 3 percent below the level specified in subparagraph (A)(ii), and fees assessed for a subsequent fiscal year are decreased by the amount in excess of 3 percent by which such costs fell below the level specified in such subparagraph; and

“(II) such costs are not more than 5 percent below the level specified in such subparagraph.

“(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fees under this section—

“(A) \$25,125,000 for fiscal year 2003;

“(B) \$27,255,000 for fiscal year 2004;

“(C) \$29,785,000 for fiscal year 2005;

“(D) \$32,615,000 for fiscal year 2006; and

“(E) \$35,000,000 for fiscal year 2007,

as adjusted to reflect adjustments in the total fee revenues made under this section and changes in the total amounts collected by application fees.

“(4) OFFSET.—Any amount of fees collected for a fiscal year under this section that exceeds the amount of fees specified in appropriation Acts for such fiscal year shall be credited to the appropriation account of the Food and Drug Administration as provided in paragraph (1), and shall be subtracted from the amount of fees that would otherwise be authorized to be collected under this section pursuant to appropriation Acts for a subsequent fiscal year.

“(i) COLLECTION OF UNPAID FEES.—In any case where the Secretary does not receive payment of a fee assessed under subsection (a) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

“(j) WRITTEN REQUESTS FOR REFUNDS.—To qualify for consideration for a refund under subsection (a)(1)(D), a person shall submit to the Secretary a written request for such refund not later than 180 days after such fee is due.

“(k) CONSTRUCTION.—This section may not be construed to require that the number of full-time equivalent positions in the Department of Health and Human Services, for officers, employees, and advisory committees not engaged in the process of the review of device applications, be reduced to offset the number of officers, employees, and advisory committees so engaged.”.

(b) FEE EXEMPTION FOR CERTAIN ENTITIES SUBMITTING PREMARKET REPORTS.—

(1) IN GENERAL.—A person submitting a premarket report to the Secretary of Health and Human Services is exempt from the fee under section 738(a)(1)(A)(ii) of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a) of this section) if—

(A) the premarket report is the first such report submitted to the Secretary by the person; and

(B) before October 1, 2002, the person submitted a premarket application to the Secretary for the same device as the device for which the person is submitting the premarket report.

(2) DEFINITIONS.—For purposes of paragraph (1), the terms “device”, “premarket application”, and “premarket report” have the same meanings as apply to such terms for purposes of section 738 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a) of this section).

#### SEC. 103. ANNUAL REPORTS.

Beginning with fiscal year 2003, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate a report concerning—

(1) the progress of the Food and Drug Administration in achieving the goals identified in the letters described in section 101(3) during such fiscal year and the future plans of the Food and Drug Administration for meeting the goals, not later than 60 days after the end of each fiscal year during which fees are collected under this part; and

(2) the implementation of the authority for such fees during such fiscal year, and the use, by the Food and Drug Administration, of the fees collected during such fiscal year, not later than 120 days after the end of each fiscal year during which fees are collected under the medical device user-fee program established under the amendment made by section 102.

#### SEC. 104. POSTMARKET SURVEILLANCE.

(a) **ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out postmarket surveillance of medical devices, there are authorized to be appropriated to the Food and Drug Administration the following amounts, stated as increases above the amount obligated for such purpose by such Administration for fiscal year 2002:

(1) For fiscal year 2003, an increase of \$3,000,000.

(2) For fiscal year 2004, an increase of \$6,000,000.

(3) For fiscal year 2005 and each subsequent fiscal year, an increase of such sums as may be necessary.

(b) **STUDY.**—

(1) **IN GENERAL.**—The Secretary of Health and Human Services (referred to in this section as the “Secretary”) shall conduct a study for the purpose of determining the following with respect to the medical device user-fee program established under the amendment made by section 102:

(A) The impact of such program on the ability of the Food and Drug Administration to conduct postmarket surveillance on medical devices.

(B) The programmatic improvements, if any, needed for adequate postmarket surveillance of medical devices.

(C) The amount of funds needed to conduct adequate postmarket surveillance of medical devices.

(D) The extent to which device companies comply with the postmarket surveillance requirements, including postmarket study commitments.

(E) The recommendations of the Secretary as to whether, and in what amounts, user fees collected under such user-fee program should be dedicated to postmarket surveillance if the program is extended beyond fiscal year 2007.

(2) **REPORT.**—Not later than January 10, 2007, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate, a report that describes the findings of the study under paragraph (1).

#### SEC. 105. CONSULTATION.

(a) **IN GENERAL.**—In developing recommendations to the Congress for the goals and plans for meeting the goals for the process for the review of medical device applications for fiscal years after fiscal year 2007, and for the reauthorization of sections 737 and 738 of the Federal Food, Drug, and Cosmetic Act, the Secretary of Health and Human Services (referred to in this section as the “Secretary”) shall consult with the Committee on Energy and Commerce of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, appropriate scientific and academic experts, health care professionals, representatives of patient and consumer advocacy groups, and the regulated industry.

(b) **RECOMMENDATIONS.**—The Secretary shall publish in the Federal Register recommendations under subsection (a), after negotiations with the regulated industry; shall present such recommendations to the congressional committees specified in such paragraph; shall hold a meeting at which the public may present its views on such recommendations; and shall provide for a period of 30 days for the public to provide written comments on such recommendations.

#### SEC. 106. EFFECTIVE DATE.

The amendments made by this title shall take effect on the date of the enactment of this Act, except that fees shall be assessed for all premarket applications, premarket reports, supplements, and premarket notification submissions received on or after October 1, 2002, regardless of the date of enactment.

#### SEC. 107. SUNSET CLAUSE.

The amendments made by this title cease to be effective October 1, 2007, except that section 103 with respect to annual reports ceases to be effective January 31, 2008.

### TITLE II—AMENDMENTS REGARDING REGULATION OF MEDICAL DEVICES

#### SEC. 201. INSPECTIONS BY ACCREDITED PERSONS.

(a) **IN GENERAL.**—Section 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 374) is amended by adding at the end the following subsection:

“(g)(1) Not later than one year after the date of the enactment of this subsection, the Secretary shall, subject to the provisions of this subsection, accredit persons for the purpose of conducting inspections of establishments that manufacture, prepare, propagate, compound, or process class II or class III devices that are required in section 510(h), or inspections of such establishments required to register pursuant to section 510(i). The owner or operator of such an establishment that is eligible under paragraph (6) may, from the list published under paragraph (4), select an accredited person to conduct such inspections.

“(2) Not later than 180 days after the date of enactment of this subsection, the Secretary shall publish in the Federal Register criteria to accredit or deny accreditation to persons who request to perform the duties specified in paragraph (1). Thereafter, the Secretary shall inform those requesting accreditation, within 60 days after the receipt of such request, whether the request for accreditation is adequate for review, and the Secretary shall promptly act on the request for accreditation. Any resulting accreditation shall state that such person is accredited to conduct inspections at device establishments identified in paragraph (1). The accreditation of such person shall specify the particular activities under this subsection for which such person is accredited. In the first year following the publication in the Federal Register of criteria to accredit or deny accreditation to persons who request to perform the duties specified in paragraph (1), the Secretary shall accredit no more than 15 persons who request to perform duties specified in paragraph (1).

“(3) An accredited person shall, at a minimum, meet the following requirements:

“(A) Such person may not be an employee of the Federal Government.

“(B) Such person shall be an independent organization which is not owned or controlled by a manufacturer, supplier, or vendor of articles regulated under this Act and which has no organizational, material, or financial affiliation (including a consultative affiliation) with such a manufacturer, supplier, or vendor.

“(C) Such person shall be a legally constituted entity permitted to conduct the activities for which it seeks accreditation.

“(D) Such person shall not engage in the design, manufacture, promotion, or sale of articles regulated under this Act.

“(E) The operations of such person shall be in accordance with generally accepted professional and ethical business practices, and such person shall agree in writing that at a minimum the person will—

“(i) certify that reported information accurately reflects data reviewed, inspection observations made, other matters that relate to or may influence compliance with this Act, and recommendations made during an inspection or at an inspection's closing meeting;

“(ii) limit work to that for which competence and capacity are available;

“(iii) treat information received, records, reports, and recommendations as confidential commercial or financial information or trade secret information, except such information may be made available to the Secretary;

“(iv) promptly respond and attempt to resolve complaints regarding its activities for which it is accredited; and

“(v) protect against the use, in carrying out paragraph (1), of any officer or employee of the accredited person who has a financial conflict of interest regarding any product regulated under this Act, and annually make available to the public disclosures of the extent to which the accredited person, and the officers and employees of the person, have maintained compliance with requirements under this clause relating to financial conflicts of interest.

“(4) The Secretary shall publish on the Internet site of the Food and Drug Administration a list of persons who are accredited under paragraph (2). Such list shall be updated to ensure that the identity of each accredited person, and the particular activities for which the person is accredited, is known to the public. The updating of such list shall be no later than one month after the accreditation of a person under this subsection or the suspension or withdrawal of accreditation, or the modification of the particular activities for which the person is accredited.

“(5)(A) To ensure that persons accredited under this subsection continue to meet the standards of accreditation, the Secretary shall (i) audit the performance of such persons on a periodic basis through the review of inspection reports and inspections by persons designated by the Secretary to evaluate the compliance status of a device establishment and the performance of accredited persons, and (ii) take such additional measures as the Secretary determines to be appropriate.

“(B) The Secretary may withdraw accreditation of any person accredited under paragraph (2), after providing notice and an opportunity for an informal hearing, when such person is substantially not in compliance with the standards of accreditation, or poses a threat to public health or fails to act in a manner that is consistent with the purposes of this subsection. The Secretary may suspend the accreditation of such person during the pendency of the process under the preceding sentence.

“(6)(A) Subject to subparagraphs (B) and (C), a device establishment is eligible for inspections by persons accredited under paragraph (2) if the following conditions are met:

“(i) The Secretary classified the results of the most recent inspection of the establishment pursuant to subsection (h) or (i) of section 510 as ‘no action indicated’ or ‘voluntary action indicated’.

“(ii) With respect to each inspection to be conducted by an accredited person—

“(I) the owner or operator of the establishment submits to the Secretary a notice requesting clearance to use such a person to



conduct the inspection, and the Secretary provides such clearance; and

“(II) such notice identifies the accredited person whom the establishment has selected to conduct the inspection, and the Secretary agrees to the selected accredited person.

“(iii) With respect to the devices that are manufactured, prepared, propagated, compounded, or processed by the establishment, at least one of such devices is marketed in the United States, and the following additional conditions are met:

“(I) At least one of such devices is marketed, or is intended to be marketed, in one or more foreign countries, one of which countries certifies, accredits, or otherwise recognizes the person accredited under paragraph (2) and identified under subclause (II) of this clause.

“(II) The owner or operator of the establishment submits to the Secretary a statement that the law of a country in which such a device is marketed, or is intended to be marketed, recognizes an inspection of the establishment by the Secretary, and not later than 30 days after receiving such statement, the Secretary informs the owner or operator of the establishment that the owner or operator may submit a notice requesting clearance under clause (ii).

“(iv)(I) In the case of an inspection to be conducted pursuant to 510(h), persons accredited under paragraph (2) did not conduct the two immediately preceding inspections of the establishment, except that the establishment may petition the Secretary for a waiver of such condition. Such a waiver may be granted only if the petition states a commercial reason for the waiver; the Secretary determines that the public health would be served by granting the waiver; and the Secretary has conducted an inspection of the establishment during the four-year period preceding the date on which the notice under clause (ii) is submitted to the Secretary. Such a waiver is deemed to be granted only if the petition states a commercial reason for the waiver; the Secretary has not determined that the public health would be served by granting the waiver; and the owner or operator of the device establishment has requested in writing, not later than 18 months following the most recent inspection of such establishment by a person accredited under paragraph (2), that the Secretary inspect the establishment and the Secretary has not conducted an inspection within 30 months after the most recent inspection. With respect to such a waiver that is granted or deemed to be granted, no additional such waiver may be granted until after the Secretary has conducted an inspection of the establishment.

“(II) In the case of an inspection to be conducted pursuant to 510(i), the Secretary periodically conducts inspections of the establishment.

“(B)(i) The Secretary shall respond to a notice under subparagraph (A) from a device establishment not later than 30 days after the Secretary receives the notice. Through such response, the Secretary shall (I) provide clearance under such subparagraph, and agree to the selection of an accredited person, or (II) make a request under clause (ii). If the Secretary fails to respond to the notice within such 30-day period, the establishment is deemed to have such clearance, and to have the agreement of the Secretary for such selection.

“(ii) The request referred to in clause (i)(II) is—

“(I) a request to the device establishment involved to submit to the Secretary compliance data in accordance with clause (iii); or

“(II) a request to the establishment, or to the accredited person identified in the notice under subparagraph (A), for information con-

cerning the relationship between the establishment and such accredited person, including information about the number of inspections of the establishment, or other establishments owned or operated by the owner or operator of the establishment, that have been conducted by the accredited person.

The Secretary may make both such requests.

“(iii) The compliance data to be submitted by a device establishment under clause (ii) are data describing whether the quality controls of the establishment have been sufficient for ensuring consistent compliance with current good manufacturing practice within the meaning of section 501(h), and data otherwise describing whether the establishment has consistently been in compliance with sections 501 and 502 and other applicable provisions of this Act. Such data shall include complete reports of inspections regarding good manufacturing practice or other quality control audits that, during the preceding two-year period, were conducted at the establishment by persons other than the owner or operator of the establishment, together with all other compliance data the Secretary deems necessary. Data under the preceding sentence shall demonstrate to the Secretary whether the establishment has facilitated consistent compliance by promptly correcting any compliance problems identified in such inspections.

“(iv) Not later than 60 days after receiving compliance data under clause (iii) from a device establishment, the Secretary shall provide or deny clearance under subparagraph (A). The Secretary may deny clearance if the Secretary determines that the establishment has failed to demonstrate consistent compliance for purposes of clause (iii). The Secretary shall provide to the establishment a statement of such reasons for such determination. If the Secretary fails to provide such statement to the establishment within such 60-day period, the establishment is deemed to have such clearance.

“(v)(I) A request to an accredited person under clause (ii)(II) may not seek any information that is not required to be maintained by such person in records under subsection (f)(1). Not later than 60 days after receiving the information sought by the request, the Secretary shall agree to, or reject, the selection of such person by the device establishment involved. The Secretary may reject the selection if the Secretary provides to the establishment a statement of the reasons for such rejection. Reasons for the rejection may include that the establishment or the accredited person, as the case may be, has failed to fully respond to the request, or that the Secretary has concerns regarding the relationship between the establishment and such accredited person. If within such 60-day period the Secretary fails to agree to or reject the selection in accordance with this subclause, the Secretary is deemed to have agreed to the selection.

“(II) If the Secretary rejects the selection of an accredited person by a device establishment, the establishment may make an additional selection of an accredited person by submitting to the Secretary a notice that identifies the additional selection. Clauses (i) and (ii), and subclause (I) of this clause, apply to the selection of an accredited person through a notice under the preceding sentence in the same manner and to the same extent as such provisions apply to a selection of an accredited person through a notice under subparagraph (A).

“(vi) In the case of a device establishment that under clause (iv) is denied clearance under subparagraph (A), or whose selection of an accredited person is rejected under clause (v), the Secretary shall designate a person to review the findings of the Secretary under such clause if, during the 30-day

period beginning on the date on which the establishment receives the findings, the establishment requests the review. The review shall commence not later than 30 days after the establishment requests the review, unless the Secretary and the establishment otherwise agree.

“(C)(i) In the case of a device establishment for which the Secretary classified the results of the most recent inspection of the establishment by a person accredited under paragraph (2) as ‘official action indicated’, the establishment, if otherwise eligible under subparagraph (A), is eligible for further inspections by persons accredited under such paragraph if (I) the Secretary issues a written statement to the owner or operator of the establishment that the violations leading to such classification have been resolved, and (II) the Secretary, either upon the Secretary’s own initiative or a petition of the owner or operator of the establishment, notifies the establishment that it has clearance to use an accredited person for the inspections. The Secretary shall respond to such petition within 30 days after the receipt of the petition.

“(ii) If the Secretary denies a petition under clause (i), the device establishment involved may, after the expiration of one year after such denial, again petition the Secretary for a determination of eligibility for inspection by persons accredited by the Secretary under paragraph (2). If the Secretary denies such petition, the Secretary shall provide the establishment with such reasons for such denial within 60 days after the denial. If, as of the expiration of 48 months after the receipt of the first petition, the establishment has not been inspected by the Secretary in accordance with section 510(h), or has not during such period been inspected pursuant to section 510(i), as applicable, the establishment is eligible for further inspections by accredited persons.

“(7)(A) Persons accredited under paragraph (2) to conduct inspections shall record in writing their inspection observations and shall present the observations to the device establishment’s designated representative and describe each observation. Additionally, such accredited person shall prepare an inspection report (including for inspections classified as ‘no action indicated’) in a form and manner consistent with such reports prepared by employees and officials designated by the Secretary to conduct inspections.

“(B) At a minimum, an inspection report under subparagraph (A) shall identify the persons responsible for good manufacturing practice compliance at the inspected device establishment, the dates of the inspection, the scope of the inspection, and shall describe in detail each observation identified by the accredited person, identify other matters that relate to or may influence compliance with this Act, and describe any recommendations during the inspection or at the inspection’s closing meeting.

“(C) An inspection report under subparagraph (A) shall be sent to the Secretary and to the designated representative of the inspected device establishment at the same time, but under no circumstances later than three weeks after the last day of the inspection. The report to the Secretary shall be accompanied by all written inspection observations previously provided to the designated representative of the establishment.

“(D) Any statement or representation made by an employee or agent of a device establishment to a person accredited under paragraph (2) to conduct inspections shall be subject to section 1001 of title 18, United States Code.

“(E) If at any time during an inspection by an accredited person the accredited person

discovers a condition that could cause or contribute to an unreasonable risk to the public health, the accredited person shall immediately notify the Secretary of the identification of the device establishment subject to inspection and such condition.

“(8) Compensation for an accredited person shall be determined by agreement between the accredited person and the person who engages the services of the accredited person, and shall be paid by the person who engages such services.

“(9) Nothing in this subsection affects the authority of the Secretary to inspect any device establishment pursuant to this Act.

“(10)(A) For fiscal year 2005 and each subsequent fiscal year, no device establishment may be inspected during the fiscal year involved by a person accredited under paragraph (2) if—

“(i) of the amounts appropriated for salaries and expenses of the Food and Drug Administration for the preceding fiscal year (referred to in this subparagraph as the ‘first prior fiscal year’), the amount obligated by the Secretary for inspections of device establishments by the Secretary was less than the adjusted base amount applicable to such first prior fiscal year; and

“(ii) of the amounts appropriated for salaries and expenses of the Food and Drug Administration for the fiscal year preceding the first prior fiscal year (referred to in this subparagraph as the ‘second prior fiscal year’), the amount obligated by the Secretary for inspections of device establishments by the Secretary was less than the adjusted base amount applicable to such second prior fiscal year.

“(B)(i) Subject to clause (ii), the Comptroller General of the United States shall determine the amount that was obligated by the Secretary for fiscal year 2002 for compliance activities of the Food and Drug Administration with respect to devices (referred to in this subparagraph as the ‘compliance budget’), and of such amount, the amount that was obligated for inspections by the Secretary of device establishments (referred to in this subparagraph as the ‘inspection budget’).

“(ii) For purposes of determinations under clause (i), the Comptroller General shall not include in the compliance budget or the inspection budget any amounts obligated for inspections of device establishments conducted as part of the process of reviewing applications under section 515.

“(iii) Not later than March 31, 2003, the Comptroller General shall complete the determinations required in this subparagraph and submit to the Secretary and the Congress a reporting describing the findings made through such determinations.

“(C) For purposes of this paragraph:

“(i) The term ‘base amount’ means the inspection budget determined under subparagraph (B) for fiscal year 2002.

“(ii) The term ‘adjusted base amount’, in the case of applicability to fiscal year 2003, means an amount equal to the base amount increased by 5 percent.

“(iii) The term ‘adjusted base amount’, with respect to applicability to fiscal year 2004 or any subsequent fiscal year, means the adjusted base amount applicable to the preceding year increased by 5 percent.

“(11) The authority provided by this subsection terminates on October 1, 2012.

“(12) No later than four years after the enactment of this subsection the Comptroller General shall report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate—

“(A) the number of inspections pursuant to subsections (h) and (i) of section 510 con-

ducted by accredited persons and the number of inspections pursuant to such subsections conducted by Federal employees;

“(B) the number of persons who sought accreditation under this subsection, as well as the number of persons who were accredited under this subsection;

“(C) the reasons why persons who sought accreditation, but were denied accreditation, were denied;

“(D) the number of audits conducted by the Secretary of accredited persons, the quality of inspections conducted by accredited persons, whether accredited persons are meeting their obligations under this Act, and whether the number of audits conducted is sufficient to permit these assessments;

“(E) whether this subsection is achieving the goal of ensuring more information about device establishment compliance is being presented to the Secretary, and whether that information is of a quality consistent with information obtained by the Secretary pursuant to subsection (h) or (i) of section 510;

“(F) whether this subsection is advancing efforts to allow device establishments to rely upon third-party inspections for purposes of compliance with the laws of foreign governments; and

“(G) whether the Congress should continue, modify, or terminate the program under this subsection.

“(13) The Secretary shall include in the annual report required under section 903(g) the names of all accredited persons and the particular activities under this subsection for which each such person is accredited and the name of each accredited person whose accreditation has been withdrawn during the year.

“(14) Notwithstanding any provision of this subsection, this subsection does not have any legal effect on any agreement described in section 803(b) between the Secretary and a foreign country.”

(b) MAINTENANCE OF RECORDS.—Section 704(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 374(f)) is amended—

(1) in paragraph (1), in the first sentence, by striking “A person accredited” and all that follows through “shall maintain records” and inserting the following: “An accredited person described in paragraph (3) shall maintain records”;

(2) in paragraph (2), by striking “a person accredited under section 523” and inserting “an accredited person described in paragraph (3)”;

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

“(3) For purposes of paragraphs (1) and (2), an accredited person described in this paragraph is a person who—

“(A) is accredited under subsection (g); or

“(B) is accredited under section 523.”

(c) CIVIL MONEY PENALTY.—Section 303(g)(1)(A) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(g)(1)(A)) is amended by adding at the end the following:

“For purposes of the preceding sentence, a person accredited under paragraph (2) of section 704(g) who is substantially not in compliance with the standards of accreditation under such section, or who poses a threat to public health or fails to act in a manner that is consistent with the purposes of such section, shall be considered to have violated a requirement of this Act that relates to devices.”

(d) PROHIBITED ACTS.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by adding at the end the following:

“(gg) The knowing failure of a person accredited under paragraph (2) of section 704(g) to comply with paragraph (7)(E) of such section; the knowing inclusion by such a person of false information in an inspection report

under paragraph (7)(A) of such section; or the knowing failure of such a person to include material facts in such a report.”

(e) CONFORMING AMENDMENT.—Section 510(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(h)) is amended by inserting after “duly designated by the Secretary” the following: “, or by persons accredited to conduct inspections under section 704(g).”

#### SEC. 202. THIRD PARTY REVIEW OF PREMARKET NOTIFICATION.

Section 523 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360m) is amended—

(1) in subsection (c), by striking “The authority” and all that follows and inserting the following: “The authority provided by this section terminates October 1, 2007.”; and

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

“(d) REPORT.—Not later than January 10, 2007, the Secretary shall conduct a study based on the experience under the program under this section and submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate, a report describing the findings of the study. The objectives of the study shall include determining—

“(1) the number of devices reviewed under this section;

“(2) the number of devices reviewed under this section that were ultimately cleared by the Secretary;

“(3) the number of devices reviewed under this section that were ultimately not cleared by the Secretary;

“(4) the average time period for a review under this section (including the time it takes for the Secretary to review a recommendation of an accredited person under subsection (a) and determine the initial device classification);

“(5) the average time period identified in paragraph (4) compared to the average time period for review of devices solely by the Secretary pursuant to section 510(k);

“(6) if there is a difference in the average time period under paragraph (4) and the average time period under paragraph (5), the reasons for such difference;

“(7) whether the quality of reviews under this section for devices for which no guidance has been issued is qualitatively inferior to reviews by the Secretary for devices for which no guidance has been issued;

“(8) whether the quality of reviews under this section of devices for which no guidance has been issued is qualitatively inferior to reviews under this section of devices for which guidance has been issued;

“(9) whether this section has in any way jeopardized or improved the public health;

“(10) any impact of this section on resources available to the Secretary to review reports under section 510(k); and

“(11) any suggestions for continuation, modification (including contraction or expansion of device eligibility), or termination of this section that the Secretary determines to be appropriate.”

#### SEC. 203. DEBARMENT OF ACCREDITED PERSONS.

Section 306 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335a) is amended by adding at the end the following subsection:

“(m) DEVICES; MANDATORY DEBARMENT REGARDING THIRD-PARTY INSPECTIONS AND REVIEWS.—

“(1) IN GENERAL.—If the Secretary finds that a person has been convicted of a felony under section 301(gg), the Secretary shall debar such person from being accredited under section 523(b) or 704(g)(2) and from carrying out activities under an agreement described in section 803(b).



“(2) DEBARMENT PERIOD.—The Secretary shall debar a person under paragraph (1) for the following periods:

“(A) The period of debarment of a person (other than an individual) shall not be less than 1 year or more than 10 years, but if an act leading to a subsequent debarment under such paragraph occurs within 10 years after such person has been debarred under such paragraph, the period of debarment shall be permanent.

“(B) The debarment of an individual shall be permanent.

“(3) TERMINATION OF DEBARMENT; JUDICIAL REVIEW; OTHER MATTERS.—Subsections (c)(3), (d), (e), (i), (j), and (l)(1) apply with respect to a person (other than an individual) or an individual who is debarred under paragraph (1) to the same extent and in the same manner as such subsections apply with respect to a person who is debarred under subsection (a)(1), or an individual who is debarred under subsection (a)(2), respectively.”

#### SEC. 204. DESIGNATION AND REGULATION OF COMBINATION PRODUCTS.

Section 503(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(g)) is amended—

(1) in paragraph (1) —

(A) in the first sentence, by striking “shall designate a component of the Food and Drug Administration” and inserting “shall in accordance with this subsection assign an agency center”; and

(B) in each of subparagraphs (A) through (C), by striking “the persons charged” and inserting “the agency center charged”;

(2) by redesignating paragraph (4) as paragraph (5);

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

“(4)(A) Not later than 60 days after the date of the enactment of this paragraph, the Secretary shall establish within the Office of the Commissioner of Food and Drugs an office to ensure the prompt assignment of combination products to agency centers, the timely and effective premarket review of such products, and consistent and appropriate postmarket regulation of like products subject to the same statutory requirements to the extent permitted by law. Additionally, the office shall, in determining whether a product is to be designated a combination product, consult with the component within the Office of the Commissioner of Food and Drugs that is responsible for such determinations. Such office (referred to in this paragraph as the ‘Office’) shall have appropriate scientific and medical expertise, and shall be headed by a director.

“(B) In carrying out this subsection, the Office shall, for each combination product, promptly assign an agency center with primary jurisdiction in accordance with paragraph (1) for the premarket review of such product.

“(C)(i) In carrying out this subsection, the Office shall ensure timely and effective premarket reviews by overseeing the timeliness of and coordinating reviews involving more than one agency center.

“(ii) In order to ensure the timeliness of the premarket review of a combination product, the agency center with primary jurisdiction for the product, and the consulting agency center, shall be responsible to the Office with respect to the timeliness of the premarket review.

“(D) In carrying out this subsection, the Office shall ensure the consistency and appropriateness of postmarket regulation of like products subject to the same statutory requirements to the extent permitted by law.

“(E)(i) Any dispute regarding the timeliness of the premarket review of a combination product may be presented to the Office for resolution, unless the dispute is clearly premature.

“(ii) During the review process, any dispute regarding the substance of the premarket review may be presented to the Commissioner of Food and Drugs after first being considered by the agency center with primary jurisdiction of the premarket review, under the scientific dispute resolution procedures for such center. The Commissioner of Food and Drugs shall consult with the Director of the Office in resolving the substantive dispute.

“(F) The Secretary, acting through the Office, shall review each agreement, guidance, or practice of the Secretary that is specific to the assignment of combination products to agency centers and shall determine whether the agreement, guidance, or practice is consistent with the requirements of this subsection. In carrying out such review, the Secretary shall consult with stakeholders and the directors of the agency centers. After such consultation, the Secretary shall determine whether to continue in effect, modify, revise, or eliminate such agreement, guidance, or practice, and shall publish in the Federal Register a notice of the availability of such modified or revised agreement, guidance or practice. Nothing in this paragraph shall be construed as preventing the Secretary from following each agreement, guidance, or practice until continued, modified, revised, or eliminated.

“(G) Not later than one year after the date of the enactment of this paragraph and annually thereafter, the Secretary shall report to the appropriate committees of Congress on the activities and impact of the Office. The report shall include provisions—

“(i) describing the numbers and types of combination products under review and the timeliness in days of such assignments, reviews, and dispute resolutions;

“(ii) identifying the number of premarket reviews of such products that involved a consulting agency center; and

“(iii) describing improvements in the consistency of postmarket regulation of combination products.

“(H) Nothing in this paragraph shall be construed to limit the regulatory authority of any agency center.”; and

(4) in paragraph (5) (as redesignated by paragraph (2) of this section)—

(A) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(B) by inserting before subparagraph (B) the following subparagraph:

“(A) The term ‘agency center’ means a center or alternative organizational component of the Food and Drug Administration.”.

#### SEC. 205. REPORT ON CERTAIN DEVICES.

Not later than one year after the date of enactment of this Act, the Secretary of Health and Human Services shall report to the appropriate committees of Congress on the timeliness and effectiveness of device premarket reviews by centers other than the Center for Devices and Radiological Health. Such report shall include information on the times required to log in and review original submissions and supplements, times required to review manufacturers’ replies to submissions, and times to approve or clear such devices. Such report shall contain the Secretary’s recommendations on any measures needed to improve performance including, but not limited to, the allocation of additional resources. Such report also shall include the Secretary’s specific recommendation on whether responsibility for regulating such devices should be reassigned to those persons within the Food and Drug Administration who are primarily charged with regulating other types of devices, and whether such a transfer could have a deleterious impact on the public health and on the safety of such devices.

#### SEC. 206. ELECTRONIC LABELING.

Section 502(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(f)) is amended by adding at the end the following: “Required labeling for prescription devices intended for use in health care facilities may be made available solely by electronic means provided that the labeling complies with all applicable requirements of law and, that the manufacturer affords health care facilities the opportunity to request the labeling in paper form, and after such request, promptly provides the health care facility the requested information without additional cost.”.

#### SEC. 207. ELECTRONIC REGISTRATION.

Section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) is amended by adding at the end the following:

“(p) Registrations under subsections (b), (c), (d), and (i) (including the submission of updated information) shall be submitted to the Secretary by electronic means, upon a finding by the Secretary that the electronic receipt of such registrations is feasible, unless the Secretary grants a request for waiver of such requirement because use of electronic means is not reasonable for the person requesting such waiver.”.

#### SEC. 208. INTENDED USE.

Section 513(i)(1)(E) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c(i)(1)(E)) is amended by striking clause (iv).

#### SEC. 209. MODULAR REVIEW.

Section 515(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(c)) is amended by adding at the end the following:

“(3)(A) Prior to the submission of an application under this subsection, the Secretary shall accept and review any portion of the application that the applicant and the Secretary agree is complete, ready, and appropriate for review, except that such requirement does not apply, and the Secretary has discretion whether to accept and review such portion, during any period in which, under section 738(g), the Secretary does not have the authority to collect fees under section 738(a).

“(B) Each portion of a submission reviewed under subparagraph (A) and found acceptable by the Secretary shall not be further reviewed after receipt of an application that satisfies the requirements of paragraph (1), unless an issue of safety or effectiveness provides the Secretary reason to review such accepted portion.

“(C) Whenever the Secretary determines that a portion of a submission under subparagraph (A) is unacceptable, the Secretary shall, in writing, provide to the applicant a description of any deficiencies in such portion and identify the information that is required to correct these deficiencies, unless the applicant is no longer pursuing the application.”.

#### SEC. 210. PEDIATRIC EXPERTISE REGARDING CLASSIFICATION-PANEL REVIEW OF PREMARKET APPLICATIONS.

Section 515(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(c)), as amended by section 302(c)(2)(A) of this Act, is amended in paragraph (3) by adding at the end the following: “Where appropriate, the Secretary shall ensure that such panel includes, or consults with, one or more pediatric experts.”.

#### SEC. 211. INTERNET LIST OF CLASS II DEVICES EXEMPTED FROM REQUIREMENT OF PREMARKET NOTIFICATION.

Section 510(m)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(m)(1)) is amended by adding at the end the following: “The Secretary shall publish such list on the Internet site of the Food and Drug Administration. The list so published shall

be updated not later than 30 days after each revision of the list by the Secretary.”.

**SEC. 212. STUDY BY INSTITUTE OF MEDICINE OF POSTMARKET SURVEILLANCE REGARDING PEDIATRIC POPULATIONS.**

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the “Secretary”) shall request the Institute of Medicine to enter into an agreement with the Secretary under which such Institute conducts a study for the purpose of determining whether the system under the Federal Food, Drug, and Cosmetic Act for the postmarket surveillance of medical devices provides adequate safeguards regarding the use of devices in pediatric populations.

(b) CERTAIN MATTERS.—The Secretary shall ensure that determinations made in the study under subsection (a) include determinations of—

(1) whether postmarket surveillance studies of implanted medical devices are of long enough duration to evaluate the impact of growth and development for the number of years that the child will have the implant, and whether the studies are adequate to evaluate how children’s active lifestyles may affect the failure rate and longevity of the implant; and

(2) whether the postmarket surveillance by the Food and Drug Administration of medical devices used in pediatric populations is sufficient to provide adequate safeguards for such populations, taking into account the Secretary’s monitoring of commitments made at the time of approval of medical devices, such as phase IV trials, and the Secretary’s monitoring and use of adverse reaction reports, registries, and other postmarket surveillance activities.

(c) REPORT TO CONGRESS.—The Secretary shall ensure that, not later than four years after the date of the enactment of this Act, a report describing the findings of the study under subsection (a) is submitted to the Congress. The report shall include any recommendations of the Secretary for administrative or legislative changes to the system of postmarket surveillance referred to in such subsection.

**SEC. 213. GUIDANCE REGARDING PEDIATRIC DEVICES.**

Not later than 270 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue guidance on the following:

(1) The type of information necessary to provide reasonable assurance of the safety and effectiveness of medical devices intended for use in pediatric populations.

(2) Protections for pediatric subjects in clinical investigations of the safety or effectiveness of such devices.

**SEC. 214. BREAST IMPLANTS; STUDY BY COMPTROLLER GENERAL.**

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study to determine the following with respect to breast implants:

(1) The content of information typically provided by health professionals to women who consult with such professionals on the issue of whether to undergo breast implant surgery.

(2) Whether such information is provided by physicians or other health professionals, and whether the information is provided verbally or in writing, and at what point in the process of determining whether to undergo surgery is such information provided.

(3) Whether the information presented, as a whole, provides a complete and accurate discussion of the risks and benefits of breast implants, and the extent to which women who receive such information understand the risks and benefits.

(4) The number of adverse events that have been reported, and whether such events have been adequately investigated.

(5) With respect to women who participate as subjects in research being carried out regarding the safety and effectiveness of breast implants:

(A) The content of information provided to the women during the process of obtaining the informed consent of the women to be subjects, and the extent to which such information is updated.

(B) Whether such process provides written explanations of the criteria for being subjects in the research.

(C) The point at which, in the planning or conduct of the research, the women are provided information regarding the provision of informed consent to be subjects.

(b) REPORT.—The Comptroller General shall submit to the Congress a report describing the findings of the study.

(c) DEFINITION.—For purposes of this section, the term “breast implant” means a breast prosthesis that is implanted to augment or reconstruct the female breast.

**SEC. 215. BREAST IMPLANTS; RESEARCH THROUGH NATIONAL INSTITUTES OF HEALTH.**

(a) REPORT ON STATUS OF CURRENT RESEARCH.—Not later than 180 days after the date of the enactment of this Act, the Director of the National Institutes of Health shall submit to the Congress a report describing the status of research on breast implants (as defined in section 213(c)) being conducted or supported by such Institutes.

(b) RESEARCH ON LONG-TERM IMPLICATIONS.—Part H of title IV of the Public Health Service Act (42 U.S.C. 289 et seq.) is amended by adding at the end of the following section:

**“SEC. 498C. BREAST IMPLANT RESEARCH.**

“(a) IN GENERAL.—The Director of NIH may conduct or support research to examine the long-term health implications of silicone breast implants, both gel and saline filled. Such research studies may include the following:

“(1) Developing and examining techniques to measure concentrations of silicone in body fluids and tissues.

“(2) Surveillance of recipients of silicone breast implants, including long-term outcomes and local complications.

“(b) DEFINITION.—For purposes of this section, the term ‘breast implant’ means a breast prosthesis that is implanted to augment or reconstruct the female breast.”.

**TITLE III—ADDITIONAL AMENDMENTS**

**SEC. 301. IDENTIFICATION OF MANUFACTURER OF MEDICAL DEVICES.**

(a) IN GENERAL.—Section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352) is amended by adding at the end the following:

“(u) If it is a device, unless it, or an attachment thereto, prominently and conspicuously bears the name of the manufacturer of the device, a generally recognized abbreviation of such name, or a unique and generally recognized symbol identifying such manufacturer, except that the Secretary may waive any requirement under this paragraph for the device if the Secretary determines that compliance with the requirement is not feasible for the device or would compromise the provision of reasonable assurance of the safety or effectiveness of the device.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect 18 months after the date of the enactment of this Act, and only applies to devices introduced or delivered for introduction into interstate commerce after such effective date.

**SEC. 302. SINGLE-USE MEDICAL DEVICES.**

(a) REQUIRED STATEMENTS ON LABELING.—

(1) IN GENERAL.—Section 502 of the Federal Food, Drug, and Cosmetic Act, as amended

by section 301 of this Act, is amended by adding at the end the following:

“(v) If it is a reprocessed single-use device, unless all labeling of the device prominently and conspicuously bears the statement ‘Reprocessed device for single use. Reprocessed by \_\_\_\_.’ The name of the manufacturer of the reprocessed device shall be placed in the space identifying the person responsible for reprocessing.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect 15 months after the date of the enactment of this Act, and only applies to devices introduced or delivered for introduction into interstate commerce after such effective date.

(b) PREMARKET NOTIFICATION.—Section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) is amended by inserting after subsection (n) the following:

“(o)(1) With respect to reprocessed single-use devices for which reports are required under subsection (k):

“(A) The Secretary shall identify such devices or types of devices for which reports under such subsection must, in order to ensure that the device is substantially equivalent to a predicate device, include validation data, the types of which shall be specified by the Secretary, regarding cleaning and sterilization, and functional performance demonstrating that the single-use device will remain substantially equivalent to its predicate device after the maximum number of times the device is reprocessed as intended by the person submitting the premarket notification. Within six months after enactment of this subsection, the Secretary shall publish in the Federal Register a list of the types so identified, and shall revise the list as appropriate. Reports under subsection (k) for devices or types of devices within a type included on the list are, upon publication of the list, required to include such validation data.

“(B) In the case of each report under subsection (k) that was submitted to the Secretary before the publication of the initial list under subparagraph (A), or any revision thereof, and was for a device or type of device included on such list, the person who submitted the report under subsection (k) shall submit validation data as described in subparagraph (A) to the Secretary not later than nine months after the publication of the list. During such nine-month period, the Secretary may not take any action under this Act against such device solely on the basis that the validation data for the device have not been submitted to the Secretary. After the submission of the validation data to the Secretary, the Secretary may not determine that the device is misbranded under section 502(o), adulterated under section 501(f)(1)(B), or take action against the device under section 301(p) for failure to provide any information required by subsection (k) until (i) the review is terminated by withdrawal of the submission of the report under subsection (k); (ii) the Secretary finds the data to be acceptable and issues a letter; or (iii) the Secretary determines that the device is not substantially equivalent to a predicate device. Upon a determination that a device is not substantially equivalent to a predicate device, or if such submission is withdrawn, the device can no longer be legally marketed.

“(C) In the case of a report under subsection (k) for a device identified under subparagraph (A) that is of a type for which the Secretary has not previously received a report under such subsection, the Secretary may, in advance of revising the list under subparagraph (A) to include such type, require that the report include the validation data specified in subparagraph (A).

“(D) Section 502(o) applies with respect to the failure of a report under subsection (k) to include validation data required under subparagraph (A).

“(2) With respect to critical or semi-critical reprocessed single-use devices that, under subsection (l) or (m), are exempt from the requirement of submitting reports under subsection (k):

“(A) The Secretary shall identify such devices or types of devices for which such exemptions should be terminated in order to provide a reasonable assurance of the safety and effectiveness of the devices. The Secretary shall publish in the Federal Register a list of the devices or types of devices so identified, and shall revise the list as appropriate. The exemption for each device or type included on the list is terminated upon the publication of the list. For each report under subsection (k) submitted pursuant to this subparagraph the Secretary shall require the validation data described in paragraph (1)(A).

“(B) For each device or type of device included on the list under subparagraph (A), a report under subsection (k) shall be submitted to the Secretary not later than 15 months after the publication of the initial list, or a revision of the list, whichever terminates the exemption for the device. During such 15-month period, the Secretary may not take any action under this Act against such device solely on the basis that such report has not been submitted to the Secretary. After the submission of the report to the Secretary the Secretary may not determine that the device is misbranded under section 502(o), adulterated under section 501(f)(1)(B), or take action against the device under section 301(p) for failure to provide any information required by subsection (k) until (i) the review is terminated by withdrawal of the submission; (ii) the Secretary determines by order that the device is substantially equivalent to a predicate device; or (iii) the Secretary determines by order that the device is not substantially equivalent to a predicate device. Upon a determination that a device is not substantially equivalent to a predicate device, the device can no longer be legally marketed.

“(C) In the case of semi-critical devices, the initial list under subparagraph (A) shall be published not later than 18 months after the effective date of this subsection. In the case of critical devices, the initial list under such subparagraph shall be published not later than six months after such effective date.

“(D) Section 502(o) applies with respect to the failure to submit a report under subsection (k) that is required pursuant to subparagraph (A), including a failure of the report to include validation data required in such subparagraph.

“(E) The termination under subparagraph (A) of an exemption under subsection (l) or (m) for a critical or semicritical reprocessed single-use device does not terminate the exemption under subsection (l) or (m) for the original device.”

(c) **PREMARKET REPORT.**—Section 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e) is amended—

(1) in subsection (a), in the matter after and below paragraph (2), by inserting before the period the following: “or, as applicable, an approval under subsection (c)(2) of a report seeking premarket approval”; and

(2) in subsection (c)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following paragraph:

“(2)(A) Any person may file with the Secretary a report seeking premarket approval for a class III device referred to in subsection

(a) that is a reprocessed single-use device. Such a report shall contain the following:

“(i) The device name, including both the trade or proprietary name and the common or usual name.

“(ii) The establishment registration number of the owner or operator submitting the report.

“(iii) Actions taken to comply with performance standards under section 514.

“(iv) Proposed labels, labeling, and advertising sufficient to describe the device, its intended use, and directions for use.

“(v) Full reports of all information, published or known to or which should be reasonably known to the applicant, concerning investigations which have been made to show whether or not the device is safe or effective.

“(vi) A description of the device's components, ingredients, and properties.

“(vii) A full description of the methods used in, and the facilities and controls used for, the reprocessing and packing of the device.

“(viii) Such samples of the device that the Secretary may reasonably require.

“(ix) A financial certification or disclosure statement or both, as required by part 54 of title 21, Code of Federal Regulations.

“(x) A statement that the applicant believes to the best of the applicant's knowledge that all data and information submitted to the Secretary are truthful and accurate and that no material fact has been omitted in the report.

“(xi) Any additional data and information, including information of the type required in paragraph (1) for an application under such paragraph, that the Secretary determines is necessary to determine whether there is reasonable assurance of safety and effectiveness for the reprocessed device.

“(xii) Validation data described in section 510(o)(1)(A) that demonstrates that the reasonable assurance of the safety or effectiveness of the device will remain after the maximum number of times the device is reprocessed as intended by the person submitting such report.

“(B) In the case of a class III device referred to in subsection (a) that is a reprocessed single-use device:

“(i) Subparagraph (A) of this paragraph applies in lieu of paragraph (1).

“(ii) Subject to clause (i), the provisions of this section apply to a report under subparagraph (A) to the same extent and in the same manner as such provisions apply to an application under paragraph (1).

“(iii) Each reference in other sections of this Act to an application under this section, other than such a reference in section 737 or 738, shall be considered to be a reference to a report under subparagraph (A).

“(iv) Each reference in other sections of this Act to a device for which an application under this section has been approved, or has been denied, suspended, or withdrawn, other than such a reference in section 737 or 738, shall be considered to be a reference to a device for which a report under subparagraph (A) has been approved, or has been denied, suspended, or withdrawn, respectively.”

(d) **DEFINITIONS.**—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

“(1)(1) The term ‘single-use device’ means a device that is intended for one use, or on a single patient during a single procedure.

“(2)(A) The term ‘reprocessed’, with respect to a single-use device, means an original device that has previously been used on a patient and has been subjected to additional processing and manufacturing for the purpose of an additional single use on a patient. The subsequent processing and manu-

facture of a reprocessed single-use device shall result in a device that is reprocessed within the meaning of this definition.

“(B) A single-use device that meets the definition under clause (A) shall be considered a reprocessed device without regard to any description of the device used by the manufacturer of the device or other persons, including a description that uses the term ‘recycled’ rather than the term ‘reprocessed’.

“(3) The term ‘original device’ means a new, unused single-use device.

“(mm)(1) The term ‘critical reprocessed single-use device’ means a reprocessed single-use device that is intended to contact normally sterile tissue or body spaces during use.

“(2) The term ‘semi-critical reprocessed single-use device’ means a reprocessed single-use device that is intended to contact intact mucous membranes and not penetrate normally sterile areas of the body.”

#### SEC. 303. MEDWATCH.

Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall modify the MedWatch mandatory and voluntary forms to facilitate the reporting of information by user facilities or distributors as appropriate relating to reprocessed single-use devices, including the name of the reprocessor and whether the device has been reused.

DISCHARGED FROM THE COMMITTEE ON  
GOVERNMENT REFORM AND PASSED

H.R. 5640, to amend title 5, United States Code, to ensure that the right of Federal employees to display the flag of the United States not be abridged.

H.R. 5640

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “American Flag Pride Act”.

#### SEC. 2. EMPLOYEES' RIGHT TO DISPLAY THE FLAG OF THE UNITED STATES.

(a) **IN GENERAL.**—Chapter 72 of title 5, United States Code, is amended by adding at the end the following:

“SUBCHAPTER III—EMPLOYEES' RIGHT TO DISPLAY THE FLAG OF THE UNITED STATES

##### “§ 7221. Definitions

“For purposes of this subchapter—

“(1) the term ‘flag’ has the same meaning as is given the term ‘flag, standard, colors, or ensign’ under section 3 of title 4; and

“(2) the term ‘Federal employee’ includes a person under a personal services contract with the United States (including an individual employed by such a person).

##### “§ 7222. Employees' right to display the flag of the United States

“No agency, officer, or other authority of the Government of the United States shall adopt or enforce any policy, or enter into any agreement, that would restrict or prevent a Federal employee from displaying the flag of the United States, or a pin of that flag, on his or her person, in his or her workplace, or on a Government vehicle operated by such employee.

##### “§ 7223. Limitations

“Nothing in this subchapter shall be considered to permit any display or use which would be inconsistent with—

“(1) any provision of chapter 1 of title 4 or any rule or custom pertaining to the proper display or use of the flag (as established in or under such chapter or otherwise applicable provisions of law); or

“(2) any reasonable restriction pertaining to the time, place, or manner of displaying

the flag of the United States which is necessary—

“(A) for reasons of workplace safety; or  
“(B) to prevent damage to public property.”

(b) CLERICAL AMENDMENT.—The analysis for chapter 72 of title 5, United States Code, is amended by adding at the end the following:

“SUBCHAPTER III—EMPLOYEES’ RIGHT TO DISPLAY THE FLAG OF THE UNITED STATES

“7221. Definitions.

“7222. Employees’ right to display the flag of the United States.

“7223. Limitations.”.

DISCHARGED FROM THE COMMITTEE ON FINANCIAL SERVICES AND PASSED

S. 1210, to reauthorize the Native American Housing Assistance and Self-Determination Act of 1996.

S. 1210

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Native American Housing Assistance and Self-Determination Reauthorization Act of 2002”.

#### SEC. 2. REAUTHORIZATION OF THE NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT OF 1996.

(a) BLOCK GRANTS.—Section 108 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4117) is amended by striking “1998, 1999, 2000, and 2001” and inserting “1998 through 2007”.

(b) FEDERAL GUARANTEES.—Section 605 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4195) is amended—

(1) in subsection (a), by striking “1997, 1998, 1999, 2000, and 2001” and inserting “1997 through 2007”; and

(2) in subsection (b), by striking “1997, 1998, 1999, 2000, and 2001” and inserting “1997 through 2007”.

(c) TRAINING AND TECHNICAL ASSISTANCE.—Section 703 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4212) is amended by striking “1997, 1998, 1999, 2000, and 2001” and inserting “1997 through 2007”.

(d) INDIAN HOUSING LOAN GUARANTEE FUND.—Section 184(i) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a(i)) is amended—

(1) in paragraph (5)(C), by striking “each fiscal year” and inserting “each of fiscal years 1997 through 2007”; and

(2) in paragraph (7), by striking “each fiscal year” and inserting “each of fiscal years 1997 through 2007”.

#### SEC. 3. DEFINITIONS.

Section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103) is amended by adding at the end the following:

“(22) HOUSING RELATED COMMUNITY DEVELOPMENT.—

“(A) IN GENERAL.—The term ‘housing related community development’ means any tribally-owned and operated facility, business, activity, or infrastructure that—

“(i) is necessary to the direct construction of reservation housing; and

“(ii) would help an Indian tribe or its tribally-designated housing authority reduce the cost of construction of Indian housing or otherwise promote the findings of this Act.

“(B) EXCLUSION.—The term ‘housing and community development’ does not include any activity conducted by any Indian tribe under the Indian Gaming Regulatory Act (25 U.S.C. 2710 et seq.).”.

#### SEC. 4. BLOCK GRANTS AND GRANT REQUIREMENTS.

Section 101(h) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4111(h)) is amended—

(1) in the heading, by inserting “AND PLANNING” after “ADMINISTRATIVE”; and

(2) by inserting after the word “Act” the first place that term appears, the following: “for comprehensive housing and community development planning activities and”.

#### SEC. 5. TREATMENT OF PROGRAM INCOME AND LABOR STANDARDS.

Section 104 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4114) is amended—

(1) in subsection (a)(1)—

(A) by striking “A recipient” and inserting the following: “Notwithstanding any other provision of this Act, a recipient”; and

(B) by striking subparagraph (B) and inserting the following:

“(B) the recipient has agreed that it will utilize such income for housing related activities in accordance with this Act.”; and

(2) in subsection (a)(2)—

(A) in the heading, by inserting “RESTRICTED ACCESS OR” before the word “REDUCTION”; and

(B) in subparagraph (B), by striking “or” at the end;

(C) in subparagraph (C), by striking the period at the end and inserting “; or”; and

(D) by adding at the end the following:

“(D) whether the recipient has expended retained program income for housing-related activities.”.

#### SEC. 6. REGULATIONS.

Section 106(b)(2)(A) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4116(b)(2)(A)) is amended by inserting after “required under this Act” the following: “, including any regulations that may be required pursuant to amendments made to this Act after the date of enactment of this Act.”.

#### SEC. 7. FEDERAL GUARANTEES FOR FINANCING FOR TRIBAL HOUSING ACTIVITIES.

Section 601 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4191) is amended—

(1) in subsection (a), by inserting after “section 202” the following: “and housing related community development activity as consistent with the purposes of this Act”; and

(2) by striking subsection (b); and

(3) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

#### SEC. 8. FEASIBILITY STUDIES TO IMPROVE THE DELIVERY OF HOUSING ASSISTANCE IN NATIVE COMMUNITIES.

Section 202 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4132) is amended by adding at the end the following:

“(7) COMMUNITY DEVELOPMENT DEMONSTRATION PROJECT.—

“(A) IN GENERAL.—Consistent with principles of Indian self-determination and the findings of this Act, the Secretary shall conduct and submit to Congress a study of the feasibility of establishing a demonstration project in which Indian tribes, tribal organizations, or tribal consortia are authorized to expend amounts received pursuant to the Native American Housing Assistance and Self-Determination Reauthorization Act of 2002 in order to design, implement, and operate community development demonstration projects.

“(B) STUDY.—Not later than 1 year after the date of enactment of the Native American Housing Assistance and Self-Determination Reauthorization Act of 2002, the Secretary shall submit the study conducted under subparagraph (A) to the Committee on Banking, Housing, and Urban Affairs and the

Committee on Indian Affairs of the Senate, and the Committee on Financial Services and the Committee on Resources of the House of Representatives.

“(8) SELF-DETERMINATION ACT DEMONSTRATION PROJECT.—

“(A) IN GENERAL.—Consistent with the provisions of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), the Secretary shall conduct and submit to Congress a study of the feasibility of establishing a demonstration project in which Indian tribes and tribal organizations are authorized to receive assistance in a manner that maximizes tribal authority and decision-making in the design and implementation of Federal housing and related activity funding.

“(B) STUDY.—Not later than 1 year after the date of enactment of the Native American Housing Assistance and Self-Determination Reauthorization Act of 2002, the Secretary shall submit the study conducted under subparagraph (A) to the Committee on Banking, Housing, and Urban Affairs and the Committee on Indian Affairs of the Senate, and the Committee on Financial Services and the Committee on Resources of the House of Representatives.”.

#### SEC. 9. BLACK MOLD INFESTATION STUDY.

Not later than 180 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall—

(1) complete a study on the extent of black mold infestation of Native American housing in the United States; and

(2) submit to Congress a report that describes recommendations of the Secretary for means by which to address the infestation.

PASSED

S. 1227, to authorize the Secretary of the Interior to conduct a study of the suitability and feasibility of establishing the Niagara Falls National Heritage Area in the State of New York, and for other purposes.

S. 1227

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Niagara Falls National Heritage Area Study Act”.

#### SEC. 2. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(2) STUDY AREA.—The term “study area” means lands in Niagara County, New York, along and in the vicinity of the Niagara River.

#### SEC. 3. NIAGARA FALLS NATIONAL HERITAGE AREA STUDY.

(a) IN GENERAL.—The Secretary shall conduct a study of the suitability and feasibility of establishing a heritage area in the State of New York to be known as the “Niagara Falls National Heritage Area”.

(b) ANALYSES AND DOCUMENTATION.—The study shall include analysis and documentation of whether the study area—

(1) contains an assemblage of natural, historical, scenic, and cultural resources that represent distinctive aspects of the heritage of the United States that—

(A) are worthy of recognition, conservation, interpretation, and continued use; and

(B) would best be managed—

(i) through partnerships among public and private entities; and

(ii) by combining diverse and sometimes noncontiguous resources and active communities;

(2) reflects traditions, customs, beliefs, and folklore that are a valuable part of the story of the United States;

(3) provides outstanding opportunities to conserve natural, historical, scenic, or cultural features;

(4) provides outstanding recreational and educational opportunities;

(5) contains resources important to the identified theme of the study area that retain a degree of integrity capable of supporting interpretation;

(6) includes residents, business interests, nonprofit organizations, and State and local governments that—

(A) are involved in planning a national heritage area;

(B) have developed a conceptual financial plan for a national heritage area that outlines the roles for all participants, including the Federal Government; and

(C) have demonstrated support for the concept of a national heritage area;

(7) has a potential management entity to work in partnership with residents, business interests, nonprofit organizations, and State and local governments to develop a national heritage area consistent with continued State and local economic activity; and

(8) has a conceptual boundary map that is supported by the public.

(c) CONSULTATION.—In conducting the study, the Secretary shall consult with—

(1) State and local agencies; and

(2) interested organizations within the study area.

(d) REPORT.—Not later than 3 fiscal years after the date on which funds are made available to carry out this Act, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that describes the findings, conclusions, and recommendations of the study under subsection (a).

#### SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated \$300,000 to carry out this Act.

DISCHARGED FROM THE COMMITTEE ON ENERGY AND COMMERCE AND AGREED TO

H. Con. Res. 502, expressing the sense of the Congress in support of Breast Cancer Awareness Month, and for other purposes.

#### H. CON. RES. 502

Whereas every 3 minutes a woman is diagnosed with breast cancer;

Whereas 182,000 new cases of breast cancer are expected to be diagnosed in the United States in 2002;

Whereas breast cancer is the leading cause of death in women between the ages of 40 and 55;

Whereas 1 in 8 women who lives to age 85 will develop breast cancer in her lifetime;

Whereas when breast cancer is found early the survival rate is 96 percent;

Whereas mammograms and monthly breast self-examinations are the key components of early detection; and

Whereas Breast Cancer Awareness Month provides a special opportunity to provide education about the importance of monthly breast self-examinations and annual mammograms: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that—*

(1) Breast Cancer Awareness Month provides a special opportunity to provide education about the importance of monthly breast self-examinations and annual mammograms;

(2) it is appropriate to salute the more than 2,000,000 breast cancer survivors in the United States and the efforts of victims, volunteers, and professionals who combat breast cancer each day;

(3) national and community organizations should be recognized and applauded for their work in promoting awareness about breast

cancer and for providing information and treatment to its sufferers; and

(4) organizations and health practitioners are urged to use this opportunity to promote awareness, monthly self-examinations, and annual mammograms.

Mr. VITTER. Mr. Speaker, I rise today in support of H. Con. Res. 502. Every 3 minutes a woman is diagnosed with breast cancer. Please join me in support of Breast Cancer Awareness Month by co-sponsoring H. Con. Res. 502. Breast Cancer Awareness Month provides a special opportunity to provide education about the importance of monthly breast self-examinations and annual mammograms. Early detection greatly increases victims' chances of survival.

The facts of breast cancer are grim:

This year 182,000 new cases of breast cancer are expected in the United States.

Breast cancer is the leading cause of death in women between the ages of 40 and 55.

One in eight women who lives to age 85 will develop breast cancer in her lifetime.

But there is hope:

When breast cancer is found early, the five-year survival rate is 96 percent.

Monthly breast self-examinations and mammograms are the key components of early detection.

We recognize and salute the more than 2 million breast cancer survivors alive today in the United States.

Families across the country are affected by this dreadful disease. Let's help educate people about the important life-saving measures of early detection. Please help me honor victims, survivors, volunteers, and professionals, who combat breast cancer each day.

DISCHARGED FROM THE COMMITTEE ON HOUSE ADMINISTRATION AND AGREED TO

H. Res. 536, commending the staffs of members of Congress, the Capitol Police, the Office of the Attending Physician and his health care staff, and other members of the Capitol Hill community for their courage and professionalism during the days and weeks following the release of anthrax in Senator DASCHLE's office.

#### H. RES. 536

Whereas there are approximately 30,000 legislative branch employees who work on Capitol Hill including approximately 6,200 Senate employees, 11,500 House employees, and 12,800 staff from other entities;

Whereas the Capitol Complex consists of approximately 285 acres comprised of 3 Senate office buildings, 3 House office buildings, 2 House annex buildings, 3 Library of Congress buildings, and several other facilities;

Whereas on October 15, 2001, a letter containing anthrax spores was opened in Senator Daschle's office;

Whereas approximately 6,000 individuals were tested for exposure to anthrax and 28 of those individuals tested positive;

Whereas approximately 1,000 individuals received a 60-day supply of antibiotics as a precautionary measure;

Whereas the House of Representatives closed the Rayburn and Cannon House Office Buildings for 7 days and the Longworth House Office building for 19 days;

Whereas during the closure of the Senate and House Office Buildings, Members and staff were forced to find alternative office space or to work from their homes;

Whereas Senate, House, and support staff continued and still continue to perform their duties and serve the public with courage and professionalism in spite of the threat of anthrax exposure;

Whereas officers of the Capitol Police have worked 12 hour shifts in response to the Sep-

tember 11, 2001, attacks and have been working additional overtime due to anthrax contamination in the Capitol Complex to ensure the safety of Members, staff, and visitors within the Capitol Complex; and

Whereas the release of anthrax in Senator Daschle's office, and the contamination of 2 Senate office buildings and 1 House office building, have further disrupted the daily routines of Members and their staffs and caused frustration due to dislocated offices: Now, therefore, be it

*Resolved, That the House of Representatives—*

(1) commends the staffs of Members of Congress, the Capitol Police, the Office of the Attending Physician and his health care staff, and other members of the Capitol Hill community for their courage, professionalism, and dedication to serving the public in the aftermath of the September 11, 2001, attacks and the release of anthrax in Senator Daschle's office;

(2) recognizes the Congressional leadership, Congressional employees, the Capitol Police, and the Office of the Attending Physician and the health care professionals in his office, in particular, who by their quick actions and early intervention prevented actual cases of anthrax within the Capitol Complex; and

(3) requests that the President recognize the courage and professionalism of Congressional staff, the Capitol Police, and other members of the Capitol Hill community for their public service in continuing to do the public's business in defiance of terrorist attacks.

DISCHARGED FROM THE COMMITTEE ON INTERNATIONAL RELATIONS AND AGREED TO

H. Con. Res. 479, expressing the sense of Congress regarding Greece's contributions to the war against terrorism and its successful efforts against the November 17 terrorist organization.

#### H. CON. RES. 479

Whereas the United States and Greece, longtime friends and allies, have fought side by side in defense of our shared commitment to freedom and democracy, including in both World Wars I and II, the Korean War, and Operations Desert Storm and Enduring Freedom;

Whereas in the immediate aftermath of the tragic events of September 11, 2001, Greece was one of the first countries to express its solidarity with the United States;

Whereas Greece, as a NATO ally and a coalition partner in the war against terrorism, has made significant contributions to Operation Enduring Freedom and has provided military personnel and humanitarian assistance to the International Security Assistance Force in Afghanistan;

Whereas President Bush has commended Greece for its "strong stand against terror";

Whereas Greece, through excellent work and cooperation with United States and international law enforcement agencies, recently arrested key members of the November 17 terrorist organization;

Whereas President Bush stated that Greece's "successful law enforcement operations against a terrorist organization [November 17] responsible for three decades of terrorist attacks underscore the important contributions Greece is making to the global war on terrorism"; and

Whereas the arrest of the November 17 terrorists will contribute to a safe and secure environment for staging the 2004 Olympic Games in Athens, Greece: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring), That Congress—*

(1) commends Greece for its outstanding contributions to the global war against terrorism, including military support for Operation Enduring Freedom, humanitarian assistance for Afghanistan, and participation in the International Security Assistance Force in Afghanistan; and

(2) recognizes Greece's success in apprehending key members of the November 17 terrorist organization, commends the cooperation between United States and Greek law enforcement agencies, and urges continued efforts to dismantle completely the November 17 terrorist organization, as such efforts will also contribute to a safe and secure environment for staging the 2004 Olympics in Athens, Greece.

DISCHARGED FROM THE COMMITTEE ON

INTERNATIONAL RELATIONS AND AGREED TO

H. Con. Res. 492, welcoming Her Majesty Queen Sirikit of Thailand upon her arrival in the United States.

H. CON. RES. 492

Whereas the United States and the Kingdom of Thailand have enjoyed 169 years of peaceful and constructive relations since the signing of the Treaty of Amity and Commerce in 1833;

Whereas the aforesaid document was the first such treaty signed between the United States and any Asian nation;

Whereas the United States enjoys both a bilateral security agreement and a military assistance agreement with Thailand and conducts several military exercises with the armed forces of Thailand every year, the largest of which is the Cobra Gold exercise;

Whereas Her Majesty Queen Sirikit has made major contributions to advancing the social and economic welfare and health of the people of Thailand, most notably as President of the Thai Red Cross Society;

Whereas in order to assist the rural poor of Thailand, Her Majesty Queen Sirikit serves as patron and chairperson of the Foundation for the Promotion of Supplementary Occupations and Related Techniques (SUPPORT);

Whereas in her capacity as President of the Thai Red Cross Society, Her Majesty Queen Sirikit established the Khao I Dang Thai Red Cross Center to provide food, shelter, and medical attention to Cambodian refugees fleeing turmoil in their country; and

Whereas Her Majesty Queen Sirikit's contributions to the welfare of Thai citizens and of international refugees have been widely recognized by groups as diverse as the United Nations Food and Agriculture Organization, the Fletcher School of Law and Diplomacy, and the British Royal College of Physicians: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring), That the Congress welcomes Her Majesty Queen Sirikit on her visit to the United States, and expresses the hope that her visit will further strengthen the deep historical relationship between the United States and the Kingdom of Thailand.*

DISCHARGED FROM THE COMMITTEE ON INTERNATIONAL RELATIONS, AMENDED, AND AGREED TO

H. Con. Res. 349, calling for an end to the sexual exploitation of refugees.

H. CON. RES. 349

Whereas the United Nations and organizations engaged in international humanitarian relief periodically receive reports of sexual exploitation of refugees, particularly women and children;

Whereas last year a report commissioned by the United Nations High Commissioner of Refugees and the British organization Save the Children accuses aid workers in Liberia,

Sierra Leone, and Guinea of refusing to give food and medicine to young girls unless they perform sexual favors;

Whereas in response to this report the Secretary General of the United Nations denounced sexual exploitation of refugees and called for a full investigation of the humanitarian staff from the agencies involved;

Whereas the charges against aid workers in West Africa are still being investigated and in recent years there have been reports implicating employees of international nongovernmental organizations, government agencies responsible for humanitarian response, and peacekeeping forces in sexual exploitation of refugees;

Whereas many of these reports have involved children, some as young as 10 to 12 years of age;

Whereas the insufficiency of food rations in refugee camps has been cited as a primary factor contributing to sexual exploitation;

Whereas refugees are often extremely poor and cut off from employment and other ordinary means of income, so that they can be highly susceptible to demands that they exchange sex for food to help their families survive; and

Whereas the relationship between refugee workers and refugees is a custodial or caregiving relationship in which the custodian or caregiver can exercise substantial power over the life of the other party, and which carries a corresponding risk of abuse: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring), That the Congress—*

(1) supports the Secretary General of the United Nations in condemning the sexual exploitation of children by humanitarian aid workers;

(2) urges the United Nations to conduct a comprehensive worldwide investigation into the extent, if any, of sexual exploitation of refugees by agents or employees of United Nations agencies, of other international nongovernmental organizations, and of governments;

(3) urges the President to—

(A) affirm the commitment of the United States to protecting the well-being and human rights of women and children, particularly those in refugee situations; and

(B) instruct the Administrator of the United States Agency for International Development and the Secretary of Agriculture to review the distribution of food assistance to refugee communities throughout the world to ensure that humanitarian assistance to refugees provided by the United States is respectful of the human rights of women and children and is distributed in such a way as to minimize the risk of sexual exploitation; and

(4) urges the Secretary General, the President, and the executive authorities of all governmental and nongovernmental entities engaged in refugee work to adopt codes of conduct for employees, contractors, and other agents of the United Nations, of the United States Government, and of such governmental and nongovernmental entities, respectively, who are engaged in refugee work that strictly prohibit sexual relationships between international refugee workers and those entrusted to their care, and to enforce these prohibitions vigorously.

Amend the title so as to read: "Concurrent resolution calling for effective measures to end the sexual exploitation of refugees."

DISCHARGED FROM THE COMMITTEE ON INTERNATIONAL RELATIONS, AMENDED, AND AGREED TO

House Concurrent Resolution 437, recognizing the Republic of Turkey for its cooperation in the campaign against global terrorism, for its com-

mitment of forces and assistance to Operation Enduring Freedom and subsequent missions in Afghanistan, and for initiating important economic reforms to build a stable and prosperous economy in Turkey.

H. CON. RES. 437

Whereas the United States and the Republic of Turkey have long been allies and share a commitment to preserving global peace and stability;

Whereas Turkey has demonstrated a steadfast commitment to the war on terrorism;

Whereas Turkey was the first country with a predominantly Muslim population to offer direct military participation in Operation Enduring Freedom;

Whereas the use of the Incirlik Air Base in Turkey, from which thousands of United States transport planes have taken off since the beginning of Operation Enduring Freedom, has greatly facilitated the campaign in Afghanistan;

Whereas Turkey, the only member nation of NATO with a predominantly Muslim population, has assumed command of the International Security and Assistance Force in Afghanistan;

Whereas Turkey faced financial and currency crises and a recession in 2000 and 2001;

Whereas Turkey's fiscal discipline and actions to restore confidence in the banking system have laid the foundation for sound economic recovery;

Whereas the future growth and prosperity of Turkey depend in large measure on encouraging more foreign investment in Turkey and improving trade relations; and

Whereas the United States is interested in building a broader investment and trading relationship with Turkey: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring), That Congress—*

(1) recognizes the Republic of Turkey for its steadfast commitment to, and cooperation in, the war against terrorism, including—

(A) Turkey's immediate condemnation of the terrorist attacks against the United States that occurred on September 11, 2001;

(B) Turkey's offers to the United States of troops, the use of air bases, increased force protection for United States military personnel and equipment in Turkey, and diplomatic overflight clearances;

(C) Turkey's deployment of hundreds of troops to Afghanistan to participate in the initial phase of the International Security Assistance Force; and

(D) Turkey's willingness to participate in and lead the International Security Assistance Force in Afghanistan and assist the United States in training the new Afghan security forces; and

(2) commends Turkey for implementing economic reforms, particularly those which increase privatization and improve the investment climate in Turkey.

AMENDED BY COMMITTEE AMENDMENT, AS

AMENDED, AND PASSED

H.R. 5200, to establish wilderness area, promote conservation, improve public land, and provide for high quality development in Clark County, Nevada, and for other purposes.

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 5200, AS REPORTED

OFFERED BY MR. HANSEN OF UTAH

Strike all after the enacting clause and insert the following new text:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Clark County Conservation of Public Land and Natural Resources Act of 2002".



**SEC. 2. TABLE OF CONTENTS.**

The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Definitions.
- Sec. 4. Authorization of appropriations.

**TITLE I—RED ROCK CANYON NATIONAL CONSERVATION AREA LAND EXCHANGE AND BOUNDARY ADJUSTMENT**

- Sec. 101. Short title.
- Sec. 102. Definitions.
- Sec. 103. Findings and purposes.
- Sec. 104. Red Rock Canyon land exchange.
- Sec. 105. Status and management of lands.
- Sec. 106. General provisions.

**TITLE II—WILDERNESS AREAS**

- Sec. 201. Findings.
- Sec. 202. Additions to National Wilderness Preservation System.
- Sec. 203. Administration.
- Sec. 204. Adjacent management.
- Sec. 205. Military overflights.
- Sec. 206. Native American cultural and religious uses.
- Sec. 207. Release of wilderness study areas.
- Sec. 208. Wildlife management.
- Sec. 209. Wildfire management.
- Sec. 210. Climatological data collection.
- Sec. 211. National Park Service lands.

**TITLE III—TRANSFERS OF ADMINISTRATIVE JURISDICTION**

- Sec. 301. Transfer of administrative jurisdiction to the United States Fish and Wildlife Service.
- Sec. 302. Transfer of administrative jurisdiction to National Park Service.

**TITLE IV—AMENDMENTS TO THE SOUTHERN NEVADA PUBLIC LAND MANAGEMENT ACT**

- Sec. 401. Disposal and exchange.

**TITLE V—IVANPAH CORRIDOR**

- Sec. 501. Interstate Route 15 south corridor.
- Sec. 502. Area of Critical Environmental Concern segregation.

**TITLE VI—SLOAN CANYON NATIONAL CONSERVATION AREA**

- Sec. 601. Short title.
- Sec. 602. Purpose.
- Sec. 603. Definitions.
- Sec. 604. Establishment.
- Sec. 605. Management.
- Sec. 606. Sale of Federal parcel.
- Sec. 607. Right-of-way.

**TITLE VII—PUBLIC INTEREST CONVEYANCES**

- Sec. 701. Definition of map.
- Sec. 702. Conveyance to the University of Nevada at Las Vegas Research Foundation.
- Sec. 703. Conveyance to the Las Vegas Metropolitan Police Department.
- Sec. 704. Conveyance to the City of Henderson for the Nevada State College at Henderson.
- Sec. 705. Conveyance to the City of Las Vegas, Nevada.
- Sec. 706. Sale of Federal parcel.

**TITLE VIII—HUMBOLDT PROJECT CONVEYANCE**

- Sec. 801. Short title.
- Sec. 802. Definitions.
- Sec. 803. Authority to convey title.
- Sec. 804. Payment.
- Sec. 805. Compliance with other laws.
- Sec. 806. Revocation of withdrawals.
- Sec. 807. Liability.
- Sec. 808. National Environmental Policy Act.
- Sec. 809. Future benefits.

**TITLE IX—MISCELLANEOUS PROVISIONS**

- Sec. 901. Technical amendments to the Mesquite Lands Act 2001.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) **AGREEMENT.**—The term “Agreement” means the Agreement entitled “Interim Cooperative Management Agreement Between the United States of the Interior Bureau of Land Management and Clark County”, dated November 4, 1992.

(2) **COUNTY.**—The term “County” means Clark County, Nevada.

(3) **SECRETARY.**—The term “Secretary” means—

(A) the Secretary of Agriculture with respect to land in the National Forest System; or

(B) the Secretary of the Interior, with respect to other Federal land.

(4) **STATE.**—The term “State” means the State of Nevada.

**SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized such sums as may be necessary to carry out this Act.

**TITLE I—RED ROCK CANYON NATIONAL CONSERVATION AREA LAND EXCHANGE AND BOUNDARY ADJUSTMENT**

**SEC. 101. SHORT TITLE.**

This title may be cited as the “Red Rock Canyon National Conservation Area Protection and Enhancement Act of 2002”.

**SEC. 102. DEFINITIONS.**

As used in this title:

(1) **CORPORATION.**—The term “Corporation” means the Howard Hughes Corporation, an affiliate of the Rouse Company, with its principal place of business at 10000 West Charleston Boulevard, Las Vegas, Nevada.

(2) **RED ROCK CANYON.**—The term “Red Rock Canyon” means the Red Rock Canyon National Conservation Area, consisting of approximately 195,780 acres of public lands in Clark County, Nevada, specially designated for protection in the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc et seq.), as depicted on the Red Rock Canyon Map.

(3) **RED ROCK CANYON MAP.**—The term “Red Rock Canyon Map” means the map entitled “Southern Nevada Public Land Management Act”, dated October 1, 2002.

**SEC. 103. FINDINGS AND PURPOSES.**

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

(1) Red Rock Canyon is a natural resource of major significance to the people of Nevada and the United States. It must be protected in its natural state for the enjoyment of future generations of Nevadans and Americans, and enhanced wherever possible.

(2) In 1998, the Congress enacted the Southern Nevada Public Lands Management Act of 1998 (Public Law 105-263), which provided among other things for the protection and enhancement of Red Rock Canyon.

(3) The Corporation owns much of the private land on Red Rock Canyon’s eastern boundary, and is engaged in developing a large-scale master-planned community.

(4) Included in the Corporation’s land holdings are 1,071 acres of high-ground lands at the eastern edge of Red Rock Canyon. These lands were intended to be included in Red Rock, but to date have not been acquired by the United States. The protection of this high-ground acreage would preserve an important element of the western Las Vegas Valley viewshed.

(5) The Corporation has volunteered to forgo development of the high-ground lands, and proposes that the United States acquire title to the lands so that they can be preserved in perpetuity to protect and expand Red Rock Canyon.

(b) **PURPOSES.**—The purpose of this title are:

(1) To accomplish an exchange of lands between the United States and the Corporation

that would transfer certain high-ground lands to the United States in exchange for the transfer of other lands of approximately equal value to the Corporation.

(2) To protect Red Rock Canyon and to expand its boundaries as contemplated by the Bureau of Land Management, as depicted on the Red Rock Canyon Map.

(3) To further fulfill the purposes of the Southern Nevada Public Lands Management Act of 1998 and the Red Rock Canyon National Conservation Area Establishment Act of 1990.

**SEC. 104. RED ROCK CANYON LAND EXCHANGE.**

(a) **ACQUISITION REQUIREMENT.**—If the Corporation offers to convey to the United States all right, title, and interest in and to the approximately 1,082 acres of non-Federal land owned by the Corporation and depicted on the Red Rock Canyon Map as “Offered Lands proposed addition to the Red Rock Canyon NCA”, the Secretary shall accept such offer on behalf of the United States, and not later than 90 days after the date of the offer, except as otherwise provided in this title, shall make the following conveyances:

(1) To the Corporation, the approximately 998 acres of Federal lands depicted on the Red Rock Canyon Map as “Public land selected for exchange”.

(2) To Clark County, Nevada, the approximately 1,221 acres of Federal lands depicted on the Red Rock Canyon Map as “Proposed BLM transfer for county park”.

(b) **SIMULTANEOUS CONVEYANCES.**—Title to the private property and the Federal property to be conveyed pursuant to this section shall be conveyed at the same time.

(c) **MAP.**—The Secretary shall keep the Red Rock Canyon Map on file and available for public inspection in the Las Vegas District Office of the Bureau of Land Management in Nevada, and the State Office of the Bureau of Land Management, Reno, Nevada.

(d) **CONDITIONS.**—

(1) **HAZARDOUS MATERIALS.**—As a condition of the conveyance under subsection (a)(1), the Secretary shall require that the Corporation be responsible for removal of and remediation related to any hazardous materials that are present on the property conveyed to the United States under subsection (a).

(2) **SURVEY.**—As a condition of the conveyance under subsection (a)(1), the Secretary shall require that not later than 90 days after the date of the offer referred to in subsection (a), the Corporation shall provide a metes and bounds survey, that is acceptable to the Corporation, Clark County, and the Secretary, of the common boundary between the parcels of land to be conveyed under subsection (a).

(3) **LANDS CONVEYED TO CLARK COUNTY.**—As a condition of the conveyance under subsection (a)(2), the Secretary shall require that—

(A) the lands transferred to Clark County by the United States must be held in perpetuity by the County for use only as a public park or as part of a public regional trail system; and

(B) if the County attempts to transfer the lands or to undertake a use on the lands that is inconsistent with their preservation and use as described in subparagraph (A), such lands shall, at the discretion of the Secretary, revert to the United States.

(e) **VALUATION.**—

(1) **EQUAL VALUE EXCHANGE.**—The values of the Federal parcel and the non-Federal parcel, as determined under paragraph (2)—

(A) shall be equal; or

(B) if the values are not equal, shall be equalized in accordance with paragraph (3).

(2) **APPRAISAL.**—The values of the Federal parcel and the non-Federal parcel shall be determined by an appraisal, to be approved

by the Secretary, that complies with the Uniform Standards for Federal Land Acquisitions.

(3) **EQUALIZATION.**—

(A) **IN GENERAL.**—If the value of the non-Federal parcel is less than the value of the Federal parcel—

(i) the Corporation shall make a cash equalization payment to the Secretary; or

(ii) the Secretary shall, as determined to be appropriate by the Secretary and the Corporation, reduce the acreage of the Federal parcel.

(B) **DISPOSITION OF PROCEEDS.**—The Secretary shall deposit any cash equalization payments received under subparagraph (A)(i) in accordance with section 4(e)(1)(C) of the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2345).

**SEC. 105. STATUS AND MANAGEMENT OF LANDS.**

(a) **INCLUSION AND MANAGEMENT OF LANDS.**—Upon the date of the enactment of this Act, the Secretary shall administer the lands depicted on the Red Rock Map as “Public Lands-proposed addition to the Red Rock Canyon NCA”, exclusive of those lands used for the Corps of Engineers R-4 Detention Basin, as part of Red Rock and in accordance with the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc et seq.) and all other applicable laws.

(b) **INCLUSION OF ACQUIRED LANDS.**—Upon acquisition by the United States of lands under this Act, the Secretary shall—

(1) administer the lands as part of Red Rock and in accordance with the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc et seq.), the Southern Nevada Public Lands Management Act of 1998 (Public Law 105-263), and all other applicable laws; and

(2) create new maps showing the boundaries of Red Rock as modified or pursuant to this Act, and make such maps available for review at the Las Vegas District Office of the Bureau of Land Management and the State Office of the Bureau of Land Management, Reno, Nevada.

(c) **CONFORMING AMENDMENT.**—Section 3(a)(2) of the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc-1(a)(2)) is amended by inserting before the period the following: “, and such additional areas as are included in the conservation area pursuant to the Red Rock Canyon National Conservation Area Protection and Enhancement Act of 2002”.

**SEC. 106. GENERAL PROVISIONS.**

(a) **REVIEW OF APPRAISAL.**—Not later than 90 days after the date of the enactment of this Act, the Secretary shall complete a review of the appraisal entitled, “Complete Self-Contained Appraisal Red Rock Exchange, Las Vegas, Nevada”, completed on or about June 3, 2002. The difference in appraisal values shall be reimbursed to the Secretary by the Corporation in accordance with the Southern Nevada Public Lands Management Act of 1998.

(b) **VALID EXISTING RIGHTS.**—The land exchange under this Act shall be subject to valid existing rights. Each party to which property is conveyed under this Act shall succeed to the rights and obligations of the conveying party with respect to any lease, right-of-way, permit, or other valid existing right to which the property is subject.

(c) **TECHNICAL CORRECTIONS.**—Nothing in this Act prohibits the parties to the conveyances under this Act from agreeing to the correction of technical errors or omissions in the Red Rock Map.

(d) **WITHDRAWAL OF AFFECTED LANDS.**—To the extent not already accomplished under law or administrative action, the Secretary shall withdraw from operation of the public

land and mining laws, subject to valid existing rights—

(1) those Federal lands acquired by the United States under this Act; and

(2) those Federal lands already owned by the United States on the date of enactment of this Act but included within the Red Rock National Conservation Area boundaries by this Act.

**TITLE II—WILDERNESS AREAS**

**SEC. 201. FINDINGS.**

The Congress finds that—

(1) public land in the County contains unique and spectacular natural resources, including—

(A) priceless habitat for numerous species of plants and wildlife; and

(B) thousands of acres of pristine land that remain in a natural state;

(2) continued preservation of those areas would benefit the County and all of the United States by—

(A) ensuring the conservation of ecologically diverse habitat;

(B) conserving primitive recreational resources; and

(C) protecting air and water quality.

**SEC. 202. ADDITIONS TO NATIONAL WILDERNESS PRESERVATION SYSTEM.**

(a) **ADDITIONS.**—The following land in the State is designated as wilderness and as components of the National Wilderness Preservation System:

(1) **ARROW CANYON WILDERNESS.**—Certain Federal land managed by the Bureau of Land Management, comprising approximately 27,530 acres, as generally depicted on the map entitled “Arrow Canyon”, dated October 1, 2002, which shall be known as the “Arrow Canyon Wilderness”.

(2) **BLACK CANYON WILDERNESS.**—Certain Federal land within the Lake Mead National Recreation Area and an adjacent portion of Federal land managed by the Bureau of Land Management, comprising approximately 17,220 acres, as generally depicted on the map entitled “Eldorado/Spirit Mountain”, dated October 1, 2002, which shall be known as the Black Canyon Wilderness.

(3) **BRIDGE CANYON WILDERNESS.**—Certain Federal land within the Lake Mead National Recreation Area, comprising approximately 7,761 acres, as generally depicted on the map entitled “Eldorado/Spirit Mountain”, dated October 1, 2002, which shall be known as “the Bridge Canyon Wilderness”.

(4) **ELDORADO WILDERNESS.**—Certain Federal land within the Lake Mead National Recreation Area and an adjacent portion of Federal land managed by the Bureau of Land Management, comprising approximately 31,950 acres, as generally depicted on the map entitled “Eldorado/Spirit Mountain”, dated October 1, 2002, which shall be known as the “Eldorado Wilderness”.

(5) **IRETEBA PEAKS WILDERNESS.**—Certain Federal land within the Lake Mead National Recreation Area and an adjacent portion of Federal land managed by the Bureau of Land Management, comprising approximately 32,745 acres, as generally depicted on the map entitled “Eldorado/Spirit Mountain”, dated October 1, 2002, which shall be known as the “Ireteba Peaks Wilderness”.

(6) **JIMBLINAN WILDERNESS.**—Certain Federal land within the Lake Mead National Recreation Area, comprising approximately 18,879 acres, as generally depicted on the map entitled “Muddy Mountains”, dated October 1, 2002, which shall be known as the “Jimblinan Wilderness”.

(7) **JUMBO SPRINGS WILDERNESS.**—Certain Federal land managed by the Bureau of Land Management, comprising approximately 4,631 acres, as generally depicted on the map entitled “Gold Butte”, dated October 1, 2002, which shall be known as the “Jumbo Springs Wilderness”.

(8) **LA MADRE MOUNTAIN WILDERNESS.**—Certain Federal land within the Toiyabe National Forest and an adjacent portion of Federal land managed by the Bureau of Land Management, comprising approximately 47,180 acres, as generally depicted on the map entitled “Spring Mountains”, dated October 1, 2002, which shall be known as the “La Madre Mountain Wilderness”.

(9) **LIME CANYON WILDERNESS.**—Certain Federal land managed by the Bureau of Land Management, comprising approximately 23,233 acres, as generally depicted on the map entitled “Gold Butte”, dated October 1, 2002, which shall be known as the “Lime Canyon Wilderness”.

(10) **MT. CHARLESTON WILDERNESS ADDITIONS.**—Certain Federal land within the Toiyabe National Forest and an adjacent portion of Federal land managed by the Bureau of Land Management, comprising approximately 13,598 acres, as generally depicted on the map entitled “Spring Mountains”, dated October 1, 2002, which shall be included in the Mt. Charleston Wilderness.

(11) **MUDDY MOUNTAINS WILDERNESS.**—Certain Federal land within the Lake Mead National Recreation Area and an adjacent portion of land managed by the Bureau of Land Management, comprising approximately 48,019 acres, as generally depicted on the map entitled “Muddy Mountains”, dated October 1, 2002, which shall be known as the Muddy Mountains Wilderness.

(12) **NELLIS WASH WILDERNESS.**—Certain Federal land within the Lake Mead National Recreation Area, comprising approximately 16,423 acres, as generally depicted on the map entitled “Eldorado/Spirit Mountain”, dated October 1, 2002, which shall be known as the Nellis Wash Wilderness.

(13) **NORTH MCCULLOUGH WILDERNESS.**—Certain Federal land managed by the Bureau of Land Management, comprising approximately 14,763 acres, as generally depicted on the map entitled “McCulloughs”, dated October 1, 2002, which shall be known as the North McCullough Wilderness.

(14) **PINTO VALLEY WILDERNESS.**—Certain Federal land within the Lake Mead National Recreation Area, comprising approximately 39,173 acres, as generally depicted on the map entitled “Muddy Mountains”, dated October 1, 2002, which shall be known as the Pinto Valley Wilderness.

(15) **RAINBOW MOUNTAIN WILDERNESS.**—Certain Federal land within the Toiyabe National Forest and an adjacent portion of Federal land managed by the Bureau of Land Management, comprising approximately 24,997 acres, as generally depicted on the map entitled “Spring Mountains”, dated October 1, 2002, which shall be known as the Rainbow Mountain Wilderness.

(16) **SOUTH MCCULLOUGH WILDERNESS.**—Certain Federal land managed by the Bureau of Land Management, comprising approximately 44,245 acres, as generally depicted on the map entitled “McCulloughs”, dated October 1, 2002, which shall be known as the South McCullough Wilderness.

(17) **SPIRIT MOUNTAIN WILDERNESS.**—Certain Federal land within the Lake Mead National Recreation Area and an adjacent portion of Federal land managed by the Bureau of Land Management, comprising approximately 33,518 acres, as generally depicted on the map entitled “Eldorado/Spirit Mountain”, dated October 1, 2002, which shall be known as the Spirit Mountain Wilderness.

(18) **WEE THUMP JOSHUA TREE WILDERNESS.**—Certain Federal land managed by the Bureau of Land Management, comprising approximately 6,050 acres, as generally depicted on the map entitled “McCulloughs”, dated October 1, 2002, which shall be known as the Wee Thump Joshua Tree Wilderness.

(b) **BOUNDARY.**—

(1) **LAKE OFFSET.**—The boundary of any portion of a wilderness area designated by subsection (a) that is bordered by Lake Mead, Lake Mohave, or the Colorado River shall be 300 feet inland from the high water line.

(2) **ROAD OFFSET.**—The boundary of any portion of a wilderness area designated by subsection (a) that is bordered by a road shall be at least 100 feet from the edge of the road to allow public access.

(c) **MAP AND LEGAL DESCRIPTION.**—

(1) **IN GENERAL.**—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and legal description of each wilderness area designated by subsection (a) with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) **EFFECT.**—Each map and legal description shall have the same force and effect as if included in this section, except that the Secretary may correct clerical and typographical errors in the map or legal description.

(3) **AVAILABILITY.**—Each map and legal description shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management, National Park Service, or Forest Service, as applicable.

(d) **WITHDRAWAL.**—Subject to valid existing rights, the wilderness areas designated in this section are withdrawn from—

(1) all forms of entry, appropriation, and disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation of the mineral leasing, mineral materials, and geothermal leasing laws.

**SEC. 203. ADMINISTRATION.**

(a) **MANAGEMENT.**—Subject to valid existing rights, each area designated as wilderness by this title shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that—

(1) any reference in that Act to the effective date shall be considered to be a reference to the date of enactment of this Act; and

(2) any reference in that Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary of the Interior with respect to lands administered by the Secretary of the Interior.

(b) **LIVESTOCK.**—Within the wilderness areas designated under this title that are administered by the Bureau of Land Management, the grazing of livestock in areas in which grazing is established as of the date of enactment of this Act shall be allowed to continue, subject to such reasonable regulations, policies, and practices that the Secretary considers necessary, consistent with section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)), including the guidelines set forth in Appendix A of House Report 101-405.

(c) **INCORPORATION OF ACQUIRED LANDS AND INTERESTS.**—Any land or interest in land within the boundaries of an area designated as wilderness by this title that is acquired by the United States after the date of enactment of this Act shall be added to and administered as part of the wilderness area within which the acquired land or interest is located.

(d) **WATER RIGHTS.**—

(1) **FINDINGS.**—Congress finds that—

(A) the lands designated as Wilderness by this Act are within the Mojave Desert, are arid in nature, and include ephemeral streams;

(B) the hydrology of the lands designated as wilderness by this Act is locally characterized by complex flow patterns and alluvial fans with impermanent channels;

(C) the subsurface hydrogeology of the region is characterized by ground water subject to local and regional flow gradients and artesian aquifers;

(D) the lands designated as wilderness by this Act are generally not suitable for use or development of new water resource facilities and there are no actual or proposed water resource facilities and no opportunities for diversion, storage, or other uses of water occurring outside such lands that would adversely affect the wilderness or other values of such lands; and

(E) because of the unique nature and hydrology of these desert lands designated as wilderness by this Act and the existence of the Clark County Multi-Species Habitat Conservation Plan it is possible to provide for proper management and protection of the wilderness, perennial springs and other values of such lands in ways different from those used in other legislation.

(2) **STATUTORY CONSTRUCTION.**—

(A) Nothing in this Act shall constitute or be construed to constitute either an express or implied reservation by the United States of any water or water rights with respect to the lands designated as Wilderness by this Act.

(B) Nothing in this Act shall affect any water rights in the State of Nevada existing on the date of the enactment of this Act, including any water rights held by the United States.

(C) Nothing in this subsection shall be construed as establishing a precedent with regard to any future wilderness designations.

(D) Nothing in this Act shall be construed as limiting, altering, modifying, or amending any of the interstate compacts or equitable apportionment decrees that apportion water among and between the State of Nevada and other States.

(E) Nothing in this subsection shall be construed as limiting, altering, modifying, or amending the Clark County Multi-Species Habitat Conservation Plan (MSHCP) with respect to the lands designated as Wilderness by this Act including the MSHCP's specific management actions for the conservation of perennial springs.

(3) **NEVADA WATER LAW.**—The Secretary shall follow the procedural and substantive requirements of the law of the State of Nevada in order to obtain and hold any water rights not in existence on the date of enactment of this Act with respect to the wilderness areas designated by this Act.

(4) **NEW PROJECTS.**—

(A) As used in this paragraph, the term "water resource" facility means irrigation and pumping facilities, reservoirs, water conservation works, aqueducts, canals, ditches, pipelines, wells, hydropower projects, and transmission and other ancillary facilities, and other water diversion, storage, and carriage structures. The term "water resource" facility does not include wildlife guzzlers.

(B) Except as otherwise provided in this Act, on and after the date of the enactment of this Act, neither the President nor any other officer, employee, or agent of the United States shall fund, assist, authorize, or issue a license or permit for the development of any new water resource facility within the wilderness areas designated by this Act.

**SEC. 204. ADJACENT MANAGEMENT.**

(a) **IN GENERAL.**—Congress does not intend for the designation of wilderness in the State pursuant to this title to lead to the creation of protective perimeters or buffer zones around any such wilderness area.

(b) **NONWILDERNESS ACTIVITIES.**—The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness

designated under this title shall not preclude the conduct of those activities or uses outside the boundary of the wilderness area.

**SEC. 205. MILITARY OVERFLIGHTS.**

Nothing in this title restricts or precludes—

(1) low-level overflights of military aircraft over the areas designated as wilderness by this title, including military overflights that can be seen or heard within the wilderness areas;

(2) flight testing and evaluation; or

(3) the designation or creation of new units of special use airspace, or the establishment of military flight training routes, over the wilderness areas.

**SEC. 206. NATIVE AMERICAN CULTURAL AND RELIGIOUS USES.**

Nothing in this Act shall be construed to diminish the rights of any Indian Tribe. Nothing in this Act shall be construed to diminish tribal rights regarding access to Federal lands for tribal activities, including spiritual, cultural, and traditional food-gathering activities.

**SEC. 207. RELEASE OF WILDERNESS STUDY AREAS.**

(a) **FINDING.**—Congress finds that, for the purposes of section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), the public land in the County administered by the Bureau of Land Management and the Forest Service in the following areas have been adequately studied for wilderness designation:

(1) The Garrett Buttes Wilderness Study Area.

(2) The Quail Springs Wilderness Study Area.

(3) The Nellis A, B, C Wilderness Study Area.

(4) Any portion of the wilderness study areas—

(A) not designated as wilderness by section 202(a); and

(B) designated for release on—

(i) the map entitled "Muddy Mountains" and dated October 1, 2002;

(ii) the map entitled "Spring Mountains" and dated October 1, 2002;

(iii) the map entitled "Arrow Canyon" and dated October 1, 2002;

(iv) the map entitled "Gold Butte" and dated October 1, 2002;

(v) the map entitled "McCullough Mountains" and dated October 1, 2002;

(vi) the map entitled "El Dorado/Spirit Mountain" and dated October 1, 2002; or

(vii) the map entitled "Southern Nevada Public Land Management Act" and dated October 1, 2002.

(b) **RELEASE.**—Except as provided in subsection (c), any public land described in subsection (a) that is not designated as wilderness by this title—

(1) is no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)); and

(2) shall be managed in accordance with—

(A) land management plans adopted under section 202 of that Act (43 U.S.C. 1712); and

(B) existing cooperative conservation agreements.

(c) **RIGHT-OF-WAY GRANT.**—The Secretary shall issue to the State-regulated sponsor of the Centennial Project the right-of-way for the construction and maintenance of two 500-kilovolt electrical transmission lines. The construction shall occur within a 500-foot-wide corridor that is released from the Sunrise Mountains Instant Study Area in the County as depicted on the Southern Nevada Public Land Management Act map, dated October 1, 2002.

**SEC. 208. WILDLIFE MANAGEMENT.**

(a) **IN GENERAL.**—In accordance with section 4(d)(7) of the Wilderness Act (16 U.S.C.

1133(d)(7)), nothing in this title affects or diminishes the jurisdiction of the State with respect to fish and wildlife management, including the regulation of hunting, fishing, and trapping, in the wilderness areas designated by this title.

(b) **MANAGEMENT ACTIVITIES.**—In furtherance of the purposes and principles of the Wilderness Act, management activities to maintain or restore fish and wildlife populations and the habitats to support such populations may be carried out within wilderness areas designated by this title where consistent with relevant wilderness management plans, in accordance with appropriate policies such as those set forth in Appendix B of House Report 101-405, including the occasional and temporary use of motorized vehicles, if such use, as determined by the Secretary, would promote healthy, viable, and more naturally distributed wildlife populations that would enhance wilderness values and accomplish those purposes with the minimum impact necessary to reasonably accomplish the task.

(c) **EXISTING ACTIVITIES.**—Consistent with section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)) and in accordance with appropriate policies such as those set forth in Appendix B of House Report 101-405, the State may continue to use aircraft, including helicopters, to survey, capture, transplant, monitor, and provide water for wildlife populations, including bighorn sheep, and feral stock, horses, and burros.

(d) **WILDLIFE WATER DEVELOPMENT PROJECTS.**—Subject to subsection (f), the Secretary shall, authorize structures and facilities, including existing structures and facilities, for wildlife water development projects, including guzzlers, in the wilderness areas designated by this title if—

(1) the structures and facilities will, as determined by the Secretary, enhance wilderness values by promoting healthy, viable and more naturally distributed wildlife populations; and

(2) the visual impacts of the structures and facilities on the wilderness areas can reasonably be minimized.

(e) **HUNTING, FISHING, AND TRAPPING.**—The Secretary may designate by regulation areas in consultation with the appropriate State agency (except in emergencies), in which, and establish periods during which, for reasons of public safety, administration, or compliance with applicable laws, no hunting, fishing, or trapping will be permitted in the wilderness areas designated by this title.

(f) **COOPERATIVE AGREEMENT.**—No later than one year after the date of enactment of this Act, the Secretary shall enter into a cooperative agreement with the State of Nevada. The cooperative agreement shall specify the terms and conditions under which the State (including a designee of the State) may use wildlife management activities in the wilderness areas designated by this title.

#### **SEC. 209. WILDFIRE MANAGEMENT.**

Consistent with section 4 of the Wilderness Act (16 U.S.C. 1133), nothing in this title precludes a Federal, State, or local agency from conducting wildfire management operations (including operations using aircraft or mechanized equipment) to manage wildfires in the wilderness areas designated by this title.

#### **SEC. 210. CLIMATOLOGICAL DATA COLLECTION.**

Subject to such terms and conditions as the Secretary may prescribe, nothing in this title precludes the installation and maintenance of hydrologic, meteorologic, or climatological collection devices in the wilderness areas designated by this title if the facilities and access to the facilities are essential to flood warning, flood control, and water reservoir operation activities.

#### **SEC. 211. NATIONAL PARK SERVICE LANDS.**

To the extent any of the provisions of this title are in conflict with laws, regulations, or management policies applicable to the National Park Service for Lake Mead National Recreation Area, those laws, regulations, or policies shall control.

### **TITLE III—TRANSFERS OF ADMINISTRATIVE JURISDICTION**

#### **SEC. 301. TRANSFER OF ADMINISTRATIVE JURISDICTION TO THE U.S. FISH AND WILDLIFE SERVICE.**

(a) **IN GENERAL.**—Administrative jurisdiction over the land described in subsection (b) is transferred from the Bureau of Land Management to the United States Fish and Wildlife Service for inclusion in the Desert National Wildlife Range.

(b) **DESCRIPTION OF LAND.**—The parcel of land referred to in subsection (a) is the approximately 26,433 acres of land administered by the Bureau of Land Management as generally depicted on the map entitled "Arrow Canyon" and dated October 1, 2002.

(c) **WILDERNESS RELEASE.**—

(1) Congress finds that the parcel of land described in subsection (b) has been adequately studied for wilderness designation for the purposes of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)).

(2) The parcel of land described in subsection (b)—

(A) shall not be subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)); and

(B) shall be managed in accordance with (i) the National Wildlife Refuge System Administration Act, as amended by the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd-668ee); and (ii) existing cooperative conservation agreements.

#### **SEC. 302. TRANSFER OF ADMINISTRATIVE JURISDICTION TO NATIONAL PARK SERVICE.**

(a) **IN GENERAL.**—Administrative jurisdiction over the parcel of land described in subsection (b) is transferred from the Bureau of Land Management to the National Park Service for inclusion in the Lake Mead National Recreation Area.

(b) **DESCRIPTION OF LAND.**—The parcel of land referred to in subsection (a) is the approximately 10 acres of Bureau of Land Management land, as depicted on the map entitled "Eldorado/Spirit Mountain" and dated October 1, 2002.

(c) **USE OF LAND.**—The parcel of land described in subsection (b) shall be used by the National Park Service for administrative facilities.

### **TITLE IV—AMENDMENTS TO THE SOUTHERN NEVADA PUBLIC LAND MANAGEMENT ACT**

#### **SEC. 401. DISPOSAL AND EXCHANGE.**

(a) **IN GENERAL.**—Section 4 of the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2344) is amended—

(1) in the first sentence of subsection (a), by striking "entitled Las Vegas Valley, Nevada, Land Disposal Map, dated April 10, 1997" and inserting "entitled Southern Nevada Public Land Management Act, dated October 1, 2002"; and

(2) in subsection (e)(3)(A)—

(A) in clause (iv)—

(i) by inserting "or regional governmental" entity after "local government"; and

(ii) by striking "and" at the end;

(B) by redesignating clause (v) as clause (vi); and

(C) by inserting after clause (iv) the following:

"(v) up to 10 percent of amounts available, to be used for conservation initiatives on

Federal land in Clark County, Nevada, administered by the Department of the Interior or the Department of Agriculture; and".

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) take effect on January 31, 2003.

(c) **WITHDRAWAL.**—Subject to valid existing rights, the land designated for disposal in this section is withdrawn from entry and appropriation under the public land laws, location and entry, under the mining laws, and from operation under the mineral leasing and geothermal leasing laws until such times as the Secretary terminates the withdrawal or the lands are patented.

### **TITLE V—IVANPAH CORRIDOR**

#### **SEC. 501. INTERSTATE ROUTE 15 SOUTH CORRIDOR.**

(a) **MANAGEMENT OF INTERSTATE ROUTE 15 CORRIDOR LAND.**—

(1) **IN GENERAL.**—The Secretary shall manage the land located along the Interstate Route 15 corridor south of the Las Vegas Valley to the border between the States of California and Nevada, generally depicted as Interstate 15 South Corridor on the map entitled "Clark County Conservation of Public Land and Natural Resources Act of 2002" and dated October 1, 2002, in accordance with the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2343) and this section.

(2) **AVAILABILITY OF MAP.**—The map described in paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(3) **MULTIPLE USE MANAGEMENT.**—Subject to any land management designations under the 1998 Las Vegas District Resource Management Plan or the Clark County Multi-Species Conservation Plan, land depicted on the map described in paragraph (1) shall be managed for multiple use purposes.

(4) **TERMINATION OF ADMINISTRATIVE WITHDRAWAL.**—The administrative withdrawal of the land identified as the Interstate 15 South Corridor on the map entitled "Clark County Conservation of Public Land and Natural Resources Act of 2002" and dated October 1, 2002, from mineral entry dated July 23, 1997, and as amended March 9, 1998, as further amended July 2, 2002, is terminated.

(5) **WITHDRAWAL OF LAND.**—Subject to valid existing rights, the corridor described in subsection (b) and the land described in subsection (c)(1) are withdrawn from location and entry under the mining laws, and from operation under the mineral leasing and geothermal leasing laws, until such time as—

(A) the Secretary terminates the withdrawal; or

(B) the corridor or land, respectively, is patented.

(b) **TRANSPORTATION AND UTILITIES CORRIDOR.**—Notwithstanding sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713), the Secretary, in consultation with the City of Henderson and the County, and in accordance with this section and other applicable laws and subject to valid existing rights, shall establish a 2,640-foot-wide corridor between the Las Vegas valley and the proposed Ivanpah Airport for the placement, on a nonexclusive basis, of utilities and transportation.

(c) **IVANPAH AIRPORT ENVIRONS OVERLAY DISTRICT LAND TRANSFER.**—

(1) **IN GENERAL.**—Subject to paragraph (2) and valid existing rights, on request by the County, the Secretary shall transfer to the County, without consideration, all right, title, and interest of the United States in and to the land identified as Ivanpah Airport noise compatibility area on the map entitled "Clark County Conservation of Public Land and Natural Resources Act of 2002" and dated October 1, 2002.

(2) CONDITIONS FOR TRANSFER.—As a condition of the transfer under paragraph (1), the County shall agree—

(A) to manage the transferred land in accordance with section 47504 of title 49, United States Code (including regulations promulgated under that section); and

(B) that if any portion of the transferred land is sold, leased, or otherwise conveyed or leased by the County—

(i) the sale, lease, or other conveyance shall be—

(I) subject to a limitation that requires that any use of the transferred land be consistent with the Agreement and section 47504 of title 49, United States Code (including regulations promulgated under that section); and

(II) for fair market value; and

(ii) of any gross proceeds received by the County from the sale, lease, or other conveyance of the land, the County shall—

(I) contribute 85 percent to the special account established by section 4(e)(1)(C) of the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2345);

(II) contribute 5 percent to the State for use in the general education program of the State; and

(III) reserve 10 percent for use by the Clark County Department of Aviation for airport development and noise compatibility programs.

(d) EFFECTIVE DATE.—Subsections (b) and (c) shall not take effect until construction of the Ivanpah Valley Airport is approved in accordance with Public Law 106-362.

#### SEC. 502. AREA OF CRITICAL ENVIRONMENTAL CONCERN SEGREGATION.

(a) TEMPORARY WITHDRAWAL.—Subject to valid existing rights, any Federal land in an Area of Critical Environmental Concern that is designated for withdrawal under the 1998 Las Vegas Resource Management Plan, and which is not already withdrawn by the effect of this or any other Act, is hereby withdrawn from location, entry, and patent under the mining laws for a period not to exceed five years. The withdrawal shall lapse at the earlier—

(1) five years; or

(2) when the Secretary issues a final decision on each proposed withdrawal.

(b) ADMINISTRATIVE WITHDRAWAL.—The Secretary shall make final decisions on each of the temporary withdrawals described in subsection (a) within five years of the date of enactment of this Act. Such decisions shall be made consistent with the Federal Land Policy and Management Act (43 U.S.C. 1714), and in accordance with the 1998 Las Vegas Resource Management Plan.

(c) MINERAL REPORT.—The mineral reports required by section 204(c)(12) of the Federal Land Policy and Management Act shall be the responsibility of the U.S. Geological Survey and shall be completed for each of the temporary withdrawals described in subsection (a) within four years of the date of enactment of this Act.

#### TITLE VI—SLOAN CANYON NATIONAL CONSERVATION AREA

##### SEC. 601. SHORT TITLE.

This title may be cited as the “Sloan Canyon National Conservation Area Act”.

##### SEC. 602. PURPOSE.

The purpose of this title is to establish the Sloan Canyon National Conservation Area to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the cultural, archaeological, natural, wilderness, scientific, geological, historical, biological, wildlife, educational, and scenic resources of the Conservation Area.

##### SEC. 603. DEFINITIONS.

In this title:

(1) CONSERVATION AREA.—The term “Conservation Area” means the Sloan Canyon National Conservation Area established by section 604(a).

(2) FEDERAL PARCEL.—The term “Federal parcel” means the parcel of Federal land consisting of approximately 500 acres that is identified as Tract A on the map entitled “Southern Nevada Public Land Management Act” and dated October 1, 2002.

(3) MANAGEMENT PLAN.—The term “management plan” means the management plan for the Conservation Area developed under section 605(b).

(4) MAP.—The term “map” means the map entitled “Southern Nevada Public Land Management Act” and dated October 1, 2002.

##### SEC. 604. ESTABLISHMENT.

(a) IN GENERAL.—For the purpose described in section 602, there is established in the State a conservation area to be known as the Sloan Canyon National Conservation Area.

(b) AREA INCLUDED.—The Conservation Area shall consist of approximately 48,438 acres of public land in the County, as generally depicted on the map.

(c) MAP AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall submit to Congress a map and legal description of the Conservation Area.

(2) EFFECT.—The map and legal description shall have the same force and effect as if included in this section, except that the Secretary may correct minor errors in the map or legal description.

(3) PUBLIC AVAILABILITY.—A copy of the map and legal description shall be on file and available for public inspection in the appropriate office of the Bureau of Land Management.

##### SEC. 605. MANAGEMENT.

(a) IN GENERAL.—The Secretary, acting through the Director of the Bureau of Land Management, shall manage the Conservation Area—

(1) in a manner that conserves, protects, and enhances the resources of the Conservation Area; and

(2) in accordance with—

(A) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(B) other applicable law, including this Act.

(b) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary, in consultation with the State, the city of Henderson, the County, and any other interested persons, shall develop a management plan for the Conservation Area.

(2) REQUIREMENTS.—The management plan shall—

(A) describe the appropriate uses and management of the Conservation Area;

(B)(i) authorize the use of motorized vehicles in the Conservation Area—

(I) for installing, repairing, maintaining, and reconstructing water development projects, including guzzlers, that would enhance the Conservation Area by promoting healthy, viable, and more naturally distributed wildlife populations; and

(II) subject to any limitations that are not more restrictive than the limitations on such uses authorized in wilderness areas under section 208; and

(i) include or provide recommendations on ways of minimizing the visual impacts of such activities on the Conservation Area;

(C) include a plan for litter cleanup and public lands awareness campaign on public lands in and around the Conservation Area; and

(D) include a recommendation on the location for a right-of-way for a rural roadway to

provide the city of Henderson with access to the Conservation Area, in accordance with the application numbered N-65874.

(c) USES.—The Secretary shall allow only such uses of the Conservation Area that the Secretary determines will further the purpose described in section 602.

(d) MOTORIZED VEHICLES.—Except as needed for administrative purposes or to respond to an emergency, the use of motorized vehicles in the Conservation Area shall be permitted only on roads and trails designated for the use of motorized vehicles by the management plan developed under subsection (b).

(e) WITHDRAWAL.—

(1) IN GENERAL.—Subject to valid existing rights, all public land in the Conservation Area is withdrawn from—

(A) all forms of entry and appropriation under the public land laws;

(B) location, entry, and patent under the mining laws; and

(C) operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(2) ADDITIONAL LAND.—Notwithstanding any other provision of law, if the Secretary acquires mineral or other interests in a parcel of land within the Conservation Area after the date of enactment of this Act, the parcel is withdrawn from operation of the laws referred to in paragraph (1) on the date of acquisition of the land.

(f) HUNTING, FISHING, AND TRAPPING.—

(1) IN GENERAL.—Nothing in this title affects the jurisdiction of the State with respect to fish and wildlife, including hunting, fishing, and trapping in the Conservation Area.

(2) LIMITATIONS.—

(A) REGULATIONS.—The Secretary may designate by regulation areas in which, and establish periods during which, for reasons of public safety, administration, or compliance with applicable laws, no hunting, fishing, or trapping will be permitted in the Conservation Area.

(B) CONSULTATION.—Except in emergencies, the Secretary shall consult with the appropriate State agency before promulgating regulations under subparagraph (A) that close a portion of the Conservation Area to hunting, fishing, or trapping.

(g) NO BUFFER ZONES.—

(1) IN GENERAL.—The establishment of the Conservation Area shall not create an express or implied protective perimeter or buffer zone around the Conservation Area.

(2) PRIVATE LAND.—If the use of, or conduct of an activity on, private land that shares a boundary with the Conservation Area is consistent with applicable law, nothing in this title concerning the establishment of the Conservation Area shall prohibit or limit the use or conduct of the activity.

##### SEC. 606. SALE OF FEDERAL PARCEL.

(a) IN GENERAL.—Notwithstanding sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713) and subject to valid existing rights, not later than 1 year after the date of enactment of this Act, the Secretary shall convey to the highest qualified bidder all right, title, and interest of the United States in and to the Federal parcel.

(b) DISPOSITION OF PROCEEDS.—Of the gross proceeds from the conveyance of land under subsection (a)—

(1) 5 percent shall be available to the State for use in the general education program of the State; and

(2) the remainder shall be deposited in the special account established under the Southern Nevada Public Lands Management Act of 1998 (Public Law 105-263; 112 Stat. 2345), to be available to the Secretary, without further appropriation for—

(A) the construction and operation of facilities to support the management of the Conservation Area;

(B) the construction and repair of trails and roads in the Conservation Area authorized under the management plan;

(C) research on and interpretation of the archaeological and geological resources of the Conservation Area;

(D) conservation and research relating to the Conservation Area; and

(E) any other purpose that the Secretary determines to be consistent with the purpose described in section 602.

#### SEC. 607. RIGHT-OF-WAY.

Not later than 180 days after the date of enactment of this Act, the Secretary shall convey to the City of Henderson the public right-of-way requested for public trail purposes under the application numbered N-76312 and the public right-of-way requested for public trail purposes under the application numbered N-65874.

### TITLE VII—PUBLIC INTEREST CONVEYANCES

#### SEC. 701. DEFINITION OF MAP.

In this title, the term “map” means the map entitled “Southern Nevada Public Land Management Act” and dated October 1, 2002.

#### SEC. 702. CONVEYANCE TO THE UNIVERSITY OF NEVADA AT LAS VEGAS RESEARCH FOUNDATION.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) the University of Nevada, Las Vegas, needs land in the greater Las Vegas area to provide for the future growth of the university;

(B) the proposal by the University of Nevada, Las Vegas, for construction of a research park and technology center in the greater Las Vegas area would enhance the high tech industry and entrepreneurship in the State; and

(C) the land transferred to the Clark County Department of Aviation under section 4(g) of the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2346) is the best location for the research park and technology center.

(2) PURPOSES.—The purposes of this section are—

(A) to provide a suitable location for the construction of a research park and technology center in the greater Las Vegas area;

(B) to provide the public with opportunities for education and research in the field of high technology; and

(C) to provide the State with opportunities for competition and economic development in the field of high technology.

(b) TECHNOLOGY RESEARCH CENTER.—

(1) CONVEYANCE.—Notwithstanding section 4(g)(4) of the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2347), the Clark County Department of Aviation may convey, without consideration, all right, title, and interest in and to the parcel of land described in paragraph (3) to the University of Nevada at Las Vegas Research Foundation (referred to in this section as “Foundation”) for the development of a technology research center.

(2) CONDITION.—The conveyance under paragraph (1) shall be subject to the condition that the Foundation enter into an agreement that if the land described in paragraph (3) is sold, leased, or otherwise conveyed by the Foundation.

(A) the Foundation shall sell, lease, or otherwise convey the land for fair market value;

(B) the Foundation shall contribute 85 percent of the gross proceeds from the sale, lease, or conveyance of the land to the special account;

(C) with respect to land identified on the map entitled “Las Vegas Valley, Nevada, Land Sales Map”, numbered 7306A, and dated May 1980, the proceeds from the sale, lease, or conveyance of the land identified on the

map contributed to the special account by the Foundation under subparagraph (B) shall be used by the Secretary of Agriculture to acquire environmentally sensitive land in the Lake Tahoe Basin under section 3 of Public Law 96-586 (94 Stat. 3383);

(D) the Foundation shall contribute 5 percent of the gross proceeds from the sale, lease, or conveyance of the land to the State of Nevada for use in the general education program of the State; and

(E) the remainder of the gross proceeds from the sale, lease, or conveyance of the land shall be available for use by the Foundation.

(3) DESCRIPTION OF LAND.—The parcel of land referred to in paragraph (1) is the parcel of Clark County Department of Aviation land—

(A) consisting of approximately 115 acres; and

(B) located in the SAW¼ of section 33, T. 21 S., R. 60 E., Mount Diablo Base and Meridian.

#### SEC. 703. CONVEYANCE TO THE LAS VEGAS METROPOLITAN POLICE DEPARTMENT.

The Secretary shall convey to the Las Vegas Metropolitan Police Department, without consideration, all right, title, and interest in and to the parcel of land identified as “Tract F” on the map for use as a shooting range.

#### SEC. 704. CONVEYANCE TO THE CITY OF HENDERSON FOR THE NEVADA STATE COLLEGE AT HENDERSON.

(a) DEFINITIONS.—In this section:

(1) CHANCELLOR.—The term “Chancellor” means the Chancellor of the University system.

(2) CITY.—The term “City” means the city of Henderson, Nevada.

(3) COLLEGE.—The term “College” means the Nevada State College at Henderson.

(4) SURVEY.—The term “survey means” the land survey required under Federal law to define the official metes and bounds of the parcel of Federal land identified as Tract H on the map.

(5) UNIVERSITY SYSTEM.—The term “University system” means the University and Community College System of Nevada.

(b) CONVEYANCE.—

(1) IN GENERAL.—Notwithstanding the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and section 1(c) of the Act of June 14, 1926 (commonly known as the “Recreation and Public Purposes Act”) (43 U.S.C. 869(c)), not later than 180 days after the date on which the survey is approved, the Secretary shall convey to the City, without consideration, all right, title, and interest of the United States in and to the parcel of Federal land identified as “Tract H” on the map for use as a campus for the College.

(2) CONDITIONS.—

(A) IN GENERAL.—As a condition of the conveyance under paragraph (1), the Chancellor and the City shall agree in writing—

(i) to pay any administrative costs associated with the conveyance, including the costs of any environmental, wildlife, cultural, or historical resources studies;

(ii) to use the Federal land conveyed for educational and recreational purposes;

(iii) to release and indemnify the United States from any claims or —liabilities which may arise from uses that are carried out on the Federal land on or before the date of enactment of this Act by the United States or any person;

(iv) as soon as practicable after the date of the conveyance under paragraph (1), to erect at the College an appropriate and centrally located monument that acknowledges the conveyance of the Federal land by the United States for the purpose of furthering the higher education of citizens in the State; and

(v) to assist the Bureau of Land Management in providing information to the students of the College and the citizens of the State on—

(I) public land in the State; and

(II) the role of the Bureau of Land Management in managing, preserving, and protecting the public land.

(B) VALID EXISTING RIGHTS.—The conveyance under paragraph (1) shall be subject to all valid existing rights.

(3) USE OF FEDERAL LAND.—

(A) IN GENERAL.—The College and the City may use the land conveyed under paragraph (1) for—

(i) any purpose relating to the establishment, operation, growth, and maintenance of the College; and

(ii) any uses relating to such purposes, including residential and commercial development that would generally be associated with an institution of higher education.

(B) OTHER ENTITIES.—The College and the City may—

(i) consistent with Federal and State law, lease or otherwise provide property or space at the College, with or without consideration, to religious, public interest, community, or other groups for services and events that are of interest to the College, the City, or any community located in the Las Vegas Valley;

(ii) allow the City or any other community in the Las Vegas Valley to use facilities of the College for educational and recreational programs of the City or community; and

(iii) in conjunction with the City, plan, finance, (including the provision of cost-share assistance), construct, and operate facilities for the City on the Federal land conveyed for educational or recreational purposes consistent with this section.

(4) REVERSION.—If the Federal land or any portion of the Federal land conveyed under paragraph (1) ceases to be used for the College, the Federal land or any portion of the Federal land shall, at the discretion of the Secretary, revert to the United States.

#### SEC. 705. CONVEYANCE TO THE CITY OF LAS VEGAS, NEVADA.

(a) DEFINITIONS.—In this section:

(1) CITY.—The term “City” means the city of Las Vegas, Nevada.

(2) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

(b) CONVEYANCE.—The Secretary shall convey to the City, without consideration, all right, title, and interest of the United States in and to the parcels of land identified as “Tract C” and “Tract D” on the map.

(c) REVERSION.—If a parcel of land conveyed to the City under subsection (b) ceases to be used for affordable housing or for a purpose related to affordable housing, the parcel shall, at the discretion of the Secretary, revert to the United States.

#### SEC. 706. SALE OF FEDERAL PARCEL.

(a) IN GENERAL.—Notwithstanding sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713) and subject to valid existing rights, the Secretary shall convey as a single parcel to the highest qualified bidder all right, title, and interest of the United States in and to approximately 360 acres that is identified as the North Half (N½) of Section 7, Township 23 South, Range 61 East, M.D.B.&M., Clark County, Nevada and the Northeast Quarter (NE¼) of the Southeast Quarter (SE¼) of Section 7, Township 23 South, Range 61 East, M.D.M., Clark County, Nevada.

(b) DISPOSITION OF PROCEEDS.—The proceeds from the conveyance of the lands described in subsection (a) shall be deposited in



accordance with section 4(e)(1) of the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2345).

### TITLE VIII—HUMBOLDT PROJECT CONVEYANCE

#### SEC. 801. SHORT TITLE.

This title may be cited as the “Humboldt Project Conveyance Act”.

#### SEC. 802. DEFINITIONS.

For purposes of this title:

(1) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(2) STATE.—The term “State” means the State of Nevada.

(3) PCWCD.—The term “PCWCD” means the Pershing County Water Conservation District, a public entity organized under the laws of the State of Nevada.

(4) PERSHING COUNTY.—The term “Pershing County” means the Pershing County government, a political subunit of the State of Nevada.

(5) LANDER COUNTY.—The term “Lander County” means the Lander County government, a political subunit of the State of Nevada.

#### SEC. 803. AUTHORITY TO CONVEY TITLE.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act and in accordance with all applicable law, the Secretary shall convey all right, title, and interest in and to the lands and features of the Humboldt Project, as generally depicted on the map entitled the “Humboldt Project Conveyance Act”, and dated July 3, 2002, including all water rights for storage and diversion, to PCWCD, the State, Pershing County, and Lander County, consistent with the terms and conditions set forth in the Memorandum of Agreement between PCWCD and Lander County dated January 24, 2000, the Conceptual Agreement between PCWCD and the State dated October 18, 2001, the Letter of Agreement between Pershing County and the State dated April 16, 2002, and any agreements between the Bureau of Reclamation and PCWCD.

(b) MAP.—As soon as practicable after the date of the enactment of this Act, the Secretary shall submit to Congress a map of the Humboldt Project Conveyance. In case of a conflict between the map referred to in subsection (a) and the map submitted by the Secretary, the map referred to in subsection (b) shall control. The map shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such map and legal description. Copies of the map shall be on file and available for public inspection in the Office of the Commissioner of the Bureau of Reclamation and in the office of the Area Manager of the Bureau of Reclamation in Carson City, Nevada.

(c) COMPLIANCE WITH AGREEMENTS.—All parties to the conveyance under subsection (a) shall comply with the terms and conditions of the agreements cited in subsection (a).

(d) REPORT.—If the conveyance required by this section has not been completed within 18 months after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate that describes—

- (1) the status of the conveyance;
- (2) any obstacles to completion of the conveyance; and
- (3) the anticipated date for completion of the conveyance.

#### SEC. 804. PAYMENT.

(a) IN GENERAL.—As consideration for any conveyance required by section 803, PCWCD shall pay to the United States the net

present value of miscellaneous revenues associated with the lands and facilities to be conveyed.

(b) WITHDRAWN LANDS.—As consideration for any conveyance of withdrawn lands required by section 803, the entity receiving title shall pay the United States (in addition to amounts paid under subsection (a)) the fair market value for any such lands conveyed that were withdrawn from the public domain pursuant to the Secretarial Orders dated March 16, 1934, and April 6, 1956.

(c) ADMINISTRATIVE COSTS.—Administrative costs for conveyance of any land or facility under this title shall be paid in equal shares by the Secretary and the entity receiving title to the land or facility, except costs identified in subsections (d) and (e).

(d) REAL ESTATE TRANSFER COSTS.—As a condition of any conveyance of any land or facility required by section 803, costs of all boundary surveys, title searches, cadastral surveys, appraisals, maps, and other real estate transactions required for the conveyance shall be paid by the entity receiving title to the land or facility.

(e) NEPA COSTS.—Costs associated with any review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for conveyance of any land or facility under section 803 shall be paid in equal shares by the Secretary and the entity receiving title to the land or facility.

(f) STATE OF NEVADA.—The State shall not be responsible for any payments under this section. Any proposal by the State to reconvey to another entity land conveyed by the Secretary under this title shall be pursuant to an agreement with the Secretary providing for fair market value to the United States for the lands, and for continued management of the lands for recreation, wildlife habitat, wetlands, or resource conservation.

#### SEC. 805. COMPLIANCE WITH OTHER LAWS.

Following the conveyance required by section 803, the district, the State, Pershing County, and Lander County shall, with respect to the interests conveyed, comply with all requirements of Federal, State, and local law applicable to non-Federal water distribution systems.

#### SEC. 806. REVOCATION OF WITHDRAWALS.

Effective on the date of the conveyance required by section 803, the Secretarial Orders dated March 16, 1934, and April 6, 1956, that withdrew public lands for the Rye Patch Reservoir and the Humboldt Sink, are hereby revoked.

#### SEC. 807. LIABILITY.

Effective on the date of the conveyance required by section 803, the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the Humboldt Project, except for damages caused by acts of negligence committed by the United States or by its employees or agents prior to the date of conveyance. Nothing in this section shall be considered to increase the liability of the United States beyond that currently provided in chapter 171 of title 28, United States Code, popularly known as the “Federal Tort Claims Act”.

#### SEC. 808. NATIONAL ENVIRONMENTAL POLICY ACT.

Prior to any conveyance under this title, the Secretary shall complete all actions as may be required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and all other applicable laws.

#### SEC. 809. FUTURE BENEFITS.

Upon conveyance of the lands and facilities by the Secretary under this title, the Humboldt Project shall no longer be a Federal reclamation project and the district shall

not be entitled to receive any future reclamation benefits with respect to that project, except those benefits that would be available to other nonreclamation districts.

### TITLE IX—MISCELLANEOUS PROVISIONS

#### SEC. 901. TECHNICAL AMENDMENTS TO THE MESQUITE LANDS ACT 2001.

Section 3 of Public Law 99-548 (100 Stat. 3061; 110 Stat. 3009-202) is amended—

(1) in subsection (d), by adding at the end the following:

“(3) USE OF PROCEEDS.—The proceeds of the sale of each parcel completed after the date of enactment of this subsection shall be deposited in the special account established under section 4(e)(1)(C) of the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2345); and shall be available for use by the Secretary—

“(A) to reimburse costs incurred by the local offices of the Bureau of Land Management in arranging the land conveyances directed by this section;

“(B) for the development of a multispecies habitat conservation plan for the Virgin River in Clark County, Nevada, including any associated groundwater monitoring plan; and

“(C) as provided in section 4(e)(3) of that Act (112 Stat. 2346).

“(4) TIMING.—Not later than 90 days after the date of enactment of this section, the Secretary shall complete the sale of any parcel authorized to be conveyed pursuant to this section and for which the Secretary has received notification from the city under paragraph (1).”; and

(2) in subsection (f)(2)(B), by adding at the end the following:

“(v) Sec. 7.”.

□ 2015

#### CONCURRED IN SENATE AMENDMENT

H.R. 3801, to provide for improvement of Federal education research, statistics, evaluation, information, and dissemination, and for other purposes.

Senate amendment:

Strike out all after the enacting clause and insert:

#### SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Table of contents.

#### TITLE I—EDUCATION SCIENCES REFORM

Sec. 101. Short title.

Sec. 102. Definitions.

##### PART A—THE INSTITUTE OF EDUCATION SCIENCES

Sec. 111. Establishment.

Sec. 112. Functions.

Sec. 113. Delegation.

Sec. 114. Office of the Director.

Sec. 115. Priorities.

Sec. 116. National Board for Education Sciences.

Sec. 117. Commissioners of the National Education Centers.

Sec. 118. Agreements.

Sec. 119. Biennial report.

Sec. 120. Competitive awards.

##### PART B—NATIONAL CENTER FOR EDUCATION RESEARCH

Sec. 131. Establishment.

Sec. 132. Commissioner for Education Research.

Sec. 133. Duties.

Sec. 134. Standards for conduct and evaluation of research.

##### PART C—NATIONAL CENTER FOR EDUCATION STATISTICS

Sec. 151. Establishment.

Sec. 152. Commissioner for Education Statistics.

Sec. 153. Duties.

Sec. 154. Performance of duties.

Sec. 155. Reports.

Sec. 156. Dissemination.

Sec. 157. Cooperative education statistics systems.

Sec. 158. State defined.

**PART D—NATIONAL CENTER FOR EDUCATION EVALUATION AND REGIONAL ASSISTANCE**

Sec. 171. Establishment.

Sec. 172. Commissioner for Education Evaluation and Regional Assistance.

Sec. 173. Evaluations.

Sec. 174. Regional educational laboratories for research, development, dissemination, and technical assistance.

**PART E—GENERAL PROVISIONS**

Sec. 181. Interagency data sources and formats.

Sec. 182. Prohibitions.

Sec. 183. Confidentiality.

Sec. 184. Availability of data.

Sec. 185. Performance management.

Sec. 186. Authority to publish.

Sec. 187. Vacancies.

Sec. 188. Scientific or technical employees.

Sec. 189. Fellowships.

Sec. 190. Voluntary service.

Sec. 191. Rulemaking.

Sec. 192. Copyright.

Sec. 193. Removal.

Sec. 194. Authorization of appropriations.

**TITLE II—EDUCATIONAL TECHNICAL ASSISTANCE**

Sec. 201. Short title.

Sec. 202. Definitions.

Sec. 203. Comprehensive centers.

Sec. 204. Evaluations.

Sec. 205. Existing technical assistance providers.

Sec. 206. Regional advisory committees.

Sec. 207. Priorities.

Sec. 208. Grant program for statewide, longitudinal data systems.

Sec. 209. Authorization of appropriations.

**TITLE III—NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS**

Sec. 301. Short title.

Sec. 302. Definitions.

Sec. 303. Authorization of appropriations.

**TITLE IV—AMENDATORY PROVISIONS**

Sec. 401. Redesignations.

Sec. 402. Amendments to Department of Education Organization Act.

Sec. 403. Repeals.

Sec. 404. Conforming and technical amendments.

Sec. 405. Orderly transition.

Sec. 406. Impact aid.

**TITLE I—EDUCATION SCIENCES REFORM**

**SEC. 101. SHORT TITLE.**

This title may be cited as the "Education Sciences Reform Act of 2002".

**SEC. 102. DEFINITIONS.**

In this title:

(1) **IN GENERAL.**—The terms "elementary school", "secondary school", "local educational agency", and "State educational agency" have the meanings given those terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801) and the terms "freely associated states" and "outlying area" have the meanings given those terms in section 1121(c) of such Act (20 U.S.C. 6331(c)).

(2) **APPLIED RESEARCH.**—The term "applied research" means research—  
(A) to gain knowledge or understanding necessary for determining the means by which a recognized and specific need may be met; and  
(B) that is specifically directed to the advancement of practice in the field of education.

(3) **BASIC RESEARCH.**—The term "basic research" means research—  
(A) to gain fundamental knowledge or understanding of phenomena and observable facts, without specific application toward processes or products; and  
(B) for the advancement of knowledge in the field of education.

(4) **BOARD.**—The term "Board" means the National Board for Education Sciences established under section 116.

(5) **BUREAU.**—The term "Bureau" means the Bureau of Indian Affairs.

(6) **COMPREHENSIVE CENTER.**—The term "comprehensive center" means an entity established under section 203 of the Educational Technical Assistance Act of 2002.

(7) **DEPARTMENT.**—The term "Department" means the Department of Education.

(8) **DEVELOPMENT.**—The term "development" means the systematic use of knowledge or understanding gained from the findings of scientifically valid research and the shaping of that knowledge or understanding into products or processes that can be applied and evaluated and may prove useful in areas such as the preparation of materials and new methods of instruction and practices in teaching, that lead to the improvement of the academic skills of students, and that are replicable in different educational settings.

(9) **DIRECTOR.**—The term "Director" means the Director of the Institute of Education Sciences.

(10) **DISSEMINATION.**—The term "dissemination" means the communication and transfer of the results of scientifically valid research, statistics, and evaluations, in forms that are understandable, easily accessible, and usable, or adaptable for use in, the improvement of educational practice by teachers, administrators, librarians, other practitioners, researchers, parents, policymakers, and the public, through technical assistance, publications, electronic transfer, and other means.

(11) **EARLY CHILDHOOD EDUCATOR.**—The term "early childhood educator" means a person providing, or employed by a provider of, nonresidential child care services (including center-based, family-based, and in-home child care services) that is legally operating under State law, and that complies with applicable State and local requirements for the provision of child care services to children at any age from birth through the age at which a child may start kindergarten in that State.

(12) **FIELD-INITIATED RESEARCH.**—The term "field-initiated research" means basic research or applied research in which specific questions and methods of study are generated by investigators (including teachers and other practitioners) and that conforms to standards of scientifically valid research.

(13) **HISTORICALLY BLACK COLLEGE OR UNIVERSITY.**—The term "historically Black college or university" means a part B institution as defined in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

(14) **INSTITUTE.**—The term "Institute" means the Institute of Education Sciences established under section 111.

(15) **INSTITUTION OF HIGHER EDUCATION.**—The term "institution of higher education" has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(16) **NATIONAL RESEARCH AND DEVELOPMENT CENTER.**—The term "national research and development center" means a research and development center supported under section 133(c).

(17) **PROVIDER OF EARLY CHILDHOOD SERVICES.**—The term "provider of early childhood services" means a public or private entity that serves young children, including—

(A) child care providers;

(B) Head Start agencies operating Head Start programs, and entities carrying out Early Head Start programs, under the Head Start Act (42 U.S.C. 9831 et seq.);

(C) preschools;

(D) kindergartens; and

(E) libraries.

(18) **SCIENTIFICALLY BASED RESEARCH STANDARDS.**—(A) The term "scientifically based research standards" means research standards that—

(i) apply rigorous, systematic, and objective methodology to obtain reliable and valid knowledge relevant to education activities and programs; and

(ii) present findings and make claims that are appropriate to and supported by the methods that have been employed.

(B) The term includes, appropriate to the research being conducted—

(i) employing systematic, empirical methods that draw on observation or experiment;

(ii) involving data analyses that are adequate to support the general findings;

(iii) relying on measurements or observational methods that provide reliable data;

(iv) making claims of causal relationships only in random assignment experiments or other designs (to the extent such designs substantially eliminate plausible competing explanations for the obtained results);

(v) ensuring that studies and methods are presented in sufficient detail and clarity to allow for replication or, at a minimum, to offer the opportunity to build systematically on the findings of the research;

(vi) obtaining acceptance by a peer-reviewed journal or approval by a panel of independent experts through a comparably rigorous, objective, and scientific review; and

(vii) using research designs and methods appropriate to the research question posed.

(19) **SCIENTIFICALLY VALID EDUCATION EVALUATION.**—The term "scientifically valid education evaluation" means an evaluation that—

(A) adheres to the highest possible standards of quality with respect to research design and statistical analysis;

(B) provides an adequate description of the programs evaluated and, to the extent possible, examines the relationship between program implementation and program impacts;

(C) provides an analysis of the results achieved by the program with respect to its projected effects;

(D) employs experimental designs using random assignment, when feasible, and other research methodologies that allow for the strongest possible causal inferences when random assignment is not feasible; and

(E) may study program implementation through a combination of scientifically valid and reliable methods.

(20) **SCIENTIFICALLY VALID RESEARCH.**—The term "scientifically valid research" includes applied research, basic research, and field-initiated research in which the rationale, design, and interpretation are soundly developed in accordance with scientifically based research standards.

(21) **SECRETARY.**—The term "Secretary" means the Secretary of Education.

(22) **STATE.**—The term "State" includes (except as provided in section 158) each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the freely associated states, and the outlying areas.

(23) **TECHNICAL ASSISTANCE.**—The term "technical assistance" means—

(A) assistance in identifying, selecting, or designing solutions based on research, including professional development and high-quality training to implement solutions leading to—

(i) improved educational and other practices and classroom instruction based on scientifically valid research; and

(ii) improved planning, design, and administration of programs;

(B) assistance in interpreting, analyzing, and utilizing statistics and evaluations; and

(C) other assistance necessary to encourage the improvement of teaching and learning through the applications of techniques supported by scientifically valid research.

**PART A—THE INSTITUTE OF EDUCATION SCIENCES**

**SEC. 111. ESTABLISHMENT.**

(a) **ESTABLISHMENT.**—There shall be in the Department the Institute of Education Sciences,

to be administered by a Director (as described in section 114) and, to the extent set forth in section 116, a board of directors.

(b) **MISSION.**—

(1) **IN GENERAL.**—The mission of the Institute is to provide national leadership in expanding fundamental knowledge and understanding of education from early childhood through postsecondary study, in order to provide parents, educators, students, researchers, policymakers, and the general public with reliable information about—

(A) the condition and progress of education in the United States, including early childhood education;

(B) educational practices that support learning and improve academic achievement and access to educational opportunities for all students; and

(C) the effectiveness of Federal and other education programs.

(2) **CARRYING OUT MISSION.**—In carrying out the mission described in paragraph (1), the Institute shall compile statistics, develop products, and conduct research, evaluations, and wide dissemination activities in areas of demonstrated national need (including in technology areas) that are supported by Federal funds appropriated to the Institute and ensure that such activities—

(A) conform to high standards of quality, integrity, and accuracy; and

(B) are objective, secular, neutral, and nonideological and are free of partisan political influence and racial, cultural, gender, or regional bias.

(c) **ORGANIZATION.**—The Institute shall consist of the following:

(1) The Office of the Director (as described in section 114).

(2) The National Board for Education Sciences (as described in section 116).

(3) The National Education Centers, which include—

(A) the National Center for Education Research (as described in part B);

(B) the National Center for Education Statistics (as described in part C); and

(C) the National Center for Education Evaluation and Regional Assistance (as described in part D).

**SEC. 112. FUNCTIONS.**

From funds appropriated under section 194, the Institute, directly or through grants, contracts, or cooperative agreements, shall—

(1) conduct and support scientifically valid research activities, including basic research and applied research, statistics activities, scientifically valid education evaluation, development, and wide dissemination;

(2) widely disseminate the findings and results of scientifically valid research in education;

(3) promote the use, development, and application of knowledge gained from scientifically valid research activities;

(4) strengthen the national capacity to conduct, develop, and widely disseminate scientifically valid research in education;

(5) promote the coordination, development, and dissemination of scientifically valid research in education within the Department and the Federal Government; and

(6) promote the use and application of research and development to improve practice in the classroom.

**SEC. 113. DELEGATION.**

(a) **DELEGATION OF AUTHORITY.**—Notwithstanding section 412 of the Department of Education Organization Act (20 U.S.C. 3472), the Secretary shall delegate to the Director all functions for carrying out this title (other than administrative and support functions), except that—

(1) nothing in this title or in the National Assessment of Educational Progress Authorization Act (except section 302(e)(1)(J) of such Act) shall be construed to alter or diminish the role, re-

sponsibilities, or authority of the National Assessment Governing Board with respect to the National Assessment of Educational Progress (including with respect to the methodologies of the National Assessment of Educational Progress described in section 302(e)(1)(E)) from those authorized by the National Education Statistics Act of 1994 (20 U.S.C. 9001 et seq.) on the day before the date of enactment of this Act;

(2) members of the National Assessment Governing Board shall continue to be appointed by the Secretary;

(3) section 302(f)(1) of the National Assessment of Educational Progress Authorization Act shall apply to the National Assessment Governing Board in the exercise of its responsibilities under this Act;

(4) sections 115 and 116 shall not apply to the National Assessment of Educational Progress; and

(5) sections 115 and 116 shall not apply to the National Assessment Governing Board.

(b) **OTHER ACTIVITIES.**—The Secretary may assign the Institute responsibility for administering other activities, if those activities are consistent with—

(1) the Institute's priorities, as approved by the National Board for Education Sciences under section 116, and the Institute's mission, as described in section 111(b); or

(2) the Institute's mission, but only if those activities do not divert the Institute from its priorities.

**SEC. 114. OFFICE OF THE DIRECTOR.**

(a) **APPOINTMENT.**—Except as provided in subsection (b)(2), the President, by and with the advice and consent of the Senate, shall appoint the Director of the Institute.

(b) **TERM.**—

(1) **IN GENERAL.**—The Director shall serve for a term of 6 years, beginning on the date of appointment of the Director.

(2) **FIRST DIRECTOR.**—The President, without the advice and consent of the Senate, may appoint the Assistant Secretary for the Office of Educational Research and Improvement (as such office existed on the day before the date of enactment of this Act) to serve as the first Director of the Institute.

(3) **SUBSEQUENT DIRECTORS.**—The Board may make recommendations to the President with respect to the appointment of a Director under subsection (a), other than a Director appointed under paragraph (2).

(c) **PAY.**—The Director shall receive the rate of basic pay for level II of the Executive Schedule.

(d) **QUALIFICATIONS.**—The Director shall be selected from individuals who are highly qualified authorities in the fields of scientifically valid research, statistics, or evaluation in education, as well as management within such areas, and have a demonstrated capacity for sustained productivity and leadership in these areas.

(e) **ADMINISTRATION.**—The Director shall—

(1) administer, oversee, and coordinate the activities carried out under the Institute, including the activities of the National Education Centers; and

(2) coordinate and approve budgets and operating plans for each of the National Education Centers for submission to the Secretary.

(f) **DUTIES.**—The duties of the Director shall include the following:

(1) To propose to the Board priorities for the Institute, in accordance with section 115(a).

(2) To ensure the methodology applied in conducting research, development, evaluation, and statistical analysis is consistent with the standards for such activities under this title.

(3) To coordinate education research and related activities carried out by the Institute with such research and activities carried out by other agencies within the Department and the Federal Government.

(4) To advise the Secretary on research, evaluation, and statistics activities relevant to the activities of the Department.

(5) To establish necessary procedures for technical and scientific peer review of the activities of the Institute, consistent with section 116(b)(3).

(6) To ensure that all participants in research conducted or supported by the Institute are afforded their privacy rights and other relevant protections as research subjects, in accordance with section 183 of this title, section 552a of title 5, United States Code, and sections 444 and 445 of the General Education Provisions Act (20 U.S.C. 1232g, 1232h).

(7) To ensure that activities conducted or supported by the Institute are objective, secular, neutral, and nonideological and are free of partisan political influence and racial, cultural, gender, or regional bias.

(8) To undertake initiatives and programs to increase the participation of researchers and institutions that have been historically underutilized in Federal education research activities of the Institute, including historically Black colleges or universities or other institutions of higher education with large numbers of minority students.

(9) To coordinate with the Secretary to promote and provide for the coordination of research and development activities and technical assistance activities between the Institute and comprehensive centers.

(10) To solicit and consider the recommendations of education stakeholders, in order to ensure that there is broad and regular public and professional input from the educational field in the planning and carrying out of the Institute's activities.

(11) To coordinate the wide dissemination of information on scientifically valid research.

(12) To carry out and support other activities consistent with the priorities and mission of the Institute.

(g) **EXPERT GUIDANCE AND ASSISTANCE.**—The Director may establish technical and scientific peer-review groups and scientific program advisory committees for research and evaluations that the Director determines are necessary to carry out the requirements of this title. The Director shall appoint such personnel, except that officers and employees of the United States shall comprise no more than ¼ of the members of any such group or committee and shall not receive additional compensation for their service as members of such a group or committee. The Director shall ensure that reviewers are highly qualified and capable to appraise education research and development projects. The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to a peer-review group or an advisory committee established under this subsection.

(h) **REVIEW.**—The Director may, when requested by other officers of the Department, and shall, when directed by the Secretary, review the products and publications of other offices of the Department to certify that evidence-based claims about those products and publications are scientifically valid.

**SEC. 115. PRIORITIES.**

(a) **PROPOSAL.**—The Director shall propose to the Board priorities for the Institute (taking into consideration long-term research and development on core issues conducted through the national research and development centers). The Director shall identify topics that may require long-term research and topics that are focused on understanding and solving particular education problems and issues, including those associated with the goals and requirements established in the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) and the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), such as—

(1) closing the achievement gap between high-performing and low-performing children, especially achievement gaps between minority and nonminority children and between disadvantaged children and such children's more advantaged peers; and

(2) ensuring—

(A) that all children have the ability to obtain a high-quality education (from early childhood through postsecondary education) and reach, at a minimum, proficiency on challenging State academic achievement standards and State academic assessments, particularly in mathematics, science, and reading or language arts;

(B) access to, and opportunities for, postsecondary education; and

(C) the efficacy, impact on academic achievement, and cost-effectiveness of technology use within the Nation's schools.

(b) **APPROVAL.**—The Board shall approve or disapprove the priorities for the Institute proposed by the Director, including any necessary revision of those priorities. The Board shall transmit any priorities so approved to the appropriate congressional committees.

(c) **CONSISTENCY.**—The Board shall ensure that priorities of the Institute and the National Education Centers are consistent with the mission of the Institute.

(d) **PUBLIC AVAILABILITY AND COMMENT.**—

(1) **PRIORITIES.**—Before submitting to the Board proposed priorities for the Institute, the Director shall make such priorities available to the public for comment for not less than 60 days (including by means of the Internet and through publishing such priorities in the Federal Register). The Director shall provide to the Board a copy of each such comment submitted.

(2) **PLAN.**—Upon approval of such priorities, the Director shall make the Institute's plan for addressing such priorities available for public comment in the same manner as under paragraph (1).

#### **SEC. 116. NATIONAL BOARD FOR EDUCATION SCIENCES.**

(a) **ESTABLISHMENT.**—The Institute shall have a board of directors, which shall be known as the National Board for Education Sciences.

(b) **DUTIES.**—The duties of the Board shall be the following:

(1) To advise and consult with the Director on the policies of the Institute.

(2) To consider and approve priorities proposed by the Director under section 115 to guide the work of the Institute.

(3) To review and approve procedures for technical and scientific peer review of the activities of the Institute.

(4) To advise the Director on the establishment of activities to be supported by the Institute, including the general areas of research to be carried out by the National Center for Education Research.

(5) To present to the Director such recommendations as it may find appropriate for—

(A) the strengthening of education research; and

(B) the funding of the Institute.

(6) To advise the Director on the funding of applications for grants, contracts, and cooperative agreements for research, after the completion of peer review.

(7) To review and regularly evaluate the work of the Institute, to ensure that scientifically valid research, development, evaluation, and statistical analysis are consistent with the standards for such activities under this title.

(8) To advise the Director on ensuring that activities conducted or supported by the Institute are objective, secular, neutral, and nonideological and are free of partisan political influence and racial, cultural, gender, or regional bias.

(9) To solicit advice and information from those in the educational field, particularly practitioners and researchers, to recommend to the Director topics that require long-term, sustained, systematic, programmatic, and integrated research efforts, including knowledge utilization and wide dissemination of research, consistent with the priorities and mission of the Institute.

(10) To advise the Director on opportunities for the participation in, and the advancement of, women, minorities, and persons with disabilities

in education research, statistics, and evaluation activities of the Institute.

(11) To recommend to the Director ways to enhance strategic partnerships and collaborative efforts among other Federal and State research agencies.

(12) To recommend to the Director individuals to serve as Commissioners of the National Education Centers.

(c) **COMPOSITION.**—

(1) **VOTING MEMBERS.**—The Board shall have 15 voting members appointed by the President, by and with the advice and consent of the Senate.

(2) **ADVICE.**—The President shall solicit advice regarding individuals to serve on the Board from the National Academy of Sciences, the National Science Board, and the National Science Advisor.

(3) **NONVOTING EX OFFICIO MEMBERS.**—The Board shall have the following nonvoting ex officio members:

(A) The Director of the Institute of Education Sciences.

(B) Each of the Commissioners of the National Education Centers.

(C) The Director of the National Institute of Child Health and Human Development.

(D) The Director of the Census.

(E) The Commissioner of Labor Statistics.

(F) The Director of the National Science Foundation.

(4) **APPOINTED MEMBERSHIP.**—

(A) **QUALIFICATIONS.**—Members appointed under paragraph (1) shall be highly qualified to appraise education research, statistics, evaluations, or development, and shall include the following individuals:

(i) Not fewer than 8 researchers in the field of statistics, evaluation, social sciences, or physical and biological sciences, which may include those researchers recommended by the National Academy of Sciences.

(ii) Individuals who are knowledgeable about the educational needs of the United States, who may include school-based professional educators, parents (including parents with experience in promoting parental involvement in education), Chief State School Officers, State postsecondary education executives, presidents of institutions of higher education, local educational agency superintendents, early childhood experts, principals, members of State or local boards of education or Bureau-funded school boards, and individuals from business and industry with experience in promoting private sector involvement in education.

(B) **TERMS.**—Each member appointed under paragraph (1) shall serve for a term of 4 years, except that—

(i) the terms of the initial members appointed under such paragraph shall (as determined by a random selection process at the time of appointment) be for staggered terms of—

(I) 4 years for each of 5 members;

(II) 3 years for each of 5 members; and

(III) 2 years for each of 5 members; and

(ii) no member appointed under such paragraph shall serve for more than 2 consecutive terms.

(C) **UNEXPIRED TERMS.**—Any member 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.

(D) **CONFLICT OF INTEREST.**—A voting member of the Board shall be considered a special Government employee for the purposes of the Ethics in Government Act of 1978.

(5) **CHAIR.**—The Board shall elect a chair from among the members of the Board.

(6) **COMPENSATION.**—Members of the Board shall serve without pay for such service. Members of the Board who are officers or employees of the United States may not receive additional pay, allowances, or benefits by reason of their service on the Board.

(7) **TRAVEL EXPENSES.**—The members of the Board shall receive travel expenses, including

per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(8) **POWERS OF THE BOARD.**—

(A) **EXECUTIVE DIRECTOR.**—The Board shall have an Executive Director who shall be appointed by the Board.

(B) **ADDITIONAL STAFF.**—The Board shall utilize such additional staff as may be appointed or assigned by the Director, in consultation with the Chair and the Executive Director.

(C) **DETAIL OF PERSONNEL.**—The Board may use the services and facilities of any department or agency of the Federal Government. Upon the request of the Board, the head of any Federal department or agency may detail any of the personnel of that department or agency to the Board to assist the Board in carrying out this Act.

(D) **CONTRACTS.**—The Board may enter into contracts or make other arrangements as may be necessary to carry out its functions.

(E) **INFORMATION.**—The Board may, to the extent otherwise permitted by law, obtain directly from any executive department or agency of the Federal Government such information as the Board determines necessary to carry out its functions.

(9) **MEETINGS.**—The Board shall meet not less than 3 times each year. The Board shall hold additional meetings at the call of the Chair or upon the written request of not less than 6 voting members of the Board. Meetings of the Board shall be open to the public.

(10) **QUORUM.**—A majority of the voting members of the Board serving at the time of the meeting shall constitute a quorum.

(d) **STANDING COMMITTEES.**—

(1) **ESTABLISHMENT.**—The Board may establish standing committees—

(A) that will each serve 1 of the National Education Centers; and

(B) to advise, consult with, and make recommendations to the Director and the Commissioner of the appropriate National Education Center.

(2) **MEMBERSHIP.**—A majority of the members of each standing committee shall be voting members of the Board whose expertise is needed for the functioning of the committee. In addition, the membership of each standing committee may include, as appropriate—

(A) experts and scientists in research, statistics, evaluation, or development who are recognized in their discipline as highly qualified to represent such discipline and who are not members of the Board, but who may have been recommended by the Commissioner of the appropriate National Education Center and approved by the Board;

(B) ex officio members of the Board; and

(C) policymakers and expert practitioners with knowledge of, and experience using, the results of research, evaluation, and statistics who are not members of the Board, but who may have been recommended by the Commissioner of the appropriate National Education Center and approved by the Board.

(3) **DUTIES.**—Each standing committee shall—

(A) review and comment, at the discretion of the Board or the standing committee, on any grant, contract, or cooperative agreement entered into (or proposed to be entered into) by the applicable National Education Center;

(B) prepare for, and submit to, the Board an annual evaluation of the operations of the applicable National Education Center;

(C) review and comment on the relevant plan for activities to be undertaken by the applicable National Education Center for each fiscal year; and

(D) report periodically to the Board regarding the activities of the committee and the applicable National Education Center.

(e) **ANNUAL REPORT.**—The Board shall submit to the Director, the Secretary, and the appropriate congressional committees, not later than July 1 of each year, a report that assesses the

effectiveness of the Institute in carrying out its priorities and mission, especially as such priorities and mission relate to carrying out scientifically valid research, conducting unbiased evaluations, collecting and reporting accurate education statistics, and translating research into practice.

(f) **RECOMMENDATIONS.**—The Board shall submit to the Director, the Secretary, and the appropriate congressional committees a report that includes any recommendations regarding any actions that may be taken to enhance the ability of the Institute to carry out its priorities and mission. The Board shall submit an interim report not later than 3 years after the date of enactment of this Act and a final report not later than 5 years after such date of enactment.

#### **SEC. 117. COMMISSIONERS OF THE NATIONAL EDUCATION CENTERS.**

##### **(a) APPOINTMENT OF COMMISSIONERS.**

(1) **IN GENERAL.**—Except as provided in subsection (b), each of the National Education Centers shall be headed by a Commissioner appointed by the Director. In appointing Commissioners, the Director shall seek to promote continuity in leadership of the National Education Centers and shall consider individuals recommended by the Board. The Director may appoint a Commissioner to carry out the functions of a National Education Center without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) **PAY AND QUALIFICATIONS.**—Except as provided in subsection (b), each Commissioner shall—

(A) receive the rate of basic pay for level IV of the Executive Schedule; and

(B) be highly qualified in the field of education research or evaluation.

(3) **SERVICE.**—Except as provided in subsection (b), each Commissioner shall report to the Director. A Commissioner shall serve for a period of not more than 6 years, except that a Commissioner—

(A) may be reappointed by the Director; and

(B) may serve after the expiration of that Commissioner's term, until a successor has been appointed, for a period not to exceed 1 additional year.

(b) **APPOINTMENT OF COMMISSIONER FOR EDUCATION STATISTICS.**—The National Center for Education Statistics shall be headed by a Commissioner for Education Statistics who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall—

(1) have substantial knowledge of programs assisted by the National Center for Education Statistics;

(2) receive the rate of basic pay for level IV of the Executive Schedule; and

(3) serve for a term of 6 years, with the term to expire every sixth June 21, beginning in 2003.

(c) **COORDINATION.**—Each Commissioner of a National Education Center shall coordinate with each of the other Commissioners of the National Education Centers in carrying out such Commissioner's duties under this title.

(d) **SUPERVISION AND APPROVAL.**—Each Commissioner, except the Commissioner for Education Statistics, shall carry out such Commissioner's duties under this title under the supervision and subject to the approval of the Director.

#### **SEC. 118. AGREEMENTS.**

The Institute may carry out research projects of common interest with entities such as the National Science Foundation and the National Institute of Child Health and Human Development through agreements with such entities that are in accordance with section 430 of the General Education Provisions Act (20 U.S.C. 1231).

#### **SEC. 119. BIENNIAL REPORT.**

The Director shall, on a biennial basis, transmit to the President, the Board, and the appro-

priate congressional committees, and make widely available to the public (including by means of the Internet), a report containing the following:

(1) A description of the activities carried out by and through the National Education Centers during the prior fiscal years.

(2) A summary of each grant, contract, and cooperative agreement in excess of \$100,000 funded through the National Education Centers during the prior fiscal years, including, at a minimum, the amount, duration, recipient, purpose of the award, and the relationship, if any, to the priorities and mission of the Institute, which shall be available in a user-friendly electronic database.

(3) A description of how the activities of the National Education Centers are consistent with the principles of scientifically valid research and the priorities and mission of the Institute.

(4) Such additional comments, recommendations, and materials as the Director considers appropriate.

#### **SEC. 120. COMPETITIVE AWARDS.**

Activities carried out under this Act through grants, contracts, or cooperative agreements, at a minimum, shall be awarded on a competitive basis and, when practicable, through a process of peer review.

### **PART B—NATIONAL CENTER FOR EDUCATION RESEARCH**

#### **SEC. 131. ESTABLISHMENT.**

(a) **ESTABLISHMENT.**—There is established in the Institute a National Center for Education Research (in this part referred to as the "Research Center").

(b) **MISSION.**—The mission of the Research Center is—

(1) to sponsor sustained research that will lead to the accumulation of knowledge and understanding of education, to—

(A) ensure that all children have access to a high-quality education;

(B) improve student academic achievement, including through the use of educational technology;

(C) close the achievement gap between high-performing and low-performing students through the improvement of teaching and learning of reading, writing, mathematics, science, and other academic subjects; and

(D) improve access to, and opportunity for, postsecondary education;

(2) to support the synthesis and, as appropriate, the integration of education research;

(3) to promote quality and integrity through the use of accepted practices of scientific inquiry to obtain knowledge and understanding of the validity of education theories, practices, or conditions; and

(4) to promote scientifically valid research findings that can provide the basis for improving academic instruction and lifelong learning.

#### **SEC. 132. COMMISSIONER FOR EDUCATION RESEARCH.**

The Research Center shall be headed by a Commissioner for Education Research (in this part referred to as the "Research Commissioner") who shall have substantial knowledge of the activities of the Research Center, including a high level of expertise in the fields of research and research management.

#### **SEC. 133. DUTIES.**

(a) **GENERAL DUTIES.**—The Research Center shall—

(1) maintain published peer-review standards and standards for the conduct and evaluation of all research and development carried out under the auspices of the Research Center in accordance with this part;

(2) propose to the Director a research plan that—

(A) is consistent with the priorities and mission of the Institute and the mission of the Research Center and includes the activities described in paragraph (3); and

(B) shall be carried out pursuant to paragraph (4) and, as appropriate, be updated and modified;

(3) carry out specific, long-term research activities that are consistent with the priorities and mission of the Institute, and are approved by the Director;

(4) implement the plan proposed under paragraph (2) to carry out scientifically valid research that—

(A) uses objective and measurable indicators, including timelines, that are used to assess the progress and results of such research;

(B) meets the procedures for peer review established by the Director under section 114(f)(5) and the standards of research described in section 134; and

(C) includes both basic research and applied research, which shall include research conducted through field-initiated research and ongoing research initiatives;

(5) promote the use of scientifically valid research within the Federal Government, including active participation in interagency research projects described in section 118;

(6) ensure that research conducted under the direction of the Research Center is relevant to education practice and policy;

(7) synthesize and disseminate, through the National Center for Education Evaluation and Regional Assistance, the findings and results of education research conducted or supported by the Research Center;

(8) assist the Director in the preparation of a biennial report, as described in section 119;

(9) carry out research on successful State and local education reform activities, including those that result in increased academic achievement and in closing the achievement gap, as approved by the Director;

(10) carry out research initiatives regarding the impact of technology, including—

(A) research into how technology affects student achievement;

(B) long-term research into cognition and learning issues as they relate to the uses of technology;

(C) rigorous, peer-reviewed, large-scale, long-term, and broadly applicable empirical research that is designed to determine which approaches to the use of technology are most effective and cost-efficient in practice and under what conditions; and

(D) field-based research on how teachers implement technology and Internet-based resources in the classroom, including an understanding how these resources are being accessed, put to use, and the effectiveness of such resources; and

(11) carry out research that is rigorous, peer-reviewed, and large scale to determine which methods of mathematics and science teaching are most effective, cost efficient, and able to be applied, duplicated, and scaled up for use in elementary and secondary classrooms, including in low-performing schools, to improve the teaching of, and student achievement in, mathematics and science as required under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

(b) **ELIGIBILITY.**—Research carried out under subsection (a) through contracts, grants, or cooperative agreements shall be carried out only by recipients with the ability and capacity to conduct scientifically valid research.

#### **(c) NATIONAL RESEARCH AND DEVELOPMENT CENTERS.**

(1) **SUPPORT.**—In carrying out activities under subsection (a)(3), the Research Commissioner shall support not less than 8 national research and development centers. The Research Commissioner shall assign each of the 8 national research and development centers not less than 1 of the topics described in paragraph (2). In addition, the Research Commissioner may assign each of the 8 national research and development centers additional topics of research consistent with the mission and priorities of the Institute and the mission of the Research Center.

(2) **TOPICS OF RESEARCH.**—The Research Commissioner shall support the following topics of

research, through national research and development centers or through other means:

- (A) Adult literacy.
- (B) Assessment, standards, and accountability research.
- (C) Early childhood development and education.
- (D) English language learners research.
- (E) Improving low achieving schools.
- (F) Innovation in education reform.
- (G) State and local policy.
- (H) Postsecondary education and training.
- (I) Rural education.
- (J) Teacher quality.
- (K) Reading and literacy.

(3) **DUTIES OF CENTERS.**—The national research and development centers shall address areas of national need, including in educational technology areas. The Research Commissioner may support additional national research and development centers to address topics of research not described in paragraph (2) if such topics are consistent with the priorities and mission of the Institute and the mission of the Research Center. The research carried out by the centers shall incorporate the potential or existing role of educational technology, where appropriate, in achieving the goals of each center.

(4) **SCOPE.**—Support for a national research and development center shall be for a period of not more than 5 years, shall be of sufficient size and scope to be effective, and notwithstanding section 134(b), may be renewed without competition for not more than 5 additional years if the Director, in consultation with the Research Commissioner and the Board, determines that the research of the national research and development center—

(A) continues to address priorities of the Institute; and

(B) merits renewal (applying the procedures and standards established in section 134).

(5) **LIMIT.**—No national research and development center may be supported under this subsection for a period of more than 10 years without submitting to a competitive process for the award of the support.

(6) **CONTINUATION OF AWARDS.**—The Director shall continue awards made to the national research and development centers that are in effect on the day before the date of enactment of this Act in accordance with the terms of those awards and may renew them in accordance with paragraphs (4) and (5).

(7) **DISAGGREGATION.**—To the extent feasible, research conducted under this subsection shall be disaggregated by age, race, gender, and socioeconomic background.

#### **SEC. 134. STANDARDS FOR CONDUCT AND EVALUATION OF RESEARCH.**

(a) **IN GENERAL.**—In carrying out this part, the Research Commissioner shall—

(1) ensure that all research conducted under the direction of the Research Center follows scientifically based research standards;

(2) develop such other standards as may be necessary to govern the conduct and evaluation of all research, development, and wide dissemination activities carried out by the Research Center to assure that such activities meet the highest standards of professional excellence;

(3) review the procedures utilized by the National Institutes of Health, the National Science Foundation, and other Federal departments or agencies engaged in research and development, and actively solicit recommendations from research organizations and members of the general public in the development of the standards described in paragraph (2); and

(4) ensure that all research complies with Federal guidelines relating to research misconduct.

(b) **PEER REVIEW.**—

(1) **IN GENERAL.**—The Director shall establish a peer review system, involving highly qualified individuals with an in-depth knowledge of the subject to be investigated, for reviewing and evaluating all applications for grants and cooperative agreements that exceed \$100,000, and for

evaluating and assessing the products of research by all recipients of grants and cooperative agreements under this Act.

(2) **EVALUATION.**—The Research Commissioner shall—

(A) develop the procedures to be used in evaluating applications for research grants, cooperative agreements, and contracts, and specify the criteria and factors (including, as applicable, the use of longitudinal data linking test scores, enrollment, and graduation rates over time) which shall be considered in making such evaluations; and

(B) evaluate the performance of each recipient of an award of a research grant, contract, or cooperative agreement at the conclusion of the award.

(c) **LONG-TERM RESEARCH.**—The Research Commissioner shall ensure that not less than 50 percent of the funds made available for research for each fiscal year shall be used to fund long-term research programs of not less than 5 years, which support the priorities and mission of the Institute and the mission of the Research Center.

### **PART C—NATIONAL CENTER FOR EDUCATION STATISTICS**

#### **SEC. 151. ESTABLISHMENT.**

(a) **ESTABLISHMENT.**—There is established in the Institute a National Center for Education Statistics (in this part referred to as the “Statistics Center”).

(b) **MISSION.**—The mission of the Statistics Center shall be—

(1) to collect and analyze education information and statistics in a manner that meets the highest methodological standards;

(2) to report education information and statistics in a timely manner; and

(3) to collect, analyze, and report education information and statistics in a manner that—

(A) is objective, secular, neutral, and nonideological and is free of partisan political influence and racial, cultural, gender, or regional bias; and

(B) is relevant and useful to practitioners, researchers, policymakers, and the public.

#### **SEC. 152. COMMISSIONER FOR EDUCATION STATISTICS.**

The Statistics Center shall be headed by a Commissioner for Education Statistics (in this part referred to as the “Statistics Commissioner”) who shall be highly qualified and have substantial knowledge of statistical methodologies and activities undertaken by the Statistics Center.

#### **SEC. 153. DUTIES.**

(a) **GENERAL DUTIES.**—The Statistics Center shall collect, report, analyze, and disseminate statistical data related to education in the United States and in other nations, including—

(1) collecting, acquiring, compiling (where appropriate, on a State-by-State basis), and disseminating full and complete statistics (disaggregated by the population characteristics described in paragraph (3)) on the condition and progress of education, at the preschool, elementary, secondary, postsecondary, and adult levels in the United States, including data on—

(A) State and local education reform activities;

(B) State and local early childhood school readiness activities;

(C) student achievement in, at a minimum, the core academic areas of reading, mathematics, and science at all levels of education;

(D) secondary school completions, dropouts, and adult literacy and reading skills;

(E) access to, and opportunity for, postsecondary education, including data on financial aid to postsecondary students;

(F) teaching, including—

(i) data on in-service professional development, including a comparison of courses taken in the core academic areas of reading, mathematics, and science with courses in noncore academic areas, including technology courses; and

(ii) the percentage of teachers who are highly qualified (as such term is defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) in each State and, where feasible, in each local educational agency and school;

(G) instruction, the conditions of the education workplace, and the supply of, and demand for, teachers;

(H) the incidence, frequency, seriousness, and nature of violence affecting students, school personnel, and other individuals participating in school activities, as well as other indices of school safety, including information regarding—

(i) the relationship between victims and perpetrators;

(ii) demographic characteristics of the victims and perpetrators; and

(iii) the type of weapons used in incidents, as classified in the Uniform Crime Reports of the Federal Bureau of Investigation;

(I) the financing and management of education, including data on revenues and expenditures;

(J) the social and economic status of children, including their academic achievement;

(K) the existence and use of educational technology and access to the Internet by students and teachers in elementary schools and secondary schools;

(L) access to, and opportunity for, early childhood education;

(M) the availability of, and access to, before-school and after-school programs (including such programs during school recesses);

(N) student participation in and completion of secondary and postsecondary vocational and technical education programs by specific program area; and

(O) the existence and use of school libraries;

(2) conducting and publishing reports on the meaning and significance of the statistics described in paragraph (1);

(3) collecting, analyzing, cross-tabulating, and reporting, to the extent feasible, information by gender, race, ethnicity, socioeconomic status, limited English proficiency, mobility, disability, urban, rural, suburban districts, and other population characteristics, when such disaggregated information will facilitate educational and policy decisionmaking;

(4) assisting public and private educational agencies, organizations, and institutions in improving and automating statistical and data collection activities, which may include assisting State educational agencies and local educational agencies with the disaggregation of data and with the development of longitudinal student data systems;

(5) determining voluntary standards and guidelines to assist State educational agencies in developing statewide longitudinal data systems that link individual student data consistent with the requirements of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), promote linkages across States, and protect student privacy consistent with section 183, to improve student academic achievement and close achievement gaps;

(6) acquiring and disseminating data on educational activities and student achievement (such as the Third International Math and Science Study) in the United States compared with foreign nations;

(7) conducting longitudinal and special data collections necessary to report on the condition and progress of education;

(8) assisting the Director in the preparation of a biennial report, as described in section 119; and

(9) determining, in consultation with the National Research Council of the National Academies, methodology by which States may accurately measure graduation rates (defined as the percentage of students who graduate from secondary school with a regular diploma in the standard number of years), school completion rates, and dropout rates.



(b) **TRAINING PROGRAM.**—The Statistics Commissioner may establish a program to train employees of public and private educational agencies, organizations, and institutions in the use of standard statistical procedures and concepts, and may establish a fellowship program to appoint such employees as temporary fellows at the Statistics Center, in order to assist the Statistics Center in carrying out its duties.

#### SEC. 154. PERFORMANCE OF DUTIES.

(a) **GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.**—In carrying out the duties under this part, the Statistics Commissioner, may award grants, enter into contracts and cooperative agreements, and provide technical assistance.

(b) **GATHERING INFORMATION.**—

(1) **SAMPLING.**—The Statistics Commissioner may use the statistical method known as sampling (including random sampling) to carry out this part.

(2) **SOURCE OF INFORMATION.**—The Statistics Commissioner may, as appropriate, use information collected—

(A) from States, local educational agencies, public and private schools, preschools, institutions of higher education, vocational and adult education programs, libraries, administrators, teachers, students, the general public, and other individuals, organizations, agencies, and institutions (including information collected by States and local educational agencies for their own use); and

(B) by other offices within the Institute and by other Federal departments, agencies, and instrumentalities.

(3) **COLLECTION.**—The Statistics Commissioner may—

(A) enter into interagency agreements for the collection of statistics;

(B) arrange with any agency, organization, or institution for the collection of statistics; and

(C) assign employees of the Statistics Center to any such agency, organization, or institution to assist in such collection.

(4) **TECHNICAL ASSISTANCE AND COORDINATION.**—In order to maximize the effectiveness of Department efforts to serve the educational needs of children and youth, the Statistics Commissioner shall—

(A) provide technical assistance to the Department offices that gather data for statistical purposes; and

(B) coordinate with other Department offices in the collection of data.

(c) **DURATION.**—Notwithstanding any other provision of law, the grants, contracts, and cooperative agreements under this section may be awarded, on a competitive basis, for a period of not more than 5 years, and may be renewed at the discretion of the Statistics Commissioner for an additional period of not more than 5 years.

#### SEC. 155. REPORTS.

(a) **PROCEDURES FOR ISSUANCE OF REPORTS.**—The Statistics Commissioner, shall establish procedures, in accordance with section 186, to ensure that the reports issued under this section are relevant, of high quality, useful to customers, subject to rigorous peer review, produced in a timely fashion, and free from any partisan political influence.

(b) **REPORT ON CONDITION AND PROGRESS OF EDUCATION.**—Not later than June 1, 2003, and each June 1 thereafter, the Statistics Commissioner, shall submit to the President and the appropriate congressional committees a statistical report on the condition and progress of education in the United States.

(c) **STATISTICAL REPORTS.**—The Statistics Commissioner shall issue regular and, as necessary, special statistical reports on education topics, particularly in the core academic areas of reading, mathematics, and science, consistent with the priorities and the mission of the Statistics Center.

#### SEC. 156. DISSEMINATION.

(a) **GENERAL REQUESTS.**—

(1) **IN GENERAL.**—The Statistics Center may furnish transcripts or copies of tables and other statistical records and make special statistical compilations and surveys for State and local officials, public and private organizations, and individuals.

(2) **COMPILATIONS.**—The Statistics Center shall provide State educational agencies, local educational agencies, and institutions of higher education with opportunities to suggest the establishment of particular compilations of statistics, surveys, and analyses that will assist those educational agencies.

(b) **CONGRESSIONAL REQUESTS.**—The Statistics Center shall furnish such special statistical compilations and surveys as the relevant congressional committees may request.

(c) **JOINT STATISTICAL PROJECTS.**—The Statistics Center may engage in joint statistical projects related to the mission of the Center, or other statistical purposes authorized by law, with nonprofit organizations or agencies, and the cost of such projects shall be shared equitably as determined by the Secretary.

(d) **FEES.**—

(1) **IN GENERAL.**—Statistical compilations and surveys under this section, other than those carried out pursuant to subsections (b) and (c), may be made subject to the payment of the actual or estimated cost of such work.

(2) **FUNDS RECEIVED.**—All funds received in payment for work or services described in this subsection may be used to pay directly the costs of such work or services, to repay appropriations that initially bore all or part of such costs, or to refund excess sums when necessary.

(e) **ACCESS.**—

(1) **OTHER AGENCIES.**—The Statistics Center shall, consistent with section 183, cooperate with other Federal agencies having a need for educational data in providing access to educational data received by the Statistics Center.

(2) **INTERESTED PARTIES.**—The Statistics Center shall, in accordance with such terms and conditions as the Center may prescribe, provide all interested parties, including public and private agencies, parents, and other individuals, direct access, in the most appropriate form (including, where possible, electronically), to data collected by the Statistics Center for the purposes of research and acquiring statistical information.

#### SEC. 157. COOPERATIVE EDUCATION STATISTICS SYSTEMS.

The Statistics Center may establish 1 or more national cooperative education statistics systems for the purpose of producing and maintaining, with the cooperation of the States, comparable and uniform information and data on early childhood education, elementary and secondary education, postsecondary education, adult education, and libraries, that are useful for policymaking at the Federal, State, and local levels.

#### SEC. 158. STATE DEFINED.

In this part, the term “State” means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

### PART D—NATIONAL CENTER FOR EDUCATION EVALUATION AND REGIONAL ASSISTANCE

#### SEC. 171. ESTABLISHMENT.

(a) **ESTABLISHMENT.**—There is established in the Institute a National Center for Education Evaluation and Regional Assistance.

(b) **MISSION.**—The mission of the National Center for Education Evaluation and Regional Assistance shall be—

(1) to provide technical assistance;

(2) to conduct evaluations of Federal education programs administered by the Secretary (and as time and resources allow, other education programs) to determine the impact of such programs (especially on student academic achievement in the core academic areas of reading, mathematics, and science);

(3) to support synthesis and wide dissemination of results of evaluation, research, and products developed; and

(4) to encourage the use of scientifically valid education research and evaluation throughout the United States.

(c) **GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.**—In carrying out the duties under this part, the Director may award grants, enter into contracts and cooperative agreements, and provide technical assistance.

#### SEC. 172. COMMISSIONER FOR EDUCATION EVALUATION AND REGIONAL ASSISTANCE.

(a) **IN GENERAL.**—The National Center for Education Evaluation and Regional Assistance shall be headed by a Commissioner for Education Evaluation and Regional Assistance (in this part referred to as the “Evaluation and Regional Assistance Commissioner”) who is highly qualified and has demonstrated a capacity to carry out the mission of the Center and shall—

(1) conduct evaluations pursuant to section 173;

(2) widely disseminate information on scientifically valid research, statistics, and evaluation on education, particularly to State educational agencies and local educational agencies, to institutions of higher education, to the public, the media, voluntary organizations, professional associations, and other constituencies, especially with respect to information relating to, at a minimum—

(A) the core academic areas of reading, mathematics, and science;

(B) closing the achievement gap between high-performing students and low-performing students;

(C) educational practices that improve academic achievement and promote learning;

(D) education technology, including software; and

(E) those topics covered by the Educational Resources Information Center Clearinghouses (established under section 941(f) of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (20 U.S.C. 6041(f)) (as such provision was in effect on the day before the date of enactment of this Act);

(3) make such information accessible in a user-friendly, timely, and efficient manner (including through use of a searchable Internet-based online database that shall include all topics covered in paragraph (2)(E)) to schools, institutions of higher education, educators (including early childhood educators), parents, administrators, policymakers, researchers, public and private entities (including providers of early childhood services), entities responsible for carrying out technical assistance through the Department, and the general public;

(4) support the regional educational laboratories in conducting applied research, the development and dissemination of educational research, products and processes, the provision of technical assistance, and other activities to serve the educational needs of such laboratories’ regions;

(5) manage the National Library of Education described in subsection (d), and other sources of digital information on education research;

(6) assist the Director in the preparation of a biennial report, described in section 119; and

(7) award a contract for a prekindergarten through grade 12 mathematics and science teacher clearinghouse.

(b) **ADDITIONAL DUTIES.**—In carrying out subsection (a), the Evaluation and Regional Assistance Commissioner shall—

(1) ensure that information disseminated under this section is provided in a cost-effective, nonduplicative manner that includes the most current research findings, which may include through the continuation of individual clearinghouses authorized under the Educational Research, Development, Dissemination, and Improvement Act of 1994 (title IX of the Goals 2000: Educate America Act; 20 U.S.C. 6001 et seq.) (as such Act existed on the day before the date of enactment of this Act);

(2) describe prominently the type of scientific evidence that is used to support the findings that are disseminated;

(3) explain clearly the scientifically appropriate and inappropriate uses of—

(A) the findings that are disseminated; and

(B) the types of evidence used to support those findings; and

(4) respond, as appropriate, to inquiries from schools, educators, parents, administrators, policymakers, researchers, public and private entities, and entities responsible for carrying out technical assistance.

(c) **CONTINUATION.**—The Director shall continue awards for the support of the Educational Resources Information Center Clearinghouses and contracts for regional educational laboratories (established under subsections (f) and (h) of section 941 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (20 U.S.C. 6041(f) and (h)) (as such awards were in effect on the day before the date of enactment of this Act) for the duration of those awards, in accordance with the terms and agreements of such awards.

(d) **NATIONAL LIBRARY OF EDUCATION.**—

(1) **ESTABLISHMENT.**—There is established within the National Center for Education Evaluation and Regional Assistance a National Library of Education that shall—

(A) be headed by an individual who is highly qualified in library science;

(B) collect and archive information;

(C) provide a central location within the Federal Government for information about education;

(D) provide comprehensive reference services on matters related to education to employees of the Department of Education and its contractors and grantees, other Federal employees, and members of the public; and

(E) promote greater cooperation and resource sharing among providers and repositories of education information in the United States.

(2) **INFORMATION.**—The information collected and archived by the National Library of Education shall include—

(A) products and publications developed through, or supported by, the Institute; and

(B) other relevant and useful education-related research, statistics, and evaluation materials and other information, projects, and publications that are—

(i) consistent with—

(I) scientifically valid research; or

(II) the priorities and mission of the Institute; and

(ii) developed by the Department, other Federal agencies, or entities (including entities supported under the Educational Technical Assistance Act of 2002 and the Educational Resources Information Center Clearinghouses (established under section 941(f) of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (20 U.S.C. 6041(f)) (as such provision was in effect on the day before the date of enactment of this Act))).

#### SEC. 173. EVALUATIONS.

(a) **IN GENERAL.**—

(1) **REQUIREMENTS.**—In carrying out its missions, the National Center for Education Evaluation and Regional Assistance may—

(A) conduct or support evaluations consistent with the Center's mission as described in section 171(b);

(B) evaluate programs under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.);

(C) to the extent practicable, examine evaluations conducted or supported by others in order to determine the quality and relevance of the evidence of effectiveness generated by those evaluations, with the approval of the Director;

(D) coordinate the activities of the National Center for Education Evaluation and Regional Assistance with other evaluation activities in the Department;

(E) review and, where feasible, supplement Federal education program evaluations, particularly those by the Department, to determine or enhance the quality and relevance of the evidence generated by those evaluations;

(F) establish evaluation methodology; and

(G) assist the Director in the preparation of the biennial report, as described in section 119.

(2) **ADDITIONAL REQUIREMENTS.**—Each evaluation conducted by the National Center for Education Evaluation and Regional Assistance pursuant to paragraph (1) shall—

(A) adhere to the highest possible standards of quality for conducting scientifically valid education evaluation; and

(B) be subject to rigorous peer-review.

(b) **ADMINISTRATION OF EVALUATIONS UNDER TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.**—The Evaluation and Regional Assistance Commissioner, consistent with the mission of the National Center for Education Evaluation and Regional Assistance under section 171(b), shall administer all operations and contracts associated with evaluations authorized by part E of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6491 et seq.) and administered by the Department as of the date of enactment of this Act.

#### SEC. 174. REGIONAL EDUCATIONAL LABORATORIES FOR RESEARCH, DEVELOPMENT, DISSEMINATION, AND TECHNICAL ASSISTANCE.

(a) **REGIONAL EDUCATIONAL LABORATORIES.**—The Director shall enter into contracts with entities to establish a networked system of 10 regional educational laboratories that serve the needs of each region of the United States in accordance with the provisions of this section. The amount of assistance allocated to each laboratory by the Evaluation and Regional Assistance Commissioner shall reflect the number of local educational agencies and the number of school-age children within the region served by such laboratory, as well as the cost of providing services within the geographic area encompassed by the region.

(b) **REGIONS.**—The regions served by the regional educational laboratories shall be the 10 geographic regions served by the regional educational laboratories established under section 941(h) of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such provision existed on the day before the date of enactment of this Act).

(c) **ELIGIBLE APPLICANTS.**—The Director may enter into contracts under this section with research organizations, institutions, agencies, institutions of higher education, or partnerships among such entities, or individuals, with the demonstrated ability or capacity to carry out the activities described in this section, including regional entities that carried out activities under the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such Act existed on the day before the date of enactment of this Act) and title XIII of the Elementary and Secondary Education Act of 1965 (as such title existed on the day before the date of enactment of the No Child Left Behind Act of 2001 (Public Law 107-110)).

(d) **APPLICATIONS.**—

(1) **SUBMISSION.**—Each applicant desiring a contract under this section shall submit an application at such time, in such manner, and containing such information as the Director may reasonably require.

(2) **PLAN.**—Each application submitted under paragraph (1) shall contain a 5-year plan for carrying out the activities described in this section in a manner that addresses the priorities established under section 207 and addresses the needs of all States (and to the extent practicable, of local educational agencies) within the region to be served by the regional educational laboratory, on an ongoing basis.

(e) **ENTERING INTO CONTRACTS.**—

(1) **IN GENERAL.**—In entering into contracts under this section, the Director shall—

(A) enter into contracts for a 5-year period; and

(B) ensure that regional educational laboratories established under this section have strong and effective governance, organization, management, and administration, and employ qualified staff.

(2) **COORDINATION.**—In order to ensure coordination and prevent unnecessary duplication of activities among the regions, the Evaluation and Regional Assistance Commissioner shall—

(A) share information about the activities of each regional educational laboratory awarded a contract under this section with each other regional educational laboratory awarded a contract under this section and with the Department of Education, including the Director and the Board;

(B) oversee a strategic plan for ensuring that each regional educational laboratory awarded a contract under this section increases collaboration and resource-sharing in such activities;

(C) ensure, where appropriate, that the activities of each regional educational laboratory awarded a contract under this section also serve national interests; and

(D) ensure that each regional educational laboratory awarded a contract under this section coordinates such laboratory's activities with the activities of each other regional technical assistance provider.

(3) **OUTREACH.**—In conducting competitions for contracts under this section, the Director shall—

(A) actively encourage eligible entities to compete for such awards by making information and technical assistance relating to the competition widely available; and

(B) seek input from the chief executive officers of States, chief State school officers, educators, and parents regarding the need for applied research, wide dissemination, training, technical assistance, and development activities authorized by this title in the regions to be served by the regional educational laboratories and how those educational needs could be addressed most effectively.

(4) **OBJECTIVES AND INDICATORS.**—Before entering into a contract under this section, the Director shall design specific objectives and measurable indicators to be used to assess the particular programs or initiatives, and ongoing progress and performance, of the regional educational laboratories, in order to ensure that the educational needs of the region are being met and that the latest and best research and proven practices are being carried out as part of school improvement efforts.

(5) **STANDARDS.**—The Evaluation and Regional Assistance Commissioner shall establish a system for technical and peer review to ensure that applied research activities, research-based reports, and products of the regional educational laboratories are consistent with the research standards described in section 134 and the evaluation standards adhered to pursuant to section 173(a)(2)(A).

(f) **CENTRAL MISSION AND PRIMARY FUNCTION.**—Each regional educational laboratory awarded a contract under this section shall support applied research, development, wide dissemination, and technical assistance activities by—

(1) providing training (which may include supporting internships and fellowships and providing stipends) and technical assistance to State educational agencies, local educational agencies, school boards, schools funded by the Bureau as appropriate, and State boards of education regarding, at a minimum—

(A) the administration and implementation of programs under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.);

(B) scientifically valid research in education on teaching methods, assessment tools, and high quality, challenging curriculum frameworks for use by teachers and administrators in, at a minimum—

(i) the core academic subjects of mathematics, science, and reading;

(ii) English language acquisition;

(iii) education technology; and

(iv) the replication and adaption of exemplary and promising practices and new educational methods, including professional development strategies and the use of educational technology to improve teaching and learning; and

(C) the facilitation of communication between educational experts, school officials, and teachers, parents, and librarians, to enable such individuals to assist schools to develop a plan to meet the State education goals;

(2) developing and widely disseminating, including through Internet-based means, scientifically valid research, information, reports, and publications that are usable for improving academic achievement, closing achievement gaps, and encouraging and sustaining school improvement, to—

(A) schools, districts, institutions of higher education, educators (including early childhood educators and librarians), parents, policy-makers, and other constituencies, as appropriate, within the region in which the regional educational laboratory is located; and

(B) the National Center for Education Evaluation and Regional Assistance;

(3) developing a plan for identifying and serving the needs of the region by conducting a continuing survey of the educational needs, strengths, and weaknesses within the region, including a process of open hearings to solicit the views of schools, teachers, administrators, parents, local educational agencies, librarians, and State educational agencies within the region;

(4) in the event such quality applied research does not exist as determined by the regional educational laboratory or the Department, carrying out applied research projects that are designed to serve the particular educational needs (in prekindergarten through grade 16) of the region in which the regional educational laboratory is located, that reflect findings from scientifically valid research, and that result in user-friendly, replicable school-based classroom applications geared toward promoting increased student achievement, including using applied research to assist in solving site-specific problems and assisting in development activities (including high-quality and on-going professional development and effective parental involvement strategies);

(5) supporting and serving the educational development activities and needs of the region by providing educational applied research in usable forms to promote school-improvement, academic achievement, and the closing of achievement gaps and contributing to the current base of education knowledge by addressing enduring problems in elementary and secondary education and access to postsecondary education;

(6) collaborating and coordinating services with other technical assistance providers funded by the Department of Education;

(7) assisting in gathering information on school finance systems to promote improved access to educational opportunities and to better serve all public school students;

(8) assisting in gathering information on alternative administrative structures that are more conducive to planning, implementing, and sustaining school reform and improved academic achievement;

(9) bringing teams of experts together to develop and implement school improvement plans and strategies, especially in low-performing or high poverty schools; and

(10) developing innovative approaches to the application of technology in education that are unlikely to originate from within the private sector, but which could result in the development of new forms of education software, education content, and technology-enabled pedagogy.

(g) **ACTIVITIES.**—Each regional educational laboratory awarded a contract under this section shall carry out the following activities:

(1) Collaborate with the National Education Centers in order to—

(A) maximize the use of research conducted through the National Education Centers in the work of such laboratory;

(B) keep the National Education Centers apprised of the work of the regional educational laboratory in the field; and

(C) inform the National Education Centers about additional research needs identified in the field.

(2) Consult with the State educational agencies and local educational agencies in the region in developing the plan for serving the region.

(3) Develop strategies to utilize schools as critical components in reforming education and revitalizing rural communities in the United States.

(4) Report and disseminate information on overcoming the obstacles faced by educators and schools in high poverty, urban, and rural areas.

(5) Identify successful educational programs that have either been developed by such laboratory in carrying out such laboratory's functions or that have been developed or used by others within the region served by the laboratory and make such information available to the Secretary and the network of regional educational laboratories so that such programs may be considered for inclusion in the national education dissemination system.

(h) **GOVERNING BOARD AND ALLOCATION.**—

(1) **IN GENERAL.**—In carrying out its responsibilities, each regional educational laboratory awarded a contract under this section, in keeping with the terms and conditions of such laboratory's contract, shall—

(A) establish a governing board that—

(i) reflects a balanced representation of—

(I) the States in the region;

(II) the interests and concerns of regional constituencies; and

(III) technical expertise;

(ii) includes the chief State school officer or such officer's designee of each State represented in such board's region;

(iii) includes—

(I) representatives nominated by chief executive officers of States and State organizations of superintendents, principals, institutions of higher education, teachers, parents, businesses, and researchers; or

(II) other representatives of the organizations described in subclause (I), as required by State law in effect on the day before the date of enactment of this Act;

(iv) is the sole entity that—

(I) guides and directs the laboratory in carrying out the provisions of this subsection and satisfying the terms and conditions of the contract award;

(II) determines the regional agenda of the laboratory;

(III) engages in an ongoing dialogue with the Evaluation and Regional Assistance Commissioner concerning the laboratory's goals, activities, and priorities; and

(IV) determines at the start of the contract period, subject to the requirements of this section and in consultation with the Evaluation and Regional Assistance Commissioner, the mission of the regional educational laboratory for the duration of the contract period;

(v) ensures that the regional educational laboratory attains and maintains a high level of quality in the laboratory's work and products;

(vi) establishes standards to ensure that the regional educational laboratory has strong and effective governance, organization, management, and administration, and employs qualified staff;

(vii) directs the regional educational laboratory to carry out the laboratory's duties in a manner that will make progress toward achieving the State education goals and reforming schools and educational systems; and

(viii) conducts a continuing survey of the educational needs, strengths, and weaknesses with-

in the region, including a process of open hearings to solicit the views of schools and teachers; and

(B) allocate the regional educational laboratory's resources to and within each State in a manner which reflects the need for assistance, taking into account such factors as the proportion of economically disadvantaged students, the increased cost burden of service delivery in areas of sparse populations, and any special initiatives being undertaken by State, intermediate, local educational agencies, or Bureau-funded schools, as appropriate, which may require special assistance from the laboratory.

(2) **SPECIAL RULE.**—If a regional educational laboratory needs flexibility in order to meet the requirements of paragraph (1)(A)(i), the regional educational laboratory may select not more than 10 percent of the governing board from individuals outside those representatives nominated in accordance with paragraph (1)(A)(iii).

(i) **DUTIES OF GOVERNING BOARD.**—In order to improve the efficiency and effectiveness of the regional educational laboratories, the governing boards of the regional educational laboratories shall establish and maintain a network to—

(1) share information about the activities each laboratory is carrying out;

(2) plan joint activities that would meet the needs of multiple regions;

(3) create a strategic plan for the development of activities undertaken by the laboratories to reduce redundancy and increase collaboration and resource-sharing in such activities; and

(4) otherwise devise means by which the work of the individual laboratories could serve national, as well as regional, needs.

(j) **EVALUATIONS.**—The Evaluation and Regional Assistance Commissioner shall provide for independent evaluations of each of the regional educational laboratories in carrying out the duties described in this section in the third year that such laboratory receives assistance under this section in accordance with the standards developed by the Evaluation and Regional Assistance Commissioner and approved by the Board and shall transmit the results of such evaluations to the relevant committees of Congress, the Board, and the appropriate regional educational laboratory governing board.

(k) **RULE OF CONSTRUCTION.**—No regional educational laboratory receiving assistance under this section shall, by reason of the receipt of that assistance, be ineligible to receive any other assistance from the Department of Education as authorized by law or be prohibited from engaging in activities involving international projects or endeavors.

(l) **ADVANCE PAYMENT SYSTEM.**—Each regional educational laboratory awarded a contract under this section shall participate in the advance payment system at the Department of Education.

(m) **ADDITIONAL PROJECTS.**—In addition to activities authorized under this section, the Director is authorized to enter into contracts or agreements with a regional educational laboratory for the purpose of carrying out additional projects to enable such regional educational laboratory to assist in efforts to achieve State education goals and for other purposes.

(n) **ANNUAL REPORT AND PLAN.**—Not later than July 1 of each year, each regional educational laboratory awarded a contract under this section shall submit to the Evaluation and Regional Assistance Commissioner—

(1) a plan covering the succeeding fiscal year, in which such laboratory's mission, activities, and scope of work are described, including a general description of the plans such laboratory expects to submit in the remaining years of such laboratory's contract; and

(2) a report of how well such laboratory is meeting the needs of the region, including a summary of activities during the preceding year, a list of entities served, a list of products, and any other information that the regional educational laboratory may consider relevant or the

Evaluation and Regional Assistance Commissioner may require.

(o) **CONSTRUCTION.**—Nothing in this section shall be construed to require any modifications in a regional educational laboratory contract in effect on the day before the date of enactment of this Act.

## **PART E—GENERAL PROVISIONS**

### **SEC. 181. INTERAGENCY DATA SOURCES AND FORMATS.**

The Secretary, in consultation with the Director, shall ensure that the Department and the Institute use common sources of data in standardized formats.

### **SEC. 182. PROHIBITIONS.**

(a) **NATIONAL DATABASE.**—Nothing in this title may be construed to authorize the establishment of a nationwide database of individually identifiable information on individuals involved in studies or other collections of data under this title.

(b) **FEDERAL GOVERNMENT AND USE OF FEDERAL FUNDS.**—Nothing in this title may be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control the curriculum, program of instruction, or allocation of State or local resources of a State, local educational agency, or school, or to mandate a State, or any subdivision thereof, to spend any funds or incur any costs not provided for under this title.

(c) **ENDORSEMENT OF CURRICULUM.**—Notwithstanding any other provision of Federal law, no funds provided under this title to the Institute, including any office, board, committee, or center of the Institute, may be used by the Institute to endorse, approve, or sanction any curriculum designed to be used in an elementary school or secondary school.

(d) **FEDERALLY SPONSORED TESTING.**—

(1) **IN GENERAL.**—Subject to paragraph (2), no funds provided under this title to the Secretary or to the recipient of any award may be used to develop, pilot test, field test, implement, administer, or distribute any federally sponsored national test in reading, mathematics, or any other subject, unless specifically and explicitly authorized by law.

(2) **EXCEPTIONS.**—Subsection (a) shall not apply to international comparative assessments developed under the authority of section 153(a)(6) of this title or section 404(a)(6) of the National Education Statistics Act of 1994 (20 U.S.C. 9003(a)(6)) (as such section was in effect on the day before the date of enactment of this Act) and administered to only a representative sample of pupils in the United States and in foreign nations.

### **SEC. 183. CONFIDENTIALITY.**

(a) **IN GENERAL.**—All collection, maintenance, use, and wide dissemination of data by the Institute, including each office, board, committee, and center of the Institute, shall conform with the requirements of section 552a of title 5, United States Code, the confidentiality standards of subsection (c) of this section, and sections 444 and 445 of the General Education Provisions Act (20 U.S.C. 1232g, 1232h).

(b) **STUDENT INFORMATION.**—The Director shall ensure that all individually identifiable information about students, their academic achievements, their families, and information with respect to individual schools, shall remain confidential in accordance with section 552a of title 5, United States Code, the confidentiality standards of subsection (c) of this section, and sections 444 and 445 of the General Education Provisions Act (20 U.S.C. 1232g, 1232h).

### **SEC. 184. AVAILABILITY OF DATA.**

Subject to section 183, data collected by the Institute, including any office, board, committee, or center of the Institute, in carrying out the priorities and mission of the Institute, shall be made available to the public, including through use of the Internet.

### **SEC. 185. PERFORMANCE MANAGEMENT.**

The Director shall ensure that all activities conducted or supported by the Institute or a Na-

tional Education Center make customer service a priority. The Director shall ensure a high level of customer satisfaction through the following methods:

(1) Establishing and improving feedback mechanisms in order to anticipate customer needs.

(2) Disseminating information in a timely fashion and in formats that are easily accessible and usable by researchers, practitioners, and the general public.

(3) Utilizing the most modern technology and other methods available, including arrangements to use data collected electronically by States and local educational agencies, to ensure the efficient collection and timely distribution of information, including data and reports.

(4) Establishing and measuring performance against a set of indicators for the quality of data collected, analyzed, and reported.

(5) Continuously improving management strategies and practices.

(6) Making information available to the public in an expeditious fashion.

### **SEC. 186. AUTHORITY TO PUBLISH.**

(a) **PUBLICATION.**—The Director may prepare and publish (including through oral presentation) such research, statistics (consistent with part C), and evaluation information and reports from any office, board, committee, and center of the Institute, as needed to carry out the priorities and mission of the Institute without the approval of the Secretary or any other office of the Department.

(b) **ADVANCE COPIES.**—The Director shall provide the Secretary and other relevant offices with an advance copy of any information to be published under this section before publication.

(c) **PEER REVIEW.**—All research, statistics, and evaluation reports conducted by, or supported through, the Institute shall be subjected to rigorous peer review before being published or otherwise made available to the public.

(d) **ITEMS NOT COVERED.**—Nothing in subsections (a), (b), or (c) shall be construed to apply to—

(1) information on current or proposed budgets, appropriations, or legislation;

(2) information prohibited from disclosure by law or the Constitution, classified national security information, or information described in section 552(b) of title 5, United States Code; and

(3) review by officers of the United States in order to prevent the unauthorized disclosure of information described in paragraph (1) or (2).

### **SEC. 187. VACANCIES.**

Any member appointed to fill a vacancy on the Board 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 vacancy in an office, board, committee, or center of the Institute shall be filled in the manner in which the original appointment was made. This section does not apply to employees appointed under section 188.

### **SEC. 188. SCIENTIFIC OR TECHNICAL EMPLOYEES.**

(a) **IN GENERAL.**—The Director may appoint, for terms not to exceed 6 years (without regard to the provisions of title 5, United States Code, governing appointment in the competitive service) and may compensate (without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates) such scientific or technical employees to carry out the functions of the Institute or the office, board, committee, or center, respectively, if—

(1) at least 30 days prior to the appointment of any such employee, public notice is given of the availability of such position and an opportunity is provided for qualified individuals to apply and compete for such position;

(2) the rate of basic pay for such employees does not exceed the maximum rate of basic pay payable for positions at GS-15, as determined in accordance with section 5376 of title 5, United

States Code, except that not more than 7 individuals appointed under this section may be paid at a rate that does not exceed the rate of basic pay for level III of the Executive Schedule;

(3) the appointment of such employee is necessary (as determined by the Director on the basis of clear and convincing evidence) to provide the Institute or the office, board, committee, or center with scientific or technical expertise which could not otherwise be obtained by the Institute or the office, board, committee, or center through the competitive service; and

(4) the total number of such employees does not exceed 40 individuals or 1/5 of the number of full-time, regular scientific or professional employees of the Institute, whichever is greater.

(b) **DUTIES OF EMPLOYEES.**—All employees described in subsection (a) shall work on activities of the Institute or the office, board, committee, or center, and shall not be reassigned to other duties outside the Institute or the office, board, committee, or center during their term.

### **SEC. 189. FELLOWSHIPS.**

In order to strengthen the national capacity to carry out high-quality research, evaluation, and statistics related to education, the Director shall establish and maintain research, evaluation, and statistics fellowships in institutions of higher education (which may include the establishment of such fellowships in historically Black colleges and universities and other institutions of higher education with large numbers of minority students) that support graduate and postdoctoral study onsite at the Institute or at the institution of higher education. In establishing the fellowships, the Director shall ensure that women and minorities are actively recruited for participation.

### **SEC. 190. VOLUNTARY SERVICE.**

The Director may accept voluntary and uncompensated services to carry out and support activities that are consistent with the priorities and mission of the Institute.

### **SEC. 191. RULEMAKING.**

Notwithstanding section 437(d) of the General Education Provisions Act (20 U.S.C. 1232(d)), the exemption for public property, loans, grants, and benefits in section 553(a)(2) of title 5, United States Code, shall apply to the Institute.

### **SEC. 192. COPYRIGHT.**

Nothing in this Act shall be construed to affect the rights, remedies, limitations, or defense under title 17, United States Code.

### **SEC. 193. REMOVAL.**

(a) **PRESIDENTIAL.**—The Director, each member of the Board, and the Commissioner for Education Statistics may be removed by the President prior to the expiration of the term of each such appointee.

(b) **DIRECTOR.**—Each Commissioner appointed by the Director pursuant to section 117 may be removed by the Director prior to the expiration of the term of each such Commissioner.

### **SEC. 194. AUTHORIZATION OF APPROPRIATIONS.**

(a) **IN GENERAL.**—There are authorized to be appropriated to administer and carry out this title (except section 174) \$400,000,000 for fiscal year 2003 and such sums as may be necessary for each of the 5 succeeding fiscal years, of which—

(1) not less than the amount provided to the National Center for Education Statistics (as such Center was in existence on the day before the date of enactment of this Act) for fiscal year 2002 shall be provided to the National Center for Education Statistics, as authorized under part C; and

(2) not more than the lesser of 2 percent of such funds or \$1,000,000 shall be made available to carry out section 116 (relating to the National Board for Education Sciences).

(b) **REGIONAL EDUCATIONAL LABORATORIES.**—There are authorized to be appropriated to carry out section 174 \$100,000,000 for fiscal year 2003 and such sums as may be necessary for each of the 5 succeeding fiscal years. Of the amounts

appropriated under the preceding sentence for a fiscal year, the Director shall obligate not less than 25 percent to carry out such purpose with respect to rural areas (including schools funded by the Bureau which are located in rural areas).

(c) **AVAILABILITY.**—Amounts made available under this section shall remain available until expended.

## **TITLE II—EDUCATIONAL TECHNICAL ASSISTANCE**

### **SEC. 201. SHORT TITLE.**

This title may be cited as the “Educational Technical Assistance Act of 2002”.

### **SEC. 202. DEFINITIONS.**

In this title:

(1) **IN GENERAL.**—The terms “local educational agency” and “State educational agency” have the meanings given those terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) **SECRETARY.**—The term “Secretary” means the Secretary of Education.

### **SEC. 203. COMPREHENSIVE CENTERS.**

(a) **AUTHORIZATION.**—

(1) **IN GENERAL.**—Subject to paragraph (2), beginning in fiscal year 2004, the Secretary is authorized to award not less than 20 grants to local entities, or consortia of such entities, with demonstrated expertise in providing technical assistance and professional development in reading, mathematics, science, and technology, especially to low-performing schools and districts, to establish comprehensive centers.

(2) **REGIONS.**—In awarding grants under paragraph (1), the Secretary—

(A) shall ensure that not less than 1 comprehensive center is established in each of the 10 geographic regions served by the regional educational laboratories established under section 941(h) of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such provision existed on the day before the date of enactment of this Act); and

(B) after meeting the requirements of subparagraph (A), shall consider, in awarding the remainder of the grants, the school-age population, proportion of economically disadvantaged students, the increased cost burdens of service delivery in areas of sparse population, and the number of schools identified for school improvement (as described in section 1116(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b))) in the population served by the local entity or consortium of such entities.

(b) **ELIGIBLE APPLICANTS.**—

(1) **IN GENERAL.**—Grants under this section may be made with research organizations, institutions, agencies, institutions of higher education, or partnerships among such entities, or individuals, with the demonstrated ability or capacity to carry out the activities described in subsection (f), including regional entities that carried out activities under the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such Act existed on the day before the date of enactment of this Act) and title XIII of the Elementary and Secondary Education Act of 1965 (as such title existed on the day before the date of enactment of the No Child Left Behind Act of 2001 (Public Law 107-110)).

(2) **OUTREACH.**—In conducting competitions for grants under this section, the Secretary shall actively encourage potential applicants to compete for such awards by making widely available information and technical assistance relating to the competition.

(3) **OBJECTIVES AND INDICATORS.**—Before awarding a grant under this section, the Secretary shall design specific objectives and measurable indicators, using the results of the assessment conducted under section 206, to be used to assess the particular programs or initiatives, and ongoing progress and performance, of the regional entities, in order to ensure that the educational needs of the region are being met

and that the latest and best research and proven practices are being carried out as part of school improvement efforts.

(c) **APPLICATION.**—

(1) **SUBMISSION.**—Each local entity, or consortium of such entities, seeking a grant under this section shall submit an application at such time, in such manner, and containing such additional information as the Secretary may reasonably require.

(2) **PLAN.**—Each application submitted under paragraph (1) shall contain a 5-year plan for carrying out the activities described in this section in a manner that addresses the priorities established under section 207 and addresses the needs of all States (and to the extent practicable, of local educational agencies) within the region to be served by the comprehensive center, on an ongoing basis.

(d) **ALLOCATION.**—Each comprehensive center established under this section shall allocate such center's resources to and within each State in a manner which reflects the need for assistance, taking into account such factors as the proportion of economically disadvantaged students, the increased cost burden of service delivery in areas of sparse populations, and any special initiatives being undertaken by State, intermediate, local educational agencies, or Bureau-funded schools, as appropriate, which may require special assistance from the center.

(e) **SCOPE OF WORK.**—Each comprehensive center established under this section shall work with State educational agencies, local educational agencies, regional educational agencies, and schools in the region where such center is located on school improvement activities that take into account factors such as the proportion of economically disadvantaged students in the region, and give priority to—

(1) schools in the region with high percentages or numbers of students from low-income families, as determined under section 1113(a)(5) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6313(a)(5)), including such schools in rural and urban areas, and schools receiving assistance under title I of that Act (20 U.S.C. 6301 et seq.);

(2) local educational agencies in the region in which high percentages or numbers of school-age children are from low-income families, as determined under section 1124(c)(1)(A) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)(1)(A)), including such local educational agencies in rural and urban areas; and

(3) schools in the region that have been identified for school improvement under section 1116(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)).

(f) **ACTIVITIES.**—

(1) **IN GENERAL.**—A comprehensive center established under this section shall support dissemination and technical assistance activities by—

(A) providing training, professional development, and technical assistance regarding, at a minimum—

(i) the administration and implementation of programs under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.);

(ii) the use of scientifically valid teaching methods and assessment tools for use by teachers and administrators in, at a minimum—

(I) the core academic subjects of mathematics, science, and reading or language arts;

(II) English language acquisition; and

(III) education technology; and

(iii) the facilitation of communication between education experts, school officials, teachers, parents, and librarians, as appropriate; and

(B) disseminating and providing information, reports, and publications that are usable for improving academic achievement, closing achievement gaps, and encouraging and sustaining school improvement (as described in section 1116(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b))), to

schools, educators, parents, and policymakers within the region in which the center is located; and

(C) developing teacher and school leader in-service and preservice training models that illustrate best practices in the use of technology in different content areas.

(2) **COORDINATION AND COLLABORATION.**—Each comprehensive center established under this section shall coordinate its activities, collaborate, and regularly exchange information with the regional educational laboratory in the region in which the center is located, the National Center for Education Evaluation and Regional Assistance, the Office of the Secretary, the State service agency, and other technical assistance providers in the region.

(g) **COMPREHENSIVE CENTER ADVISORY BOARD.**—

(1) **ESTABLISHMENT.**—Each comprehensive center established under this section shall have an advisory board that shall support the priorities of such center.

(2) **DUTIES.**—Each advisory board established under paragraph (1) shall advise the comprehensive center—

(A) concerning the activities described in subsection (d);

(B) on strategies for monitoring and addressing the educational needs of the region, on an ongoing basis;

(C) on maintaining a high standard of quality in the performance of the center's activities; and

(D) on carrying out the center's duties in a manner that promotes progress toward improving student academic achievement.

(3) **COMPOSITION.**—

(A) **IN GENERAL.**—Each advisory board shall be composed of—

(i) the chief State school officers, or such officers' designees or other State officials, in each State served by the comprehensive center who have primary responsibility under State law for elementary and secondary education in the State; and

(ii) not more than 15 other members who are representative of the educational interests in the region served by the comprehensive center and are selected jointly by the officials specified in clause (i) and the chief executive officer of each State served by the comprehensive center, including the following:

(I) Representatives of local educational agencies and regional educational agencies, including representatives of local educational agencies serving urban and rural areas.

(II) Representatives of institutions of higher education.

(III) Parents.

(IV) Practicing educators, including classroom teachers, principals, and administrators.

(V) Representatives of business.

(VI) Policymakers, expert practitioners, and researchers with knowledge of, and experience using, the results of research, evaluation, and statistics.

(B) **SPECIAL RULE.**—In the case of a State in which the chief executive officer has the primary responsibility under State law for elementary and secondary education in the State, the chief executive officer shall consult, to the extent permitted by State law, with the State educational agency in selecting additional members of the board under subparagraph (A)(i).

(h) **REPORT TO SECRETARY.**—Each comprehensive center established under this section shall submit to the Secretary an annual report, at such time, in such manner, and containing such information as the Secretary may require, which shall include the following:

(1) A summary of the comprehensive center's activities during the preceding year

(2) A listing of the States, local educational agencies, and schools the comprehensive center assisted during the preceding year.

### **SEC. 204. EVALUATIONS.**

The Secretary shall provide for ongoing independent evaluations by the National Center for

Education Evaluation and Regional Assistance of the comprehensive centers receiving assistance under this title, the results of which shall be transmitted to the appropriate congressional committees and the Director of the Institute of Education Sciences. Such evaluations shall include an analysis of the services provided under this title, the extent to which each of the comprehensive centers meets the objectives of its respective plan, and whether such services meet the educational needs of State educational agencies, local educational agencies, and schools in the region.

#### SEC. 205. EXISTING TECHNICAL ASSISTANCE PROVIDERS.

The Secretary shall continue awards for the support of the Eisenhower Regional Mathematics and Science Education Consortia established under part M of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such part existed on the day before the date of enactment of this Act), the Regional Technology in Education Consortia under section 3141 of the Elementary and Secondary Education Act of 1965 (as such section existed on the day before the date of enactment of the No Child Left Behind Act of 2001 (Public Law 107-110)), and the Comprehensive Regional Assistance Centers established under part K of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such part existed on the day before the date of enactment of this Act), in accordance with the terms of such awards, until the comprehensive centers authorized under section 203 are established.

#### SEC. 206. REGIONAL ADVISORY COMMITTEES.

(a) **ESTABLISHMENT.**—Beginning in 2004, the Secretary shall establish a regional advisory committee for each region described in section 174(b) of the Education Sciences Reform Act of 2002.

(b) **MEMBERSHIP.**—

(1) **COMPOSITION.**—The membership of each regional advisory committee shall—

(A) not exceed 25 members;

(B) contain a balanced representation of States in the region; and

(C) include not more than one representative of each State educational agency geographically located in the region.

(2) **ELIGIBILITY.**—The membership of each regional advisory committee may include the following:

(A) Representatives of local educational agencies, including rural and urban local educational agencies.

(B) Representatives of institutions of higher education, including individuals representing university-based education research and university-based research on subjects other than education.

(C) Parents.

(D) Practicing educators, including classroom teachers, principals, administrators, school board members, and other local school officials.

(E) Representatives of business.

(F) Researchers.

(3) **RECOMMENDATIONS.**—In choosing individuals for membership on a regional advisory committee, the Secretary shall consult with, and solicit recommendations from, the chief executive officers of States, chief State school officers, and education stakeholders within the applicable region.

(4) **SPECIAL RULE.**—

(A) **TOTAL NUMBER.**—The total number of members on each committee who are selected under subparagraphs (A), (C), and (D) of paragraph (2), collectively, shall exceed the total number of members who are selected under paragraph (1)(C) and subparagraphs (B), (E), and (F) of paragraph (2), collectively.

(B) **DISSOLUTION.**—Each regional advisory committee shall be dissolved by the Secretary after submission of such committee's report described in subsection (c)(2) to the Secretary, but

each such committee may be reconvened at the discretion of the Secretary.

(c) **DUTIES.**—Each regional advisory committee shall advise the Secretary on the following:

(1) An educational needs assessment of its region (using the results of the assessment conducted under subsection (d)), in order to assist in making decisions regarding the regional educational priorities.

(2) Not later than 6 months after the committee is first convened, a report based on the assessment conducted under subsection (d).

(d) **REGIONAL ASSESSMENTS.**—Each regional advisory committee shall—

(1) assess the educational needs within the region to be served;

(2) in conducting the assessment under paragraph (1), seek input from chief executive officers of States, chief State school officers, educators, and parents (including through a process of open hearings to solicit the views and needs of schools (including public charter schools), teachers, administrators, members of the regional educational laboratory governing board, parents, local educational agencies, librarians, businesses, State educational agencies, and other customers (such as adult education programs) within the region) regarding the need for the activities described in section 174 of the Education Sciences Reform Act of 2002 and section 203 of this title and how those needs would be most effectively addressed; and

(3) submit the assessment to the Secretary and to the Director of the Academy of Education Sciences, at such time, in such manner, and containing such information as the Secretary may require.

#### SEC. 207. PRIORITIES.

The Secretary shall establish priorities for the regional educational laboratories (established under section 174 of the Education Sciences Reform Act of 2002) and comprehensive centers (established under section 203 of this title) to address, taking into account the regional assessments conducted under section 206 and other relevant regional surveys of educational needs, to the extent the Secretary deems appropriate.

#### SEC. 208. GRANT PROGRAM FOR STATEWIDE, LONGITUDINAL DATA SYSTEMS.

(a) **GRANTS AUTHORIZED.**—The Secretary is authorized to award grants, on a competitive basis, to State educational agencies to enable such agencies to design, develop, and implement statewide, longitudinal data systems to efficiently and accurately manage, analyze, disaggregate, and use individual student data, consistent with the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

(b) **APPLICATIONS.**—Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(c) **AWARDING OF GRANTS.**—In awarding grants under this section, the Secretary shall use a peer review process that—

(1) ensures technical quality (including validity and reliability), promotes linkages across States, and protects student privacy consistent with section 183;

(2) promotes the generation and accurate and timely use of data that is needed—

(A) for States and local educational agencies to comply with the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) and other reporting requirements and close achievement gaps; and

(B) to facilitate research to improve student academic achievement and close achievement gaps; and

(3) gives priority to applications that meet the voluntary standards and guidelines described in section 153(a)(5).

(d) **SUPPLEMENT NOT SUPPLANT.**—Funds made available under this section shall be used to

supplement, and not supplant, other State or local funds used for developing State data systems.

(e) **REPORT.**—Not later than 1 year after the date of enactment of the Educational Technical Assistance Act of 2002, and again 3 years after such date of enactment, the Secretary, in consultation with the National Academies Committee on National Statistics, shall make publicly available a report on the implementation and effectiveness of Federal, State, and local efforts related to the goals of this section, including—

(1) identifying and analyzing State practices regarding the development and use of statewide, longitudinal data systems;

(2) evaluating the ability of such systems to manage individual student data consistent with the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), promote linkages across States, and protect student privacy consistent with section 183; and

(3) identifying best practices and areas for improvement.

#### SEC. 209. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title \$80,000,000 for fiscal year 2003 and such sums as may be necessary for each of the 5 succeeding fiscal years.

### TITLE III—NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS

#### SEC. 301. SHORT TITLE.

This title may be referred to as the “National Assessment of Educational Progress Authorization Act”.

#### SEC. 302. DEFINITIONS.

In this title:

(1) The term “Director” means the Director of the Institute of Education Sciences.

(2) The term “State” means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

#### SEC. 303. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There are authorized to be appropriated—

(1) for fiscal year 2003—

(A) \$4,600,000 to carry out section 302, as amended by section 401 of this Act (relating to the National Assessment Governing Board); and

(B) \$107,500,000 to carry out section 303, as amended by section 401 of this Act (relating to the National Assessment of Educational Progress); and

(2) such sums as may be necessary for each of the 5 succeeding fiscal years to carry out sections 302 and 303, as amended by section 401 of this Act.

(b) **AVAILABILITY.**—Amounts made available under this section shall remain available until expended.

### TITLE IV—AMENDATORY PROVISIONS

#### SEC. 401. REDESIGNATIONS.

(a) **CONFIDENTIALITY.**—Section 408 of the National Education Statistics Act of 1994 (20 U.S.C. 9007) is amended—

(1) by striking “center”, “Center”, and “Commissioner” each place any such term appears and inserting “Director”;

(2) in subsection (a)(2)(A), by striking “statistical purpose” and inserting “research, statistics, or evaluation purpose under this title”;

(3) by striking subsection (b)(1) and inserting the following:

“(1) **IN GENERAL.**—

“(A) **DISCLOSURE.**—No Federal department, bureau, agency, officer, or employee and no recipient of a Federal grant, contract, or cooperative agreement may, for any reason, require the Director, any Commissioner of a National Education Center, or any other employee of the Institute to disclose individually identifiable information that has been collected or retained under this title.

“(B) **IMMUNITY.**—Individually identifiable information collected or retained under this title shall be immune from legal process and shall



not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

“(C) APPLICATION.—This paragraph does not apply to requests for individually identifiable information submitted by or on behalf of the individual identified in the information.”;

(4) in paragraphs (2) and (6) of subsection (b), by striking “subsection (a)(2)” each place such term appears and inserting “subsection (c)(2)”;

(5) in paragraphs (3) and (7) of subsection (b), by striking “Center’s” each place such term appears and inserting “Director’s”;

(6) by striking the section heading and transferring all the subsections (including subsections (a) through (c)) and redesignating such subsections as subsections (c) through (e), respectively, at the end of section 183 of this Act.

(b) CONFORMING AMENDMENT.—Sections 302 and 303 of this Act are redesignated as sections 304 and 305, respectively.

(c) NATIONAL ASSESSMENT GOVERNING BOARD.—Section 412 of the National Education Statistics Act of 1994 (20 U.S.C. 9011) is amended—

(1) in subsection (a)—

(A) by striking “referred to as the ‘Board’” and inserting “referred to as the ‘Assessment Board’”; and

(B) by inserting “(carried out under section 303)” after “for the National Assessment”;

(2) by striking “Board” each place such term appears (other than in subsection (a)) and inserting “Assessment Board”;

(3) by striking “Commissioner” each place such term appears and inserting “Commissioner for Education Statistics”;

(4) in subsection (b)(2)—

(A) by striking “ASSISTANT SECRETARY FOR EDUCATIONAL RESEARCH” in the heading and inserting “DIRECTOR OF THE INSTITUTE OF EDUCATION SCIENCES”; and

(B) by striking “Assistant Secretary for Educational Research and Improvement” and inserting “Director of the Institute of Education Sciences”;

(5) in subsection (e)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking “section 411(b)” and inserting “section 303(b)”;

(ii) in subparagraph (B), by striking “section 411(e)” and inserting “section 303(e)”;

(iii) in subparagraph (E), by striking “, including the Advisory Council established under section 407”;

(iv) in subparagraphs (F) and (I), by striking “section 411” each place such term appears and inserting “section 303”;

(v) in subparagraph (H), by striking “and” after the semicolon;

(vi) in subparagraph (I), by striking the period at the end and inserting “; and”; and

(vii) by inserting at the end the following:

“(J) plan and execute the initial public release of National Assessment of Educational Progress reports.

The National Assessment of Educational Progress data shall not be released prior to the release of the reports described in subparagraph (J).”;

(B) in paragraph (5), by striking “and the Advisory Council on Education Statistics”; and

(C) in paragraph (6), by striking “section 411(e)” and inserting “section 303(e)”;

(6) by transferring and redesignating the section as section 302 (following section 301) of title III of this Act.

(d) NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS.—Section 411 of the National Education Statistics Act of 1994 (20 U.S.C. 9010) is amended—

(1) by striking “Commissioner” each place such term appears and inserting “Commissioner for Education Statistics”;

(2) by striking “National Assessment Governing Board” and “National Board” each place either such term appears and inserting “Assessment Board”;

(3) in subsection (a)—

(A) by striking “section 412” and inserting “section 302”; and

(B) by striking “and with the technical assistance of the Advisory Council established under section 407.”;

(4) in subsection (b)—

(A) in paragraph (1), by inserting “of” after “academic achievement and reporting”;

(B) in paragraph (3)(A)—

(i) in clause (i), by striking “paragraphs (1)(B) and (1)(E)” and inserting “paragraphs (2)(B) and (2)(E)”;

(ii) in clause (ii), by striking “paragraph (1)(C)” and inserting “paragraph (2)(C)”;

(iii) in clause (iii), by striking “paragraph (1)(D)” and inserting “paragraph (2)(D)”;

(C) in paragraph (5), by striking “(c)(2)” and inserting “(c)(3)”;

(5) in subsection (c)(2)(D), by striking “subparagraph (B)” and inserting “subparagraph (C)”;

(6) in subsection (e)(4), by striking “subparagraph (2)(C)” and inserting “paragraph (2)(C) of such subsection”;

(7) in subsection (f)(1)(B)(iv), by striking “section 412(e)(4)” and inserting “section 302(e)(4)”;

(8) by transferring and redesignating the section as section 303 (following section 302) of title III of this Act.

(e) TABLE OF CONTENTS AMENDMENT.—The items relating to title III in the table of contents of this Act, as amended by section 401 of this Act, are amended to read as follows:

#### “TITLE III—NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS

“Sec. 301. Short title.

“Sec. 302. National Assessment Governing Board.

“Sec. 303. National Assessment of Educational Progress.

“Sec. 304. Definitions.

“Sec. 305. Authorization of appropriations.”.

#### SEC. 402. AMENDMENTS TO DEPARTMENT OF EDUCATION ORGANIZATION ACT.

The Department of Education Organization Act (20 U.S.C. 3401 et seq.) is amended—

(1) by striking section 202(b)(4) and inserting the following:

“(4) There shall be in the Department a Director of the Institute of Education Sciences who shall be appointed in accordance with section 114(a) of the Education Sciences Reform Act of 2002 and perform the duties described in that Act.”;

(2) by striking section 208 and inserting the following:

#### “INSTITUTE OF EDUCATION SCIENCES

“SEC. 208. There shall be in the Department of Education the Institute of Education Sciences, which shall be administered in accordance with the Education Sciences Reform Act of 2002 by the Director appointed under section 114(a) of that Act.”; and

(3) by striking the item relating to section 208 in the table of contents in section 1 and inserting the following:

“Sec. 208. Institute of Education Sciences.”.

#### SEC. 403. REPEALS.

The following provisions of law are repealed:

(1) The National Education Statistics Act of 1994 (20 U.S.C. 9001 et seq.).

(2) Parts A through E and K through N of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (title IX of the Goals 2000: Educate America Act) (20 U.S.C. 6001 et seq.).

(3) Section 401(b)(2) of the Department of Education Organization Act (20 U.S.C. 3461(b)(2)).

#### SEC. 404. CONFORMING AND TECHNICAL AMENDMENTS.

(a) GOALS 2000: EDUCATE AMERICA ACT.—The table of contents in section 1(b) of the Goals 2000: Educate America Act (20 U.S.C. 5801 note) is amended by striking the items relating to

parts A through E of title IX (including the items relating to sections within those parts).

(b) TITLE 5, UNITED STATES CODE.—Section 5315 of title 5, United States Code, is amended by striking the following:

“Commissioner, National Center for Education Statistics.”.

(c) GENERAL EDUCATION PROVISIONS ACT.—Section 447(b) of the General Education Provisions Act (20 U.S.C. 1232j(b)) is amended by striking “section 404(a)(6) of the National Education Statistics Act of 1994 (20 U.S.C. 9003(a)(6))” and inserting “section 153(a)(6) of the Education Sciences Reform Act of 2002”.

(d) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended as follows:

(1) Section 1111(c)(2) is amended by striking “section 411(b)(2) of the National Education Statistics Act of 1994” and inserting “section 303(b)(2) of the National Assessment of Educational Progress Authorization Act”.

(2) Section 1112(b)(1)(F) is amended by striking “section 411(b)(2) of the National Education Statistics Act of 1994” and inserting “section 303(b)(2) of the National Assessment of Educational Progress Authorization Act”.

(3) Section 1117(a)(3) is amended—

(A) by inserting “(as such section existed on the day before the date of enactment of the Education Sciences Reform Act of 2002)” after “Act of 1994”; and

(B) by inserting “regional educational laboratories established under part E of the Education Sciences Reform Act of 2002 and comprehensive centers established under the Educational Technical Assistance Act of 2002 and” after “assistance from”.

(4) Section 1501(a)(3) is amended by striking “section 411 of the National Education Statistics Act of 1994” and inserting “section 303 of the National Assessment of Educational Progress Authorization Act”.

(5) The following provisions are each amended by striking “Office of Educational Research and Improvement” and inserting “Institute of Education Sciences”:

(A) Section 3222(a) (20 U.S.C. 6932(a)).

(B) Section 3303(1) (20 U.S.C. 7013(1)).

(C) Section 5464(e)(1) (20 U.S.C. 7253c(e)(1)).

(D) Paragraphs (1) and (2) of section 5615(d) (20 U.S.C. 7283d(d)).

(E) Paragraphs (1) and (2) of section 7131(c) (20 U.S.C. 7451(c)).

(6) Paragraphs (1) and (2) of section 5464(e) (20 U.S.C. 7253c(e)) are each amended by striking “such Office” and inserting “such Institute”.

(7) Section 5613 (20 U.S.C. 7283b) is amended—

(A) in subsection (a)(5), by striking “Assistant Secretary of the Office of Educational Research and Improvement” and inserting “Director of the Institute of Education Sciences”; and

(B) in subsection (b)(2)(B), by striking “research institutes of the Office of Educational Research and Improvement” and inserting “National Education Centers of the Institute of Education Sciences”.

(8) Sections 5615(d)(1) and 7131(c)(1) (20 U.S.C. 7283d(d)(1), 7451(c)(1)) are each amended by striking “by the Office” and inserting “by the Institute”.

(9) Section 9529(b) is amended by striking “section 404(a)(6) of the National Education Statistics Act of 1994” and inserting “section 153(a)(5) of the Education Sciences Reform Act of 2002”.

(e) SCHOOL-TO-WORK OPPORTUNITIES ACT OF 1994.—Section 404 of the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6194) is amended by inserting “(as such Act existed on the day before the date of enactment of the Education Sciences Reform Act of 2002)” after “Act of 1994”.

#### SEC. 405. ORDERLY TRANSITION.

The Secretary of Education shall take such steps as are necessary to provide for the orderly

transition to, and implementation of, the offices, boards, committees, and centers (and their various functions and responsibilities) established or authorized by this Act, and by the amendments made by this Act, from those established or authorized by the Educational Research, Development, Dissemination, and Improvement Act of 1994 (20 U.S.C. 6001 et seq.) and the National Education Statistics Act of 1994 (20 U.S.C. 9001 et seq.).

#### SEC. 406. IMPACT AID.

(a) **PAYMENTS FOR FEDERALLY CONNECTED CHILDREN.**—Section 8003(b)(2)(C)(i)(II)(bb) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(B)(2)(c)(i)(II)(bb)) is amended to read as follows:

“(bb) for a local educational agency that has a total student enrollment of less than 350 students, has a per-pupil expenditure that is less than the average per-pupil expenditure of a comparable local education agency or three comparable local educational agencies in the State in which the local educational agency is located; and”.

(b) **EFFECTIVE DATE.**—The amendment made by section 406(a) shall be effective on September 30, 2001, and shall apply with respect to fiscal year 2001, and all subsequent fiscal years.

(c) **BONESTEEL-FAIRFAX SCHOOL DISTRICT.**—The Secretary of Education shall deem the local educational agency serving the Bonesteel-Fairfax school district, 26-5, in Bonesteel, South Dakota, as eligible in fiscal year 2003 for a basic support payment for heavily impacted local educational agencies under section 8003(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(2)).

(d) **CENTRAL SCHOOL DISTRICT.**—Notwithstanding any other provision of law, the Secretary of Education shall treat as timely filed an application filed by Central School District, Sequoyah County, Oklahoma, for payment for federally connected students for fiscal year 2003, pursuant to section 8003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703), and shall process such application for payment, if the Secretary has received such application not later than 30 days after the date of enactment of this Act.

Mr. CASTLE. Mr. Speaker, nearly three years ago, I introduced legislation to transform the Department of Education's Office of Educational Reform and Improvement (OERI) into a streamlined, more independent and more scientific “Institute of Education Sciences.” Today, nearly six months after the House of Representatives passed the bill unanimously, we are poised enact long-overdue reforms to ensure that education research is based on science, not fads or fiction.

This year, President Bush signed landmark education reforms into law, demanding new and more challenging standards of accountability from our states and improved student achievement from our schools. Recognizing that any successful education reform effort requires the best information on how children learn, the words “scientifically based research” appear more than 100 times in the new law.

The reason for the focus on “scientific” research is simple: educators need to know what works if they are to improve student achievement. For that reason, among other things, H.R. 3801:

- Replaces OERI with a new, streamlined National Institute of Education Science;

- Insulates federal research, evaluations and statistics from inappropriate partisan or political influences;

- Ensures high quality standards;

- Creates a “culture of science” by allowing the Director to attract the best researchers,

evaluators and statisticians to the Institute; and,

- Ensures that technical assistance is responsive to the needs of states and schools.

If we are to lift those who are struggling to achieve proficiency in reading, math and science, we must expect scientific rigor. And we must ensure that ‘what works’ in education informs classroom practice. My legislation helps accomplish these important goals.

As there will be no conference report to accompany H.R. 3801, I would like to take this opportunity to clarify our intent in a few areas. The comprehensive centers under this Act will provide essential technical assistance and professional development to help our states and schools advance the goals of the No Child Left Behind Act. It is our intent that the reference to “local entities” or “consortia of such entities” in section 203 include regional educational agencies as among those eligible to receive grants. As my colleague, Mr. McKEON, has informed me, the state of California has a consortium of eight regional offices of education that provide hands-on technical assistance and professional development directly to schools in Southern California. It is our intent that the regional offices of education will continue to be eligible to participate in our improved structure.

Also, I would like to clarify the intent of Section 117(d), regarding the supervision and removal authority of the Director. This section does not mean that the NCES Commissioner operates independently of the Director of the Institute. In fact, the Statistics Commissioner is an officer of the government and has the authority to fulfill the duties stipulated in section 154 and section 155 of the bill, such as the authority to enter into contracts and the authority to supervise the technical work of the Statistics Center. However, since NCES is a part of the Institute, along with the other National Education Centers, is ultimately subject to the oversight of the Director of the Institute.

Finally, this legislation would not have been possible without the hard work of members on both sides of the aisle and both chambers of Congress. In particular, I want to thank the full Committee Chairman JOHN BOEHNER, Ranking Member GEORGE MILLER and by Subcommittee Ranking Member DALE KILDEE as well as Chairman KENNEDY and Ranking Member GREGG for their assistance and their strong support throughout this process.

I also want to thank Secretary Paige, Assistant Secretary Russ Whitehurst and the staff at the Department, whose counsel and technical expertise were invaluable.

Last, but certainly not least, I want to thank the staff who put in countless hours to get this legislation right—Doug Mesecar, Bob Sweet, Sally Lovejoy, Alex Nock, Denise Forte, Jane Oates, Tracy Locklin, and Denzel McGuire. They all deserve our thanks and appreciation for improving our system of education for the better.

Mr. BOEHNER. Mr. Speaker, the time for final passage of the reauthorization of the Office of Education Research and Improvement (OERI) has come. The Senate and the House have agreed on the language of the bill, and both houses, on a bipartisan, bicameral basis have agreed to vote on it before we adjourn.

My colleagues, Mr. CASTLE, Mr. KILDEE, and Mr. MILLER in the House, and Senators KENNEDY and GREGG deserve a great deal of credit for moving the Education Sciences Re-

form Act of 2002 and finally bringing the bill to a final vote. Without the leadership and determination of these gentlemen, it wouldn't have happened this year.

Providing high quality, scientifically based education research is vital if we are to improve our nation's schools and help every child receive a quality education. The Education Sciences Reform Act of 2002 ensures such research will occur. In addition, it provides for technical assistance to states, school districts, and schools that is accountable, customer-driven, and focused on the implementation of the No Child Left Behind Act. Let me emphasize that the reforms in this bill will greatly assist in helping the No Child Left Behind Act successfully transform and reform our schools.

Some of the reforms that have been included in this bill are significant and will offer the opportunity for a new “culture of science” to develop in federal research, evaluation and statistics. Let me describe just a few. The bill:

- Requires Scientifically Based Research—Research that can't or won't meet these standards will be ineligible for federal funds. This means scientific experiments will help ensure that schools do not waste scarce resources on ineffective programs and methods of instruction.

- Focuses the Research, Evaluation and Statistics Activities of the Department—The bill ensures that the new Institute of Education Sciences is responsible for research, evaluation and statistics activities only. It will no longer administer grant programs, which dilute the focus of the Institute.

- Eliminates Bureaucracy—The bill eliminates the five National Research Institutes, which were supposed to organize and support education research in specific areas but never did.

- Guards Against Partisan or Political Activities—The decision-makers in charge of research, statistics and evaluation are required to be highly qualified in their respective fields, ensuring that scientists—not politicians—will be in charge. Also, these scientists must ensure that all activities at the Institute are free from bias and political influence.

- Expands Competition—The bill expands competition to allow other research entities, such as public or private, profit or nonprofit research organizations, to compete for federal funds. The Director has the flexibility to award contracts and grants to those entities that meet the priorities and the standards of the Institute.

- Helps States and Schools—The bill specifically asks those responsible for technical assistance to focus on helping states and schools implement education reforms, especially as they relate to the No Child Left Behind Act.

I also want to highlight a provision included in this legislation to support states in developing longitudinal data systems. As schools, districts, and states work to collect, disaggregate, and analyze the data that No Child Left Behind requires, especially as they use that data to determine which schools and districts are making adequate yearly progress, it is critical that states have an adequate mechanism in place to monitor the academic achievement of students from year to year, and this bill can help ensure that states have the data they need to ensure accountability for results.

This legislation allows the Secretary to make grants to states for the development of

statewide, longitudinal data systems. The intent of this program is to help states with their ongoing efforts to develop such a system, as needed. In some cases that may mean a state is starting from scratch. In others, a state that already has a data system in place at the district or school level may be assisted. I would encourage those states currently working, either on their own or with high quality organizations, to improve their data systems to apply for assistance under this provision.

Different school districts often use different systems of data collection. This language would allow a state to build a statewide, longitudinal data system that is comprised of diverse systems at the district and local level, so long as the data was collected at the state level in a consistent format.

Mr. Speaker, we have worked closely with the President and the Administration as we have developed this bill, and have their support for its final passage.

And once again, I thank my colleagues, Mr. CASTLE, Mr. MILLER, Mr. KILDEE, and Senators GREGG and KENNEDY for making this bipartisan process work. We have continued the good relationship we had during the yearlong work on the No Child Left Behind Act. I am hopeful that we have set a new tone and a new example in Congress. Even in an election year, the approval by both the House and the Senate of the Education Sciences Reform Act of 2002 demonstrates once again that we can do great things when we work together.

The staff of both the House and Senate Committees is to be commended for their hard work too. Thank you, on both sides of the aisle and both sides of the Hill, for your outstanding work on this important legislation. I urge my Colleagues to vote aye and pass this bill.

#### CONCURRED IN SENATE AMENDMENT

H.R. 4015, to amend title 38, United States Code, to revise and improve employment, training, and placement services furnished to veterans, and for other purposes.

Senate amendment:

Strike out all after the enacting clause and insert:

#### **SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.**

(a) **SHORT TITLE.**—This Act may be cited as the “Jobs for Veterans Act”.

(b) **REFERENCES TO TITLE 38, UNITED STATES CODE.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

#### **SEC. 2. PRIORITY OF SERVICE FOR VETERANS IN DEPARTMENT OF LABOR JOB TRAINING PROGRAMS.**

(a) **VETERANS’ JOB TRAINING ASSISTANCE.**—(1) Chapter 42 is amended by adding at the end the following new section:

##### **“§ 4215. Priority of service for veterans in Department of Labor job training programs**

“(a) **DEFINITIONS.**—In this section:

“(1) The term ‘covered person’ means any of the following individuals:

“(A) A veteran.

“(B) The spouse of any of the following individuals:

“(i) Any veteran who died of a service-connected disability.

“(ii) Any member of the Armed Forces serving on active duty who, at the time of application for assistance under this section, is listed, pursuant to section 556 of title 37 and regulations issued thereunder, by the Secretary concerned in one or more of the following categories and has been so listed for a total of more than 90 days: (I) missing in action, (II) captured in line of duty by a hostile force, or (III) forcibly detained or interned in line of duty by a foreign government or power.

“(iii) Any veteran who has a total disability resulting from a service-connected disability.

“(iv) Any veteran who died while a disability so evaluated was in existence.

“(2) The term ‘qualified job training program’ means any workforce preparation, development, or delivery program or service that is directly funded, in whole or in part, by the Department of Labor and includes the following:

“(A) Any such program or service that uses technology to assist individuals to access workforce development programs (such as job and training opportunities, labor market information, career assessment tools, and related support services).

“(B) Any such program or service under the public employment service system, one-stop career centers, the Workforce Investment Act of 1998, a demonstration or other temporary program, and those programs implemented by States or local service providers based on Federal block grants administered by the Department of Labor.

“(C) Any such program or service that is a workforce development program targeted to specific groups.

“(3) The term ‘priority of service’ means, with respect to any qualified job training program, that a covered person shall be given priority over nonveterans for the receipt of employment, training, and placement services provided under that program, notwithstanding any other provision of law.

“(b) **ENTITLEMENT TO PRIORITY OF SERVICE.**—(1) A covered person is entitled to priority of service under any qualified job training program if the person otherwise meets the eligibility requirements for participation in such program.

“(2) The Secretary of Labor may establish priorities among covered persons for purposes of this section to take into account the needs of disabled veterans and special disabled veterans, and such other factors as the Secretary determines appropriate.

“(c) **ADMINISTRATION OF PROGRAMS AT STATE AND LOCAL LEVELS.**—An entity of a State or a political subdivision of the State that administers or delivers services under a qualified job training program shall—

“(1) provide information and priority of service to covered persons regarding benefits and services that may be obtained through other entities or service providers; and

“(2) ensure that each covered person who applies to or who is assisted by such a program is informed of the employment-related rights and benefits to which the person is entitled under this section.

“(d) **ADDITION TO ANNUAL REPORT.**—In the annual report required under section 4107(c) of this title for the program year beginning in 2003 and each subsequent program year, the Secretary of Labor shall evaluate whether covered persons are receiving priority of service and are being fully served by qualified job training programs, and whether the representation of veterans in such programs is in proportion to the incidence of representation of veterans in the labor market, including within groups that the Secretary may designate for priority under such programs, if any.”

(2) The table of sections at the beginning of chapter 42 is amended by inserting after the item relating to section 4214 the following new item: “4215. Priority of service for veterans in Department of Labor job training programs.”

(b) **EMPLOYMENT OF VETERANS WITH RESPECT TO FEDERAL CONTRACTS.**—(1) Section 4212(a) is amended to read as follows:

“(a)(1) Any contract in the amount of \$100,000 or more entered into by any department or agency of the United States for the procurement of personal property and nonpersonal services (including construction) for the United States, shall contain a provision requiring that the party contracting with the United States take affirmative action to employ and advance in employment qualified covered veterans. This section applies to any subcontract in the amount of \$100,000 or more entered into by a prime contractor in carrying out any such contract.

“(2) In addition to requiring affirmative action to employ such qualified covered veterans under such contracts and subcontracts and in order to promote the implementation of such requirement, the Secretary of Labor shall prescribe regulations requiring that—

“(A) each such contractor for each such contract shall immediately list all of its employment openings with the appropriate employment service delivery system (as defined in section 4101(7) of this title), and may also list such openings with one-stop career centers under the Workforce Investment Act of 1998, other appropriate service delivery points, or America’s Job Bank (or any additional or subsequent national electronic job bank established by the Department of Labor), except that the contractor may exclude openings for executive and senior management positions and positions which are to be filled from within the contractor’s organization and positions lasting three days or less;

“(B) each such employment service delivery system shall give such qualified covered veterans priority in referral to such employment openings; and

“(C) each such employment service delivery system shall provide a list of such employment openings to States, political subdivisions of States, or any private entities or organizations under contract to carry out employment, training, and placement services under chapter 41 of this title.

“(3) In this section:

“(A) The term ‘covered veteran’ means any of the following veterans:

“(i) Disabled veterans.

“(ii) Veterans who served on active duty in the Armed Forces during a war or in a campaign or expedition for which a campaign badge has been authorized.

“(iii) Veterans who, while serving on active duty in the Armed Forces, participated in a United States military operation for which an Armed Forces service medal was awarded pursuant to Executive Order 12985 (61 Fed. Reg. 1209).

“(iv) Recently separated veterans.

“(B) The term ‘qualified’, with respect to an employment position, means having the ability to perform the essential functions of the position with or without reasonable accommodation for an individual with a disability.”

(2)(A) Section 4212(c) is amended—

(i) by striking “suitable”; and

(ii) by striking “subsection (a)(2) of this section” and inserting “subsection (a)(2)(B)”.

(B) Section 4212(d)(1) is amended—

(i) in the matter preceding subparagraph (A), by striking “of this section” after “subsection (a)”;

(ii) by amending subparagraphs (A) and (B) to read as follows:

“(A) the number of employees in the workforce of such contractor, by job category and hiring location, and the number of such employees, by job category and hiring location, who are qualified covered veterans;

“(B) the total number of new employees hired by the contractor during the period covered by the report and the number of such employees who are qualified covered veterans; and”

(C) Section 4212(d)(2) is amended by striking “of this subsection” after “paragraph (1)”.

(D) Section 4211(6) is amended by striking “one-year period” and inserting “three-year period”.

(3) The amendments made by this subsection shall apply with respect to contracts entered

into on or after the first day of the first month that begins 12 months after the date of the enactment of this Act.

(c) **EMPLOYMENT WITHIN THE FEDERAL GOVERNMENT.**—(1) Section 4214(a)(1) is amended—

(A) in the first sentence, by striking “life” and all that follows and inserting “life.”; and  
(B) in the second sentence, by striking “major” and inserting “uniquely qualified”.

(2) Section 4214(b) is amended—

(A) in paragraph (1), by striking “readjustment” and inserting “recruitment”;

(B) in paragraph (2), by striking “to—” and all that follows through the period at the end and inserting “to qualified covered veterans.”;

(C) in paragraph (3), to read as follows:

“(3) A qualified covered veteran may receive such an appointment at any time.”.

(3)(A) Section 4214(a) is amended—

(i) in the third sentence of paragraph (1), by striking “disabled veterans and certain veterans of the Vietnam era and of the post-Vietnam era” and inserting “qualified covered veterans (as defined in paragraph (2)(B))”; and  
(ii) in paragraph (2), to read as follows:

“(2) In this section:

“(A) The term ‘agency’ has the meaning given the term ‘department or agency’ in section 4211(5) of this title.  
“(B) The term ‘qualified covered veteran’ means a veteran described in section 4212(a)(3) of this title.”.

(B) Clause (i) of section 4214(e)(2)(B) is amended by striking “of the Vietnam era”.

(C) Section 4214(g) is amended—

(i) by striking “qualified” the first place it occurs and all that follows through “era” the first place it occurs and inserting “qualified covered veterans”; and  
(ii) by striking “under section 1712A of this title” and all that follows and inserting “under section 1712A of this title.”.

(4) The amendments made by this subsection shall apply to qualified covered veterans without regard to any limitation relating to the date of the veteran’s last discharge or release from active duty that may have otherwise applied under section 4214(b)(3) as in effect on the date before the date of the enactment of this Act.

### **SEC. 3. FINANCIAL AND NON-FINANCIAL PERFORMANCE INCENTIVE AWARDS FOR QUALITY VETERANS EMPLOYMENT, TRAINING, AND PLACEMENT SERVICES.**

(a) **PERFORMANCE INCENTIVE AWARDS FOR QUALITY EMPLOYMENT, TRAINING, AND PLACEMENT SERVICES.**—Chapter 41 is amended by adding at the end the following new section:

#### **“§4112. Performance incentive awards for quality employment, training, and placement services**

“(a) **CRITERIA FOR PERFORMANCE INCENTIVE AWARDS.**—(1) For purposes of carrying out a program of performance incentive awards under section 4102A(c)(2)(A)(i)(III) of this title, the Secretary, acting through the Assistant Secretary of Labor for Veterans’ Employment and Training, shall establish criteria for performance incentive awards programs to be administered by States to—

“(A) encourage the improvement and modernization of employment, training, and placement services provided under this chapter; and  
“(B) recognize eligible employees for excellence in the provision of such services or for having made demonstrable improvements in the provision of such services.

“(2) The Secretary shall establish such criteria in consultation with representatives of States, political subdivisions of States, and other providers of employment, training, and placement services under the Workforce Investment Act of 1998 consistent with the performance measures established under section 4102A(b)(7) of this title.

“(b) **FORM OF AWARDS.**—Under the criteria established by the Secretary for performance in-

centive awards to be administered by States, an award under such criteria may be a cash award or such other nonfinancial awards as the Secretary may specify.

“(c) **RELATIONSHIP OF AWARD TO GRANT PROGRAM AND EMPLOYEE COMPENSATION.**—Performance incentive cash awards under this section—

“(1) shall be made from amounts allocated from the grant or contract amount for a State for a program year under section 4102A(c)(7) of this title; and  
“(2) is in addition to the regular pay of the recipient.

“(d) **ELIGIBLE EMPLOYEE DEFINED.**—In this section, the term ‘eligible employee’ means any of the following:

“(1) A disabled veterans’ outreach program specialist.

“(2) A local veterans’ employment representative.

“(3) An individual providing employment, training, and placement services to veterans under the Workforce Investment Act of 1998 or through an employment service delivery system (as defined in section 4101(7) of this title).”.

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of chapter 41 is amended by adding at the end the following new item:

“4112. Performance incentive awards for quality employment, training, and placement services.”.

### **SEC. 4. REFINEMENT OF JOB TRAINING AND PLACEMENT FUNCTIONS OF THE DEPARTMENT.**

(a) **REVISION OF DEPARTMENT LEVEL SENIOR OFFICIALS AND FUNCTIONS.**—(1) Sections 4102A and 4103 are amended to read as follows:

#### **“§4102A. Assistant Secretary of Labor for Veterans’ Employment and Training; program functions; Regional Administrators**

“(a) **ESTABLISHMENT OF POSITION OF ASSISTANT SECRETARY OF LABOR FOR VETERANS’ EMPLOYMENT AND TRAINING.**—(1) There is established within the Department of Labor an Assistant Secretary of Labor for Veterans’ Employment and Training, appointed by the President by and with the advice and consent of the Senate, who shall formulate and implement all departmental policies and procedures to carry out (A) the purposes of this chapter, chapter 42, and chapter 43 of this title, and (B) all other Department of Labor employment, unemployment, and training programs to the extent they affect veterans.

“(2) The employees of the Department of Labor administering chapter 43 of this title shall be administratively and functionally responsible to the Assistant Secretary of Labor for Veterans’ Employment and Training.

“(3)(A) There shall be within the Department of Labor a Deputy Assistant Secretary of Labor for Veterans’ Employment and Training. The Deputy Assistant Secretary shall perform such functions as the Assistant Secretary of Labor for Veterans’ Employment and Training prescribes.

“(B) No individual may be appointed as a Deputy Assistant Secretary of Labor for Veterans’ Employment and Training unless the individual has at least five years of service in a management position as an employee of the Federal civil service or comparable service in a management position in the Armed Forces. For purposes of determining such service of an individual, there shall be excluded any service described in subparagraphs (A), (B), and (C) of section 308(d)(2) of this title.

“(b) **PROGRAM FUNCTIONS.**—The Secretary shall carry out the following functions:

“(1) Except as expressly provided otherwise, carry out all provisions of this chapter and chapter 43 of this title through the Assistant Secretary of Labor for Veterans’ Employment and Training and administer through such Assistant Secretary all programs under the jurisdiction of the Secretary for the provision of employment and training services designed to meet

the needs of all veterans and persons eligible for services furnished under this chapter.

“(2) In order to make maximum use of available resources in meeting such needs, encourage all such programs, and all grantees and contractors under such programs to enter into cooperative arrangements with private industry and business concerns (including small business concerns owned by veterans or disabled veterans), educational institutions, trade associations, and labor unions.

“(3) Ensure that maximum effectiveness and efficiency are achieved in providing services and assistance to eligible veterans under all such programs by coordinating and consulting with the Secretary of Veterans Affairs with respect to (A) programs conducted under other provisions of this title, with particular emphasis on coordination of such programs with readjustment counseling activities carried out under section 1712A of this title, apprenticeship or other on-the-job training programs carried out under section 3687 of this title, and rehabilitation and training activities carried out under chapter 31 of this title and (B) determinations covering veteran population in a State.

“(4) Ensure that employment, training, and placement activities are carried out in coordination and cooperation with appropriate State public employment service officials.

“(5) Subject to subsection (c), make available for use in each State by grant or contract such funds as may be necessary to support—

“(A) disabled veterans’ outreach program specialists appointed under section 4103A(a)(1) of this title,

“(B) local veterans’ employment representatives assigned under section 4104(b) of this title, and

“(C) the reasonable expenses of such specialists and representatives described in subparagraphs (A) and (B), respectively, for training, travel, supplies, and other business expenses, including travel expenses and per diem for attendance at the National Veterans’ Employment and Training Services Institute established under section 4109 of this title.

“(6) Monitor and supervise on a continuing basis the distribution and use of funds provided for use in the States under paragraph (5).

“(7) Establish, and update as appropriate, a comprehensive performance accountability system (as described in subsection (f)) and carry out annual performance reviews of veterans employment, training, and placement services provided through employment service delivery systems, including through disabled veterans’ outreach program specialists and through local veterans’ employment representatives in States receiving grants, contracts, or awards under this chapter.

“(c) **CONDITIONS FOR RECEIPT OF FUNDS.**—(1) The distribution and use of funds under subsection (b)(5) in order to carry out sections 4103A(a) and 4104(a) of this title shall be subject to the continuing supervision and monitoring of the Secretary and shall not be governed by the provisions of any other law, or any regulations prescribed thereunder, that are inconsistent with this section or section 4103A or 4104 of this title.

“(2)(A) A State shall submit to the Secretary an application for a grant or contract under subsection (b)(5). The application shall contain the following information:

“(i) A plan that describes the manner in which the State shall furnish employment, training, and placement services required under this chapter for the program year, including a description of—

“(I) duties assigned by the State to disabled veterans’ outreach program specialists and local veterans’ employment representatives consistent with the requirements of sections 4103A and 4104 of this title;

“(II) the manner in which such specialists and representatives are integrated in the employment service delivery systems in the State; and

“(III) the program of performance incentive awards described in section 4112 of this title in the State for the program year.

“(ii) The veteran population to be served.

“(iii) Such additional information as the Secretary may require to make a determination with respect to awarding a grant or contract to the State.

“(B)(i) Subject to the succeeding provisions of this subparagraph, of the amount available under subsection (b)(5) for a fiscal year, the Secretary shall make available to each State with an application approved by the Secretary an amount of funding in proportion to the number of veterans seeking employment using such criteria as the Secretary may establish in regulation, including civilian labor force and unemployment data, for the State on an annual basis. The proportion of funding shall reflect the ratio of—

“(I) the total number of veterans residing in the State that are seeking employment; to

“(II) the total number of veterans seeking employment in all States.

“(ii) The Secretary shall phase in over the three fiscal-year period that begins on October 1, 2002, the manner in which amounts are made available to States under subsection (b)(5) and this subsection, as amended by the Jobs for Veterans Act.

“(iii) In carrying out this paragraph, the Secretary may establish minimum funding levels and hold-harmless criteria for States.

“(3)(A)(i) As a condition of a grant or contract under this section for a program year, in the case of a State that the Secretary determines has an entered-employment rate for veterans that is deficient for the preceding program year, the State shall develop a corrective action plan to improve that rate for veterans in the State.

“(ii) The State shall submit the corrective action plan to the Secretary for approval, and if approved, shall expeditiously implement the plan.

“(iii) If the Secretary does not approve a corrective action plan submitted by the State under clause (i), the Secretary shall take such steps as may be necessary to implement corrective actions in the State to improve the entered-employment rate for veterans in that State.

“(B) To carry out subparagraph (A), the Secretary shall establish in regulations a uniform national threshold entered-employment rate for veterans for a program year by which determinations of deficiency may be made under subparagraph (A).

“(C) In making a determination with respect to a deficiency under subparagraph (A), the Secretary shall take into account the applicable annual unemployment data for the State and consider other factors, such as prevailing economic conditions, that affect performance of individuals providing employment, training, and placement services in the State.

“(4) In determining the terms and conditions of a grant or contract under which funds are made available to a State in order to carry out section 4103A or 4104 of this title, the Secretary shall take into account—

“(A) the results of reviews, carried out pursuant to subsection (b)(7), of the performance of the employment, training, and placement service delivery system in the State, and

“(B) the monitoring carried out under this section.

“(5) Each grant or contract by which funds are made available to a State shall contain a provision requiring the recipient of the funds—

“(A) to comply with the provisions of this chapter; and

“(B) on an annual basis, to notify the Secretary of, and provide supporting rationale for, each nonveteran who is employed as a disabled veterans' outreach program specialist and local veterans' employment representative for a period in excess of 6 months.

“(6) Each State shall coordinate employment, training, and placement services furnished to

veterans and eligible persons under this chapter with such services furnished with respect to such veterans and persons under the Workforce Investment Act of 1998 and the Wagner-Peyser Act.

“(7) With respect to program years beginning during or after fiscal year 2004, one percent of the amount of a grant or contract under which funds are made available to a State in order to carry out section 4103A or 4104 of this title for the program year shall be for the purposes of making cash awards under the program of performance incentive awards described in section 4112 of this title in the State.

“(d) PARTICIPATION IN OTHER FEDERALLY FUNDED JOB TRAINING PROGRAMS.—The Assistant Secretary of Labor for Veterans' Employment and Training shall promote and monitor participation of qualified veterans and eligible persons in employment and training opportunities under title I of the Workforce Investment Act of 1998 and other federally funded employment and training programs.

“(e) REGIONAL ADMINISTRATORS.—(1) The Secretary shall assign to each region for which the Secretary operates a regional office a representative of the Veterans' Employment and Training Service to serve as the Regional Administrator for Veterans' Employment and Training in such region.

“(2) Each such Regional Administrator shall carry out such duties as the Secretary may require to promote veterans employment and reemployment within the region that the Administrator serves.

“(f) ESTABLISHMENT OF PERFORMANCE STANDARDS AND OUTCOMES MEASURES.—(1) By not later than 6 months after the date of the enactment of this section, the Assistant Secretary of Labor for Veterans' Employment and Training shall establish and implement a comprehensive performance accountability system to measure the performance of employment service delivery systems, including disabled veterans' outreach program specialists and local veterans' employment representatives providing employment, training, and placement services under this chapter in a State to provide accountability of that State to the Secretary for purposes of subsection (c).

“(2) Such standards and measures shall—

“(A) be consistent with State performance measures applicable under section 136(b) of the Workforce Investment Act of 1998; and

“(B) be appropriately weighted to provide special consideration for placement of (i) veterans requiring intensive services (as defined in section 4101(9) of this title), such as special disabled veterans and disabled veterans, and (ii) veterans who enroll in readjustment counseling under section 1712A of this title.

“(g) AUTHORITY TO PROVIDE TECHNICAL ASSISTANCE TO STATES.—The Secretary may provide such technical assistance as the Secretary determines appropriate to any State that the Secretary determines has, or may have, an entered-employment rate in the State that is deficient, as determined under subsection (c)(3) with respect to a program year, including assistance in the development of a corrective action plan under that subsection.

**“§4103. Directors and Assistant Directors for Veterans' Employment and Training; additional Federal personnel**

“(a) DIRECTORS AND ASSISTANT DIRECTORS.—(1) The Secretary shall assign to each State a representative of the Veterans' Employment and Training Service to serve as the Director for Veterans' Employment and Training, and shall assign full-time Federal clerical or other support personnel to each such Director.

“(2) Each Director for Veterans' Employment and Training for a State shall, at the time of appointment, have been a bona fide resident of the State for at least two years.

“(3) Full-time Federal clerical or other support personnel assigned to Directors for Vet-

erans' Employment and Training shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5.

“(b) ADDITIONAL FEDERAL PERSONNEL.—The Secretary may also assign as supervisory personnel such representatives of the Veterans' Employment and Training Service as the Secretary determines appropriate to carry out the employment, training, and placement services required under this chapter, including Assistant Directors for Veterans' Employment and Training.”.

(2) The items relating to sections 4102A and 4103, respectively, in the table of sections at the beginning of chapter 41 are amended to read as follows:

“4102A. Assistant Secretary of Labor for Veterans' Employment and Training; program functions; Regional Administrators.

“4103. Directors and Assistant Directors for Veterans' Employment and Training; additional Federal personnel.”.

(3)(A)(i) Section 4104A is repealed.

(ii) The table of sections at the beginning of chapter 41 is amended by striking the item relating to section 4104A.

(B) Section 4107(b) is amended by striking “The Secretary shall establish definitive performance standards” and inserting “The Secretary shall apply performance standards established under section 4102A(f) of this title”.

(4) The amendments made by this subsection shall take effect on the date of the enactment of this Act, and apply for program and fiscal years under chapter 41 of title 38, United States Code, beginning on or after such date.

(b) REVISION OF STATUTORILY DEFINED DUTIES OF DISABLED VETERANS' OUTREACH PROGRAM SPECIALISTS AND LOCAL VETERANS' EMPLOYMENT REPRESENTATIVES.—(1) Section 4103A is amended by striking all after the heading and inserting the following:

“(a) REQUIREMENT FOR EMPLOYMENT BY STATES OF A SUFFICIENT NUMBER OF SPECIALISTS.—(1) Subject to approval by the Secretary, a State shall employ such full- or part-time disabled veterans' outreach program specialists as the State determines appropriate and efficient to carry out intensive services under this chapter to meet the employment needs of eligible veterans with the following priority in the provision of services:

“(A) Special disabled veterans.

“(B) Other disabled veterans.

“(C) Other eligible veterans in accordance with priorities determined by the Secretary taking into account applicable rates of unemployment and the employment emphases set forth in chapter 42 of this title.

“(2) In the provision of services in accordance with this subsection, maximum emphasis in meeting the employment needs of veterans shall be placed on assisting economically or educationally disadvantaged veterans.

“(b) REQUIREMENT FOR QUALIFIED VETERANS.—A State shall, to the maximum extent practicable, employ qualified veterans to carry out the services referred to in subsection (a). Preference shall be given in the appointment of such specialists to qualified disabled veterans.”.

(2) Section 4104 is amended by striking all after the heading and inserting the following:

“(a) REQUIREMENT FOR EMPLOYMENT BY STATES OF A SUFFICIENT NUMBER OF REPRESENTATIVES.—Subject to approval by the Secretary, a State shall employ such full- and part-time local veterans' employment representatives as the State determines appropriate and efficient to carry out employment, training, and placement services under this chapter.

“(b) PRINCIPAL DUTIES.—As principal duties, local veterans' employment representatives shall—

“(1) conduct outreach to employers in the area to assist veterans in gaining employment,

including conducting seminars for employers and, in conjunction with employers, conducting job search workshops and establishing job search groups; and

“(2) facilitate employment, training, and placement services furnished to veterans in a State under the applicable State employment service delivery systems.

“(c) REQUIREMENT FOR QUALIFIED VETERANS AND ELIGIBLE PERSONS.—A State shall, to the maximum extent practicable, employ qualified veterans or eligible persons to carry out the services referred to in subsection (a). Preference shall be accorded in the following order:

“(1) To qualified service-connected disabled veterans.

“(2) If no veteran described in paragraph (1) is available, to qualified eligible veterans.

“(3) If no veteran described in paragraph (1) or (2) is available, then to qualified eligible persons.

“(d) REPORTING.—Each local veterans' employment representative shall be administratively responsible to the manager of the employment service delivery system and shall provide reports, not less frequently than quarterly, to the manager of such office and to the Director for Veterans' Employment and Training for the State regarding compliance with Federal law and regulations with respect to special services and priorities for eligible veterans and eligible persons.”.

(3) The amendments made by this subsection shall take effect on the date of the enactment of this Act, and apply for program years under chapter 41 of title 38, United States Code, beginning on or after such date.

(c) REQUIREMENT TO PROMPTLY ESTABLISH ONE-STOP EMPLOYMENT SERVICES.—By not later than 18 months after the date of the enactment of this Act, the Secretary of Labor shall provide one-stop services and assistance to covered persons electronically by means of the Internet, as defined in section 231(e)(3) of the Communications Act of 1934, and such other electronic means to enhance the delivery of such services and assistance.

(d) REQUIREMENT FOR BUDGET LINE ITEM FOR TRAINING SERVICES INSTITUTE.—(1) The last sentence of section 4106(a) is amended to read as follows: “Each budget submission with respect to such funds shall include a separate listing of the amount for the National Veterans' Employment and Training Services Institute together with information demonstrating the compliance of such budget submission with the funding requirements specified in the preceding sentence.”.

(2) The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act, and apply to budget submissions for fiscal year 2004 and each subsequent fiscal year.

(e) CONFORMING AMENDMENTS.—(1) Section 4107(c)(5) is amended by striking “(including the need” and all that follows through “representatives”).

(2) Section 3117(a)(2)(B) is amended to read as follows:

“(B) utilization of employment, training, and placement services under chapter 41 of this title; and”.

#### SEC. 5. ADDITIONAL IMPROVEMENTS IN VETERANS EMPLOYMENT AND TRAINING SERVICES.

(a) INCLUSION OF INTENSIVE SERVICES.—(1)(A) Section 4101 is amended by adding at the end the following new paragraph:

“(9) The term ‘intensive services’ means local employment and training services of the type described in section 134(d)(3) of the Workforce Investment Act of 1998.”.

(B) Section 4102 is amended by striking “job and job training counseling service program,” and inserting “job and job training intensive services program.”.

(C) Section 4106(a) is amended by striking “proper counseling” and inserting “proper intensive services”.

(D) Section 4107(a) is amended by striking “employment counseling services” and inserting “intensive services”.

(E) Section 4107(c)(1) is amended by striking “the number counseled” and inserting “the number who received intensive services”.

(F) Section 4109(a) is amended by striking “counseling,” each place it appears and inserting “intensive services.”.

(2) The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act.

(b) ADDITIONAL VETS DUTY TO IMPLEMENT TRANSITIONS TO CIVILIAN CAREERS.—(1)(A) Section 4102 is amended by striking the period and inserting “, including programs carried out by the Veterans' Employment and Training Service to implement all efforts to ease the transition of servicemembers to civilian careers that are consistent with, or an outgrowth of, the military experience of the servicemembers.”.

(B) Such section is further amended by striking “and veterans of the Vietnam era” and inserting “and veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized”.

(2) The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act.

(c) MODERNIZATION OF EMPLOYMENT SERVICE DELIVERY POINTS TO INCLUDE TECHNOLOGICAL INNOVATIONS.—(1) Section 4101(7) is amended to read as follows:

“(7) The term ‘employment service delivery system’ means a service delivery system at which or through which labor exchange services, including employment, training, and placement services, are offered in accordance with the Wagner-Peyser Act.”.

(2) The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act.

(d) INCREASE IN ACCURACY OF REPORTING SERVICES FURNISHED TO VETERANS.—(1)(A) Section 4107(c)(1) is amended—

(i) by striking “veterans of the Vietnam era,”; and

(ii) by striking “and eligible persons who registered for assistance with” and inserting “eligible persons, recently separated veterans (as defined in section 4211(6) of this title), and servicemembers transitioning to civilian careers who registered for assistance with, or who are identified as veterans by,”.

(B) Section 4107(c)(2) is amended—

(i) by striking “the job placement rate” the first place it appears and inserting “the rate of entered employment (as determined in a manner consistent with State performance measures applicable under section 136(b) of the Workforce Investment Act of 1998); and

(ii) by striking “the job placement rate” the second place it appears and inserting “such rate of entered employment (as so determined)”.

(C) Section 4107(c)(4) is amended by striking “sections 4103A and 4104” and inserting “section 4212(d)”.

(D) Section 4107(c) is amended—

(i) by striking “and” at the end of paragraph (4);

(ii) by striking the period at the end of paragraph (5) and inserting “; and”; and

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

“(6) a report on the operation during the preceding program year of the program of performance incentive awards for quality employment services under section 4112 of this title.”.

(E) Section 4107(b), as amended by section 4(a)(3)(B), is further amended by striking the second sentence and inserting the following: “Not later than February 1 of each year, the Secretary shall report to the Committees on Veterans' Affairs of the Senate and the House of Representatives on the performance of States and organizations and entities carrying out employment, training, and placement services under this chapter, as measured under sub-

section (b)(7) of section 4102A of this title. In the case of a State that the Secretary determines has not met the minimum standard of performance (established by the Secretary under subsection (f) of such section), the Secretary shall include an analysis of the extent and reasons for the State's failure to meet that minimum standard, together with the State's plan for corrective action during the succeeding year.”.

(2) The amendments made by paragraph (1) shall apply to reports for program years beginning on or after July 1, 2003.

(e) CLARIFICATION OF AUTHORITY OF NVETSI TO PROVIDE TRAINING FOR PERSONNEL OF OTHER DEPARTMENTS AND AGENCIES.—Section 4109 is amended by adding at the end the following new subsection:

“(c)(1) Nothing in this section shall be construed as preventing the Institute to enter into contracts or agreements with departments or agencies of the United States or of a State, or with other organizations, to carry out training of personnel of such departments, agencies, or organizations in the provision of services referred to in subsection (a).

“(2) All proceeds collected by the Institute under a contract or agreement referred to in paragraph (1) shall be applied to the applicable appropriation.”.

#### SEC. 6. COMMITTEE TO RAISE EMPLOYER AWARENESS OF SKILLS OF VETERANS AND BENEFITS OF HIRING VETERANS.

(a) ESTABLISHMENT OF COMMITTEE.—There is established within the Department of Labor a committee to be known as the President's National Hire Veterans Committee (hereinafter in this section referred to as the “Committee”).

(b) DUTIES.—The Committee shall establish and carry out a national program to do the following:

(1) To furnish information to employers with respect to the training and skills of veterans and disabled veterans, and the advantages afforded employers by hiring veterans with such training and skills.

(2) To facilitate employment of veterans and disabled veterans through participation in America's Career Kit national labor exchange, and other means.

(c) MEMBERSHIP.—(1) The Secretary of Labor shall appoint 15 individuals to serve as members of the Committee, of whom one shall be appointed from among representatives nominated by each organization described in subparagraph (A) and of whom eight shall be appointed from among representatives nominated by organizations described in subparagraph (B).

(A) Organizations described in this subparagraph are the following:

(i) The Ad Council.

(ii) The National Committee for Employer Support of the Guard and Reserve.

(iii) Veterans' service organizations that have a national employment program.

(iv) State employment security agencies.

(v) One-stop career centers.

(vi) State departments of veterans affairs.

(vii) Military service organizations.

(B) Organizations described in this subparagraph are such businesses, small businesses, industries, companies in the private sector that furnish placement services, civic groups, workforce investment boards, and labor unions as the Secretary of Labor determines appropriate.

(2) The following shall be ex officio, nonvoting members of the Committee:

(A) The Secretary of Veterans Affairs.

(B) The Secretary of Defense.

(C) The Assistant Secretary of Labor for Veterans' Employment and Training.

(D) The Administrator of the Small Business Administration.

(E) The Postmaster General.

(F) The Director of the Office of Personnel Management.

(3) A vacancy in the Committee shall be filled in the manner in which the original appointment was made.



(d) **ADMINISTRATIVE MATTERS.**—(1) The Committee shall meet not less frequently than once each calendar quarter.

(2) The Secretary of Labor shall appoint the chairman of the Committee.

(3)(A) Members of the Committee shall serve without compensation.

(B) Members of the Committee shall be allowed reasonable and necessary travel expenses, including per diem in lieu of subsistence, at rates authorized for persons serving intermittently in the Government service in accordance with the provisions of subchapter I of chapter 57 of title 5 while away from their homes or regular places of business in the performance of the responsibilities of the Committee.

(4) The Secretary of Labor shall provide staff and administrative support to the Committee to assist it in carrying out its duties under this section. The Secretary shall assure positions on the staff of the Committee include positions that are filled by individuals that are now, or have ever been, employed as one of the following:

(A) Staff of the Assistant Secretary of Labor for Veterans' Employment and Training under section 4102A of title 38, United States Code as in effect on the date of the enactment of this Act.

(B) Directors for Veterans' Employment and Training under section 4103 of such title as in effect on such date.

(C) Assistant Director for Veterans' Employment and Training under such section as in effect on such date.

(D) Disabled veterans' outreach program specialists under section 4103A of such title as in effect on such date.

(E) Local veterans' employment representatives under section 4104 of such title as in effect on such date.

(5) Upon request of the Committee, the head of any Federal department or agency may detail, on a nonreimbursable basis, any of the personnel of that department or agency to the Committee to assist it in carrying out its duties.

(6) The Committee may contract with and compensate government and private agencies or persons to furnish information to employers under subsection (b)(1) without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

(e) **REPORT.**—Not later than December 31, 2003, 2004, and 2005, the Secretary of Labor shall submit to Congress a report on the activities of the Committee under this section during the previous fiscal year, and shall include in such report data with respect to placement and retention of veterans in jobs attributable to the activities of the Committee.

(f) **TERMINATION.**—The Committee shall terminate 60 days after submitting the report that is due on December 31, 2005.

(g) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary of Labor from the employment security administration account (established in section 901 of the Social Security Act (42 U.S.C. 1101)) in the Unemployment Trust Fund \$3,000,000 for each of fiscal years 2003 through 2005 to carry out this section.

## **SEC. 7. REPORT ON IMPLEMENTATION OF EMPLOYMENT REFORMS.**

(a) **STUDY.**—The Comptroller General of the United States shall conduct a study on the implementation by the Secretary of Labor of the provisions of this Act during the program years that begin during fiscal years 2003 and 2004. The study shall include an assessment of the modifications under sections 2 through 5 of this Act of the provisions of title 38, United States Code, and an evaluation of the impact of those modifications, and of the actions of the President's National Hire Veterans Committee under section 6 of this Act, to the provision of employment, training, and placement services provided to veterans under that title.

(b) **REPORT.**—Not later than 6 months after the conclusion of the program year that begins during fiscal year 2004, the Comptroller General

shall submit to Congress a report on the study conducted under subsection (a). The report shall include such recommendations as the Comptroller General determines appropriate, including recommendations for legislation or administrative action.

Mr. EVANS. Mr. Speaker, I rise in strong support of H.R. 4015, the Jobs for Veterans Act. This legislation will improve and modernize veterans' employment and training services currently administered by the Department of Labor (DOL) and delivered through various State employment agencies.

I thank CHRIS SMITH, our Chairman, and MIKE SIMPSON and SILVESTRE REYES, Chairman and Ranking Member of the Benefits Subcommittee, for their leadership on this measure. I also thank all staff for their hard work on H.R. 4015 and particularly Geoffrey Collver and Darryl Kehrer for their determined and excellent work on this legislation.

H.R. 4015, as amended, will introduce many new features into the veterans' employment services system, including greater flexibility, creativity, incentives, and increased accountability. I was a strong supporter of H.R. 4015 when the bill originally passed the House in May of 2002 and am pleased the Senate passed the bill with relatively few changes. This legislation is timely and needed, especially given the slowing economy and traditionally difficult time many of our nation's disabled veterans have in obtaining quality employment. The men and women who have worn a uniform in defense of this country deserve first rate employment and training services.

The bill, as amended, encourages the Federal, State and local governments to work together in providing high level, focused, employment and training services to veterans and certain spouses of veterans. The legislation requires a State to submit a "plan" describing the manner in which it will furnish outreach and employment services, as well as, sets forth conditions for receipt of DOL funds. In addition, the legislation encourages improved employment services through a program of employee incentive awards for excellent or substantially improved performance. Mr. Speaker, I look forward to monitoring the implementation and effectiveness of the bill's new incentive and accountability provisions, they are important components of the overall delivery scheme.

This measure also provides for "priority of service" to veterans wishing to participate in other DOL job training programs, and removes many outdated and rigid hiring constraints on the States and local governments. As a senior member of the House Armed Services Committee, I am especially pleased that the legislation broadens eligibility for non-competitive appointments of certain veterans within the Federal civil service. This provision will allow some veterans who have lost their jobs due to the poor economy, or their companies moving overseas for cheaper labor costs, to explore alternative career options with the Federal government.

The Jobs for Veterans Act also includes many other important provisions that will affect many veterans and their families as they seek quality employment services:

Federal contractors and subcontractors engaged in operations of \$100,000 or more must take affirmative action to employ and advance qualified veterans;

Revises the funding formula, which DOL provides to States to better reflect the propor-

tion of veterans seeking employment in that State;

Authorizes the Secretary of Labor to engage in on-going technical assistance, including corrective action plans, with respect to State and local governments receiving veterans' employment funds;

Emphasizes that certain disabled veterans may need intensive employment services in order to obtain quality employment;

Mandates that DOL develop and enhance the delivery of employment services by providing such services via the Internet and other electronic means; and

Requires a GAO study and report on the implementation and effectiveness of the legislation to be delivered after the first two program years.

Mr. Speaker, I urge my colleagues to support this important legislation.

Mr. SIMPSON. Mr. Speaker, we all agree that our fellow Americans who have served in our military represent a unique national resource. We need to ensure we fulfill our obligation to them.

H.R. 4015, as amended, the "Jobs for Veterans Act," provides us the opportunity to approve legislation that will help our former servicemembers obtain long-term, sustained employment.

The Jobs for Veterans Act essentially creates a new Department of Labor delivery system for veterans' employment and training services in light of the Government Performance and Results Act, the new One-Stop career centers under the Workforce Investment Act of 1998, and the availability of self-service job assistance by way of the Internet.

H.R. 4015, as amended, can be described in four words: incentives, results, flexibility, and accountability in the delivery of employment and training services for veterans through individual states and counties.

The Subcommittee on Benefits has worked on this legislation for the past two and one-half years, and I applaud the hard work of JACK QUINN, BOB FILNER, and J.D. HAYWORTH on earlier versions of the bill.

I also want to recognize the Ranking Member of the Benefits Subcommittee, SILVESTRE REYES, for his leadership on this issue, as well as the Chairman and Ranking Member of the full Committee, CHRIS SMITH and LANE EVANS, for their support.

I very much appreciate the support of the Senate Committee on Veterans' Affairs in approving the compromise agreement on this legislation. Indeed, Committee Chairman ROCKEFELLER and Ranking Member SPECTER have played a leadership role in both strengthening the bill, and in Senate passage of it.

Mr. Speaker, about 215,000 servicemembers are estimated to separate from the Armed Forces this fiscal year; I believe this bill is a win-win situation for both our veterans and our economy.

I urge my colleagues to support H.R. 4015.

Mr. SMITH of New Jersey. Mr. Speaker, nationally, only about three in ten veterans seeking jobs through the Veterans Employment and Training Service (VETS), which is managed by the Department of Labor, are finding work. And the work they are finding isn't necessarily in career-type jobs.

This federally-funded program, which is carried out through a partnership with the States, must do a better job.

The Committee's bill, H.R. 4015, as amended, would revamp VETS to allow it to work

better within the framework of the recent Workforce Investment Act.

One of the bill's most important provisions would require the Secretary of Labor to carry out a program of financial and non-financial performance incentive awards to states to encourage them to improve and modernize their employment, training and placement services for veterans. The bill would also require any poorly performing states to develop and implement corrective action plans.

Mr. Speaker, I don't want to imply that states are not doing a good job. In fact, many are. I am confident that with the enactment of this legislation, the states with poor records will be given the flexibility and incentives they need to improve. The result will be that many more veterans will find good jobs and taxpayers will get a much better return on their investment in this program for veterans.

I want to commend the Chairman of the Benefits Subcommittee, MIKE SIMPSON, for the extraordinary effort that led to a bill commanding the broad support needed to make this bill happen. I also want to commend the previous Chairman, JACK QUINN, the current Ranking Member, SYLVESTRE REYES, and the former Ranking Member, BOB FILNER, for their bipartisan support of this important bill.

I also want to thank the leadership of the Senate Veterans' Affairs Committee, Chairman JOHN ROCKEFELLER, and Ranking Republican ARLEN SPECTER, for their consideration of the House bill and the many improvements they suggested.

The legislative process has produced a strong bill that we can be proud to send to the President. This is a significant step toward improving the employment services a grateful Nation offers those Americans who have served in military uniform.

Mr. Speaker, I ask unanimous consent to revise and extend my remarks and that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material on H.R. 4015, as amended.

For the benefit of my colleagues, I include at this point in the RECORD a joint explanatory statement describing the compromise agreement we have reached with the other body:

#### JOINT EXPLANATORY STATEMENT ON SENATE AMENDMENTS TO HOUSE AMENDMENTS TO H.R. 4015

H.R. 4015, as amended, the Jobs for Veterans Act, reflects a Compromise Agreement the House and Senate Committees on Veterans' Affairs have reached on H.R. 4015, as amended, ("House Bill"). H.R. 4015, as amended, passed the House of Representatives on May 21, 2002. There is no comparable Senate bill.

The House and Senate Committees on Veterans' Affairs have prepared the following explanation of H.R. 4015, as amended, ("Compromise Agreement"). Clerical corrections, conforming changes, and minor drafting, technical, and clarifying changes are not noted in this document.

#### PRIORITY OF SERVICE FOR VETERANS IN DEPARTMENT OF LABOR JOB TRAINING PROGRAMS

##### CURRENT LAW

Section 4212 of title 38, United States Code, requires that for certain Federal contracts of \$25,000 or more, contractors and subcontractors take affirmative action to employ and advance in employment "special disabled veterans" (veterans with serious employment handicaps or disability ratings of 30

percent or higher), Vietnam-era veterans, recently-separated veterans, and other veterans who are "preference eligible." Preference eligible veterans generally are veterans who have served during wartime or in a campaign or expedition for which a campaign badge has been authorized.

Under section 4214 of title 38, United States Code, the Office of Personnel Management administers the Veterans Readjustment Appointment ("VRA") authority program to promote employment and job advancement opportunities within the Federal government for disabled veterans, certain veterans of the Vietnam era, and veterans of the post-Vietnam era who are qualified for such employment and advancement. In general: (1) such appointments may be made up to and including the GS-11 level or its equivalent; (2) a veteran shall be eligible for such an appointment without regard to the veteran's number of years of education; (3) a veteran who receives VA disability compensation shall be given preference for a VRA appointment over other veterans; (4) upon receipt of a VRA appointment, a veteran may receive training or education if the veteran has less than 15 years of education; and (5) upon successful completion of the prescribed probation period, a veteran may acquire competitive status. Except for a veteran who has a service-connected disability rated at 30 percent or more, a veteran of the Vietnam era may receive a VRA appointment only during the period ending 10 years after the date of the veteran's last separation from active duty or December 31, 1995, whichever is later.

##### HOUSE BILL

Section 2 of H.R. 4015 would create a new section 4215 within chapter 42 of title 38, United States Code, to provide priority of service (over non-veterans) to veterans and spouses of certain veterans for the receipt of employment, training, and placement services in any qualified job training program directly funded, in whole or in part, by the Department of Labor, notwithstanding any other provision of law. The Secretary of Labor would be authorized to establish priorities among such covered persons to take into account the needs of disabled veterans and such other factors as the Secretary determines appropriate.

With respect to Federal contracts and subcontracts in the amount of \$100,000 or more, section 2 would provide that a contractor and any subcontractor take affirmative action to employ and advance in employment qualified veterans. This would include immediate listing of employment openings for such contracts through the appropriate employment delivery system.

Section 2 would also change the Veterans Readjustment Appointment ("VRA") to the "Veterans Recruitment Appointment" authority and change eligibility for these appointments from Vietnam era and post-Vietnam era veterans to qualified covered veterans (see below) within the 10-year period that begins on the date of the veteran's last discharge; the 10-year period would not apply to a veteran with a service-connected disability of 30 percent or more.

Finally, section 2 would make eligible as "covered veterans" for Federal contracts and subcontracts and the Veterans Recruitment Appointment authority: disabled veterans; veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized; veterans who, while serving on active duty in the Armed Forces, participated in a United States military operation for which an Armed Forces service medal was awarded; or veterans discharged or released from military service within the past three years.

##### COMPROMISE AGREEMENT

Section 2 of the Compromise Agreement follows the House language with amendments.

The agreement would delete the 10-year eligibility period for a VRA appointment, in light of the broader Veterans Recruitment (not "Readjustment") Appointment authority embodied in the Compromise Agreement.

The Committees note that the definition of the term "covered person" for priority of service in Department of Labor veterans job training programs includes both veterans and certain spouses and surviving spouses of deceased veterans. Specifically, the provision would include a surviving spouse of a veteran who died as a result of a service-connected disability, including the surviving spouse of a veteran who died in the active military, naval or air service, and the surviving spouse of a veteran who was totally disabled at the time of death. The provision would also apply to spouses of active duty servicemembers who have for a period of at least 90 days been missing in action, captured by a hostile force or forcibly detained or interned in line of duty by a foreign government and the spouses of veterans who are totally disabled due to a service-connected disability.

#### FINANCIAL AND NON-FINANCIAL PERFORMANCE INCENTIVE AWARDS FOR QUALITY VETERANS EMPLOYMENT, TRAINING, AND PLACEMENT SERVICES

##### CURRENT LAW

No provision.

##### HOUSE BILL

Section 3 of H.R. 4015 would create a new section 4112 within chapter 41 of title 38, United States Code, to require the Secretary to carry out a program of performance incentive awards to States to encourage improvement and modernization of employment, training and placement services to veterans. The Secretary would provide greater amounts to States that furnish the highest quality of services, but also would provide awards to States that have made significant improvements in services. States could use such awards to hire additional State veterans' employment and training staff or for such other purposes relating to these services that the Secretary may approve. Awards would be obligated by the State during the program year in which the award was received and the subsequent program year.

Section 3 also would authorize additional funds to be appropriated for the Secretary to carry out the program of performance incentive awards in the following amounts: \$10 million for the program year beginning in fiscal year 2004; \$25 million for the program year beginning in fiscal year 2005; \$50 million for the program year beginning in fiscal year 2006; \$75 million for the program year beginning in fiscal year 2007; and \$100 million for the program year beginning in fiscal year 2008.

##### COMPROMISE AGREEMENT

Section 3 of the Compromise Agreement would establish a system of financial and non-financial incentive awards to be administered by the States, based on criteria established by the Secretary in consultation with the States. Disabled Veterans Outreach Program Specialists ("DVOP"), Local Veterans Employment Representatives ("LVER"), Workforce Investment Act ("WIA"), and Wagner-Peyser staffs would be eligible for each award. Beginning in program years during or after fiscal year 2004, the Secretary would be required to identify and assign one percent of the annual grant to each State for the State to use as a performance incentive financial award (see section 4). Under this section, each State would be

required to describe how it would administer this award in its annual grant application to the Secretary (see section 4). States would also administer the non-financial performance incentive award program based on criteria established by the Secretary.

The Committees intend that the Secretary's criteria be broad in order to give States maximum flexibility in the manner chosen to recognize employees for excellence in service delivery to veterans or improvements thereto. The Committees also intend that States use Salary and Expense (S&E) funds to pay for such items as employee recognition plaques and other modest forms of recognition, as part of the non-financial performance incentive awards program.

#### REFINEMENT OF JOB TRAINING AND PLACEMENT FUNCTIONS OF THE DEPARTMENT CURRENT LAW

Chapter 41 of title 38, United States Code, establishes policies governing the administration of veterans' employment and training services by the States, as funded by Department of Labor funds.

Section 4101 of title 38, United States Code, defines terms used in the chapter, such as "disabled veteran," "eligible person," and "local employment service office."

In section 4102, Congress declares as its intent and purpose that there shall be an effective: (1) job and training counseling service program; (2) employment placement service program; and (3) job training placement service program for eligible veterans and eligible persons.

Section 4102A specifies the job duties of the Assistant Secretary of Labor for Veterans' Employment and Training ("ASVET") and Regional Administrators for Veterans' Employment and Training ("RAVET"). The RAVET is required to be a veteran. The Deputy Assistant Secretary for Veterans' Employment and Training ("DASVET") is also required to be a veteran. The ASVET need not be a veteran.

Section 4103 prescribes in detail the 15 job duties of Directors ("DVET") and Assistant Directors ("ADVET") of Veterans' Employment and Training. It also requires that the Secretary of Labor assign to each State one ADVET for every 250,000 veterans and eligible persons in the State veteran's population.

Section 4103A prescribes the appointment of one DVOP for every 7,400 veterans who are between the ages of 20 and 64 residing in each State. This section also requires that each DVOP be a veteran and specifies that preference be given to qualified disabled veterans in filling these positions. It prescribes where a DVOP is to be stationed in furnishing services and the specific functions that DVOP perform.

Section 4104 requires that in any fiscal year funding be available to the States to employ 1,600 full-time LVERs. This section prescribes that funding furnished to the States for LVERs shall be assigned in each State on January 1, 1987, plus one additional LVER per State. This section also specifies in detail the manner in which the 1,600 LVERs shall be allocated to the States, and the manner in which the States shall assign LVERs to local employment service offices based on the number of veterans and eligible persons who register for assistance. This section also requires that in appointing LVERs, preference shall be given to qualified eligible veterans or eligible persons. Preference is accorded first to qualified eligible veterans, and then to qualified eligible persons. Lastly, this section prescribes the specific functions that LVERs shall perform.

Section 4104A requires that each State employment agency develop and apply DVOP and LVER programs. It requires the Sec-

retary to furnish prototype standards to the States. This section also requires DVETs and ADVETs to furnish appropriate assistance to States in developing and implementing such standards.

Section 4106 requires the Secretary to estimate the funds necessary for the proper and efficient administration of chapters 41, 42, and 43 of title 38, United States Code. This section authorizes such sums as may be necessary for administration of chapter 41 services, including the National Veterans' Employment and Training Services Institute ("NVETSI").

In general, section 4107 of title 38, United States Code, requires the Secretary of Labor to establish and carry out various administrative controls to ensure veterans and eligible persons receive job placement, job training, or some other form of assistance such as individual job development or employment counseling services. This section also requires the Secretary to submit to the Committees on Veterans' Affairs of the House and Senate not later than February 1 of each year, a report on the success during the previous program year of the Department of Labor ("DOL") and State employment service agencies in furnishing veterans' employment and training services.

Section 4109 requires that the Secretary make available such funds as may be necessary to operate a NVETSI for training DVOP, LVER, DVET, ADVET, and RAVET personnel.

#### HOUSE BILL

Section 4 of H.R. 4015 would amend sections 4102A, 4103, 4103A, 4104, and 4109 of title 38, United States Code.

Section 4 of H.R. 4015 would amend current law section 4102A, of title 38, United States Code. The ASVET would be required to be a veteran. It also would impose new qualifications for the position of DASVET. In doing so, it would make this position a career federal civil service position. The individual appointed to this position would be required to have at least five years of continuous Federal service in the executive branch immediately preceding appointment as Deputy Assistant Secretary, and to be a veteran.

This section would set forth conditions for receipt of funding by States to include a requirement that a State submit an application for a grant or contract describing the manner in which the State would furnish employment, training, and placement services. A service delivery plan would include a description of the DVOP and LVER duties assigned by the State and other matters.

Section 4 would revise the methods by which the Secretary furnishes funds to a State. It would require the Secretary to make funds available for a fiscal year to each State in proportion to the number of veterans seeking employment using such criteria as the Secretary may establish in regulations. Under this section, the proportion of funding would reflect the ratio of the total number of veterans residing in the State who are seeking employment to the total number of veterans seeking employment in all States.

Section 4 also would require:

1. A State to annually submit to the Secretary of Labor an application for a grant or contract that includes a plan describing the manner in which the State would furnish employment, training, and placement services, with a description of DVOP and LVER duties assigned by the State. The plan would also be required to describe the manner in which DVOPs and LVERs would be integrated into the employment service delivery systems in the State, the veteran population to be served, and additional information the Secretary might require;

2. The Secretary to make available to each State based on an application approved by the Secretary, an amount of funding in proportion to the number of veterans seeking employment using such criteria as the Secretary might establish in regulation, including civilian labor force and unemployment data;

3. The Secretary to phase-in such annual funding over the three fiscal year-periods that begin on October 1, 2002;

4. The Secretary to establish minimum funding levels and hold-harmless criteria in administering funding to the States;

5. The State to develop and implement a corrective action plan to be submitted to the Secretary when a State has an entered-employment rate that the Secretary determines is deficient for the preceding year;

6. The Secretary to establish by regulation a uniform national threshold entered-employment rate for a program year by which determinations of deficiency might be made. The Secretary would be required to take into account the applicable annual unemployment data for the State and consider other factors, such as prevailing economic conditions, that affect performance of individuals providing employment, training, and placement services in the State;

7. The State to notify the Secretary on an annual basis of, and provide a supporting rationale for, each non-veteran who is employed as a DVOP and LVER for a period in excess of six months;

8. The Secretary to assign to each region a representative of the Veterans' Employment and Training Service ("VETS") to serve as RAVET. The RAVET would be required to be a veteran; and

9. The ASVET to establish and implement a comprehensive accountability system to measure the performance of delivery systems in a State. The accountability system would be required to be (1) consistent with State performance measures applicable under section 136(b) of the Workforce Investment Act of 1998, and (2) appropriately weighted to provide special consideration for veterans requiring intensive services and for veterans who enroll in readjustment counseling services furnished by the Department of Veterans Affairs.

Supervisory Personnel. Section 4 would also amend current section 4103 of title 38, United States Code, to authorize the Secretary to assign as supervisory personnel such representatives of VETS as the Secretary determines appropriate. It would also replace the specific requirements for appointment of ADVET with a more flexible authority to appoint supervisory personnel.

Disabled Veterans Outreach Program Specialists. This section would amend current section 4103A of title 38, United States Code, to require, subject to approval by the Secretary, that States employ a sufficient number of full or part-time DVOPs to carry out intensive services to meet the employment needs of special disabled veterans, other disabled veterans and other eligible veterans. It would require to the maximum extent practicable, that such employees be qualified veterans. Preference would be given to qualified disabled veterans.

Local Veterans Employment Specialists. Section 4 would amend current law section 4104 of title 38, United States Code, by requiring, subject to approval by the Secretary, that a State employ such full and part-time LVERs as the State determines appropriate and efficient to carry out employment, training and placement services. It would require, to the maximum extent practicable, that such employees be qualified veterans.

This section would require that each LVER be administratively responsible to the manager of the employment service delivery system. Under this section, the LVER would

provide reports, not less frequently than quarterly, to the manager of such office and to the DVET for the State regarding compliance with Federal law and regulations with respect to special services and priorities for eligible veterans and eligible persons.

National Veterans' Employment and Training Services Institute. Additionally, section 4 would amend current section 4109 of title 38, United States Code, to clarify the authority of the NVETSI to enter into contracts or agreements with departments or agencies of the United States or of a State, or with other organizations, to carry out training in providing veterans' employment, training, and placement services. Further, it would require that each annual budget submission include a separate listing of the amount of funding proposed for NVETSI.

Finally, section 4 would require that the Secretary, within 18 months of enactment, enhance the delivery of services by providing "one-stop" services and assistance to covered persons by way of the Internet and by other electronic means.

#### COMPROMISE AGREEMENT

Section 4 of the Compromise Agreement follows the House language with amendments.

Under this section, the individual appointed as DASVET would be required to have at least five years of service in a management position as a Federal civil service employee or comparable service in a management position in the Armed Forces preceding appointment as DASVET.

The annual grant application plan submitted by the States would have an additional requirement to describe the manner in which the respective States would administer the performance incentives established in section 3. The Committees note that other aspects of the State plan and grant application requirements contained in the House-passed bill, such as describing DVOP and LVER duties, are retained.

The Compromise Agreement clarifies that State corrective action plans would be submitted to the Secretary for approval, and if approved, would be expeditiously implemented. If the Secretary disapproved a corrective action plan, the Secretary would be required to take such steps as would be necessary for the State to implement corrective actions.

The Secretary would also be required to identify and assign one percent of the funding grant to each State to establish financial performance incentive awards. Further, the Secretary would have on-going authority to furnish technical assistance to any State that the Secretary determines has, or may have, a deficient entered-employment rate, including assistance in developing a corrective action plan.

The Committees intend that the Secretary should offer technical assistance in an anticipatory way, so as to avoid deficient performance.

The Compromise Agreement would require that the DVET be a bona fide resident of the State for two years to qualify for such a position.

Lastly, the Compromise Agreement does not require that the ASVET, DASVET, RVET, DVET, or ADVET be veterans. The Committees encourage the appointment of veterans to these positions, but do not believe a statutory requirement is necessary.

The amendments made by subsection (a) revising department level senior officials and functions, and subsection (b) revising statutorily-defined duties of DVOP and LVERs, would take effect on the date of enactment of this Act, and apply to program and fiscal years under chapter 41 of title 38, United States Code, beginning on or after such date.

#### ADDITIONAL IMPROVEMENTS IN VETERANS' EMPLOYMENT AND TRAINING SERVICES

##### CURRENT LAW

Sections 4102, 4106(a), 4107(a), 4107(c)(1), and section 4109(a) of title 38, United States Code, refer to terms such as "job and job training counseling service program," "proper counseling," "employment counseling services," "the number counseled," and "counseling," respectively, in describing services available to veterans and eligible persons under this chapter.

Section 4101(7) of title 38, United States Code, defines the term "local employment service office" as a service delivery point which has an intrinsic management structure and at which employment services are offered in accordance with the Wagner-Peyser Act.

Section 4107(c)(1) of title 38, United States Code, defines "veterans of the Vietnam era" as a group which the Secretary must address with respect to various employment and training services in the annual report to the Committees on Veterans' Affairs. Section 4107(c)(92) requires submission in the report of data on the "job placement rate" for veterans and eligible persons.

##### HOUSE BILL

Section 5 of H.R. 4015 would substitute the words "intensive services" for the word "counseling" throughout chapter 41 of title 38, United States Code, so as to make the chapter consistent with section 134(d)(3) of the Workforce Investment Act of 1998, Public Law 105-220. This section would also add programs carried out by the VETS to ease transition of servicemembers to civilian careers as a new program the Secretary would administer.

This section of the bill would make a definitional change so as to replace "local employment service office" and its current-law definition with "employment service delivery system." The latter term would be redefined as a service delivery system at which or through which labor exchange services, including employment, training, and placement services, are offered in accordance with the Wagner-Peyser Act.

This section also would replace "job placement rate" with "the rate of entered employment (as determined in a manner consistent with State performance measure applicable under section 136(b) of the Workforce Investment Act of 1998)." Further, with respect to the Secretary's annual report, it would replace "veterans of the Vietnam era" and "eligible persons registered for assistance" with "eligible persons, recently separated veterans (as defined in section 4211(6) of title 38), and servicemembers transitioning to civilian careers who are registered for assistance." Lastly, section 5 would add two additional requirements to the Secretary's annual report submitted to the Committees on Veterans' Affairs of the House and Senate. First, the report must include information on the operation during the preceding program year of the program of performance incentive awards for quality employment services under section 4112 of this title, including an analysis of the amount of incentives distributed to each State and the rationale for such distribution. Second, a report would be required on the "performance of States and organizations and entities carrying out employment, training, and placement services under this chapter, as measured by revised performance criteria. In the case of a State that the Secretary determines has not met the minimum standard of performance established by the Secretary, the Secretary would be required to include an analysis of the extent and reasons for the State's failure to meet that minimum standard, together with the State's

plan for corrective action during the succeeding year."

##### COMPROMISE AGREEMENT

Section 5 of the Compromise Agreement follows the House language with an amendment. The Secretary's annual report to the Committees on Veterans' Affairs of the House and Senate would be required to include information on the operation during the preceding program year of performance incentive awards for quality employment services administered through the States. The report would not require an analysis of the amount of incentives distributed to each State and the rationale for such distribution because each State's DVOP/LVER grant would identify and assign one percent of the grant for use by the State for the financial incentive awards.

#### COMMITTEE TO RAISE EMPLOYER AWARENESS OF SKILLS OF VETERANS AND BENEFITS OR HIRING VETERANS

##### CURRENT LAW

No provision.

##### HOUSE BILL

Section 6 of H.R. 4015 would authorize \$3 million to be appropriated to the Secretary of Labor from the Employment Security Administration account in the Unemployment Trust Fund for each of fiscal years 2003 through 2005 to establish within the Department of Labor the President's National Hire Veterans Committee. The Committee would furnish information to employers with respect to the training and skills of veterans and disabled veterans, and with respect to the advantages afforded employers by hiring veterans. The Secretary of Labor would provide staff and administrative support to the Committee to assist it in carrying out its duties under this section. Upon request of the Committee, the head of any Federal department or agency would be authorized to detail staff on a non-reimbursable basis. The Committee would also have the authority to contract with government and private agencies to furnish information to employers. The Committee would terminate on December 31, 2005.

##### COMPROMISE AGREEMENT

Section 6 of the Compromise Agreement contains the House language.

#### SENSE OF CONGRESS COMMENDING VETERANS AND MILITARY SERVICE ORGANIZATIONS

##### CURRENT LAW

No provision.

##### HOUSE BILL

Section 7 of H.R. 4015 would express the sense of Congress commending veterans and military service organizations, and encouraging them to provide job placement assistance to veterans who are job-ready by making personal computers available to them with access to electronic job placement services and programs.

##### COMPROMISE AGREEMENT

The Compromise Agreement does not include this section.

#### REPORT ON IMPLEMENTATION OF EMPLOYMENT REFORMS

##### CURRENT LAW

No provision.

##### HOUSE BILL

Section 8 of H.R. 4015 would authorize \$1 million for the Secretary of Labor to enter into a contract with an appropriate organization or entity to conduct an 18-month study to quantify the economic benefit to the United States attributable to the provision of employment and training services provided under chapter 41 of title 38, United States Code, in helping veterans to attain long-term, sustained employment.

## COMPROMISE AGREEMENT

Section 7 of the compromise Agreement would direct the Comptroller General of the United States to conduct a study on the implementation by the Secretary of Labor of the provisions of this title during the program years that begin during fiscal years 2003 and 2004. The study would include an assessment of the effect of this title on employment, training, and placement services furnished to veterans. Not later than six months after the conclusion of the program year that begins during fiscal year 2004, the Comptroller General would submit to Congress a report on the conducted study. Under this section, the report would include recommendations for legislation or administrative action.

This is a bipartisan bill, and I urge Members to support it.

## CONCURRED IN SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE AMENDMENTS

H.R. 3253, to amend title 38, United States Code, to provide for the establishment within the Department of Veterans Affairs of improved emergency medical preparedness, research, and education programs to combat terrorism, and for other purposes.

Senate amendment to House amendment to Senate amendments:

In lieu of the matter proposed to be inserted by the House amendment to the text of the bill, insert:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Department of Veterans Affairs Emergency Preparedness Act of 2002".

**SEC. 2. ESTABLISHMENT OF MEDICAL EMERGENCY PREPAREDNESS CENTERS AT DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTERS.**

(a) IN GENERAL.—(1) Subchapter II of chapter 73 of title 38, United States Code, is amended by adding at the end the following new section:

**"§ 7325. Medical emergency preparedness centers**

"(a) ESTABLISHMENT OF CENTERS.—(1) The Secretary shall establish four medical emergency preparedness centers in accordance with this section. Each such center shall be established at a Department medical center and shall be staffed by Department employees.

"(2) The Under Secretary for Health shall be responsible for supervising the operation of the centers established under this section. The Under Secretary shall provide for ongoing evaluation of the centers and their compliance with the requirements of this section.

"(3) The Under Secretary shall carry out the Under Secretary's functions under paragraph (2) in consultation with the Assistant Secretary of Veterans Affairs with responsibility for operations, preparedness, security, and law enforcement functions.

"(b) MISSION.—The mission of the centers shall be as follows:

"(1) To carry out research on, and to develop methods of detection, diagnosis, prevention, and treatment of injuries, diseases, and illnesses arising from the use of chemical, biological, radiological, incendiary or other explosive weapons or devices posing threats to the public health and safety.

"(2) To provide education, training, and advice to health care professionals, including health care professionals outside the Veterans Health Administration, through the National Disaster Medical System established pursuant to section 2811(b) of the Public Health Service Act (42 U.S.C. 300hh-11(b)) or through interagency agreements entered into by the Secretary for that purpose.

"(3) In the event of a disaster or emergency referred to in section 1785(b) of this title, to pro-

vide such laboratory, epidemiological, medical, or other assistance as the Secretary considers appropriate to Federal, State, and local health care agencies and personnel involved in or responding to the disaster or emergency.

"(c) SELECTION OF CENTERS.—(1) The Secretary shall select the sites for the centers on the basis of a competitive selection process. The Secretary may not designate a site as a location for a center under this section unless the Secretary makes a finding under paragraph (2) with respect to the proposal for the designation of such site. To the maximum extent practicable, the Secretary shall ensure the geographic dispersal of the sites throughout the United States. Any such center may be a consortium of efforts of more than one medical center.

"(2) A finding by the Secretary referred to in paragraph (1) with respect to a proposal for designation of a site as a location of a center under this section is a finding by the Secretary, upon the recommendations of the Under Secretary for Health and the Assistant Secretary with responsibility for operations, preparedness, security, and law enforcement functions, that the facility or facilities submitting the proposal have developed (or may reasonably be anticipated to develop) each of the following:

"(A) An arrangement with a qualifying medical school and a qualifying school of public health (or a consortium of such schools) under which physicians and other persons in the health field receive education and training through the participating Department medical facilities so as to provide those persons with training in the detection, diagnosis, prevention, and treatment of injuries, diseases, and illnesses induced by exposures to chemical and biological substances, radiation, and incendiary or other explosive weapons or devices.

"(B) An arrangement with a graduate school specializing in epidemiology under which students receive education and training in epidemiology through the participating Department facilities so as to provide such students with training in the epidemiology of contagious and infectious diseases and chemical and radiation poisoning in an exposed population.

"(C) An arrangement under which nursing, social work, counseling, or allied health personnel and students receive training and education in recognizing and caring for conditions associated with exposures to toxins through the participating Department facilities.

"(D) The ability to attract scientists who have made significant contributions to the development of innovative approaches to the detection, diagnosis, prevention, or treatment of injuries, diseases, and illnesses arising from the use of chemical, biological, radiological, incendiary or other explosive weapons or devices posing threats to the public health and safety.

"(3) For purposes of paragraph (2)(A)—

"(A) a qualifying medical school is an accredited medical school that provides education and training in toxicology and environmental health hazards and with which one or more of the participating Department medical centers is affiliated; and

"(B) a qualifying school of public health is an accredited school of public health that provides education and training in toxicology and environmental health hazards and with which one or more of the participating Department medical centers is affiliated.

"(d) RESEARCH ACTIVITIES.—Each center shall conduct research on improved medical preparedness to protect the Nation from threats in the area of that center's expertise. Each center may seek research funds from public and private sources for such purpose.

"(e) DISSEMINATION OF RESEARCH PRODUCTS.—(1) The Under Secretary for Health and the Assistant Secretary with responsibility for operations, preparedness, security, and law enforcement functions shall ensure that information produced by the research, education and training, and clinical activities of centers estab-

lished under this section is made available, as appropriate, to health-care providers in the United States. Dissemination of such information shall be made through publications, through programs of continuing medical and related education provided through regional medical education centers under subchapter VI of chapter 74 of this title, and through other means. Such programs of continuing medical education shall receive priority in the award of funding.

"(2) The Secretary shall ensure that the work of the centers is conducted in close coordination with other Federal departments and agencies and that research products or other information of the centers shall be coordinated and shared with other Federal departments and agencies.

"(f) COORDINATION OF ACTIVITIES.—The Secretary shall take appropriate actions to ensure that the work of each center is carried out—

"(1) in close coordination with the Department of Defense, the Department of Health and Human Services, and other departments, agencies, and elements of the Government charged with coordination of plans for United States homeland security; and

"(2) after taking into consideration applicable recommendations of the working group on the prevention, preparedness, and response to bioterrorism and other public health emergencies established under section 319F(a) of the Public Health Service Act (42 U.S.C. 247d-6(a)) or any other joint interagency advisory group or committee designated by the President or the President's designee to coordinate Federal research on weapons of mass destruction.

"(g) ASSISTANCE TO OTHER AGENCIES.—The Secretary may provide assistance requested by appropriate Federal, State, and local civil and criminal authorities in investigations, inquiries, and data analyses as necessary to protect the public safety and prevent or obviate biological, chemical, or radiological threats.

"(h) DETAIL OF EMPLOYEES FROM OTHER AGENCIES.—Upon approval by the Secretary, the Director of a center may request the temporary assignment or detail to the center, on a non-reimbursable basis, of employees from other departments and agencies of the United States who have expertise that would further the mission of the center. Any such employee may be so assigned or detailed on a nonreimbursable basis pursuant to such a request.

"(i) FUNDING.—(1) Amounts appropriated for the activities of the centers under this section shall be appropriated separately from amounts appropriated for the Department for medical care.

"(2) In addition to funds appropriated for a fiscal year specifically for the activities of the centers pursuant to paragraph (1), the Under Secretary for Health shall allocate to such centers from other funds appropriated for that fiscal year generally for the Department medical care account and the Department medical and prosthetics research account such amounts as the Under Secretary determines appropriate to carry out the purposes of this section. Any determination by the Under Secretary under the preceding sentence shall be made in consultation with the Assistant Secretary with responsibility for operations, preparedness, security, and law enforcement functions.

"(3) There are authorized to be appropriated for the centers under this section \$20,000,000 for each of fiscal years 2003 through 2007."

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7324 the following new item:

"7325. Medical emergency preparedness centers."

(b) PEER REVIEW FOR DESIGNATION OF CENTERS.—(1) In order to assist the Secretary of Veterans Affairs and the Under Secretary of Veterans Affairs for Health in selecting sites for centers under section 7325 of title 38, United

States Code, as added by subsection (a), the Under Secretary shall establish a peer review panel to assess the scientific and clinical merit of proposals that are submitted to the Secretary for the designation of such centers. The peer review panel shall be established in consultation with the Assistant Secretary of Veterans Affairs with responsibility for operations, preparedness, security, and law enforcement functions.

(2) The peer review panel shall include experts in the fields of toxicological research, infectious diseases, radiology, clinical care of patients exposed to such hazards, and other persons as determined appropriate by the Secretary. Members of the panel shall serve as consultants to the Department of Veterans Affairs.

(3) The panel shall review each proposal submitted to the panel by the officials referred to in paragraph (1) and shall submit to the Under Secretary for Health its views on the relative scientific and clinical merit of each such proposal. The panel shall specifically determine with respect to each such proposal whether that proposal is among those proposals which have met the highest competitive standards of scientific and clinical merit.

(4) The panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

### SEC. 3. EDUCATION AND TRAINING PROGRAMS ON MEDICAL RESPONSES TO CONSEQUENCES OF TERRORIST ACTIVITIES.

(a) IN GENERAL.—(1) Subchapter II of chapter 73 of title 38, United States Code, is amended by adding after section 7325, as added by section 2(a)(1), the following new section:

#### “§7326. Education and training programs on medical response to consequences of terrorist activities

“(a) EDUCATION PROGRAM.—The Secretary shall carry out a program to develop and disseminate a series of model education and training programs on the medical responses to the consequences of terrorist activities.

“(b) IMPLEMENTING OFFICIAL.—The program shall be carried out through the Under Secretary for Health, in consultation with the Assistant Secretary of Veterans Affairs with responsibility for operations, preparedness, security, and law enforcement functions.

“(c) CONTENT OF PROGRAMS.—The education and training programs developed under the program shall be modeled after programs established at the F. Edward Hebert School of Medicine of the Uniformed Services University of the Health Sciences and shall include, at a minimum, training for health care professionals in the following:

“(1) Recognition of chemical, biological, radiological, incendiary, or other explosive agents, weapons, or devices that may be used in terrorist activities.

“(2) Identification of the potential symptoms of exposure to those agents.

“(3) Understanding of the potential long-term health consequences, including psychological effects, resulting from exposure to those agents, weapons, or devices.

“(4) Emergency treatment for exposure to those agents, weapons, or devices.

“(5) An appropriate course of followup treatment, supportive care, and referral.

“(6) Actions that can be taken while providing care for exposure to those agents, weapons, or devices to protect against contamination, injury, or other hazards from such exposure.

“(7) Information on how to seek consultative support and to report suspected or actual use of those agents.

“(d) POTENTIAL TRAINEES.—In designing the education and training programs under this section, the Secretary shall ensure that different programs are designed for health-care professionals in Department medical centers. The programs shall be designed to be disseminated to health professions students, graduate health and medical education trainees, and health practitioners in a variety of fields.

“(e) CONSULTATION.—In establishing education and training programs under this section, the Secretary shall consult with appropriate representatives of accrediting, certifying, and coordinating organizations in the field of health professions education.”

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7325, as added by section 2(a)(2), the following new item:

“7326. Education and training programs on medical response to consequences of terrorist activities.”

(b) EFFECTIVE DATE.—The Secretary of Veterans Affairs shall implement section 7326 of title 38, United States Code, as added by subsection (a), not later than the end of the 90-day period beginning on the date of the enactment of this Act.

### SEC. 4. AUTHORITY TO FURNISH HEALTH CARE DURING MAJOR DISASTERS AND MEDICAL EMERGENCIES.

(a) IN GENERAL.—(1) Subchapter VIII of chapter 17 of title 38, United States Code, is amended by adding at the end the following new section:

#### “§1785. Care and services during certain disasters and emergencies

“(a) AUTHORITY TO PROVIDE HOSPITAL CARE AND MEDICAL SERVICES.—During and immediately following a disaster or emergency referred to in subsection (b), the Secretary may furnish hospital care and medical services to individuals responding to, involved in, or otherwise affected by that disaster or emergency.

“(b) COVERED DISASTERS AND EMERGENCIES.—A disaster or emergency referred to in this subsection is any disaster or emergency as follows:

“(1) A major disaster or emergency declared by the President under the Robert B. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

“(2) A disaster or emergency in which the National Disaster Medical System established pursuant to section 2811(b) of the Public Health Service Act (42 U.S.C. 300hh-11(b)) is activated by the Secretary of Health and Human Services under paragraph (3)(A) of that section or as otherwise authorized by law.

“(c) APPLICABILITY TO ELIGIBLE INDIVIDUALS WHO ARE VETERANS.—The Secretary may furnish care and services under this section to an individual described in subsection (a) who is a veteran without regard to whether that individual is enrolled in the system of patient enrollment under section 1705 of this title.

“(d) REIMBURSEMENT FROM OTHER FEDERAL DEPARTMENTS AND AGENCIES.—(1) The cost of any care or services furnished under this section to an officer or employee of a department or agency of the United States other than the Department or to a member of the Armed Forces shall be reimbursed at such rates as may be agreed upon by the Secretary and the head of such department or agency or the Secretary concerned, in the case of a member of the Armed Forces, based on the cost of the care or service furnished.

“(2) Amounts received by the Department under this subsection shall be credited to the Medical Care Collections Fund under section 1729A of this title.

“(e) REPORT TO CONGRESSIONAL COMMITTEES.—Within 60 days of the commencement of a disaster or emergency referred to in subsection (b) in which the Secretary furnishes care and services under this section (or as soon thereafter as is practicable), the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the Secretary's allocation of facilities and personnel in order to furnish such care and services.

“(f) REGULATIONS.—The Secretary shall prescribe regulations governing the exercise of the authority of the Secretary under this section.”

(2) The table of sections at the beginning of that chapter is amended by adding at the end the following new item:

“1785. Care and services during certain disasters and emergencies.”

(b) MEMBERS OF THE ARMED FORCES ON ACTIVE DUTY.—Section 8111A(a) of such title is amended—

(1) by redesignating paragraph (2) as paragraph (4);

(2) by designating the second sentence of paragraph (1) as paragraph (3); and

(3) by inserting between paragraph (1) and paragraph (3), as designated by paragraph (2) of this subsection, the following new paragraph:

“(2)(A) During and immediately following a disaster or emergency referred to in subparagraph (B), the Secretary may furnish hospital care and medical services to members of the Armed Forces on active duty responding to or involved in that disaster or emergency.

“(B) A disaster or emergency referred to in this subparagraph is any disaster or emergency as follows:

“(i) A major disaster or emergency declared by the President under the Robert B. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

“(ii) A disaster or emergency in which the National Disaster Medical System established pursuant to section 2811(b) of the Public Health Service Act (42 U.S.C. 300hh-11(b)) is activated by the Secretary of Health and Human Services under paragraph (3)(A) of that section or as otherwise authorized by law.”

### SEC. 5. INCREASE IN NUMBER OF ASSISTANT SECRETARIES OF VETERANS AFFAIRS.

(a) INCREASE.—Subsection (a) of section 308 of title 38, United States Code, is amended by striking “six” in the first sentence and inserting “seven”.

(b) FUNCTIONS.—Subsection (b) of such section is amended by adding at the end the following new paragraph:

“(11) Operations, preparedness, security, and law enforcement functions.”

(c) NUMBER OF DEPUTY ASSISTANT SECRETARIES.—Subsection (d)(1) of such section is amended by striking “18” and inserting “19”.

(d) CONFORMING AMENDMENT.—Section 5315 of title 5, United States Code, is amended by striking “(6)” after “Assistant Secretaries, Department of Veterans Affairs” and inserting “(7)”.

### SEC. 6. CODIFICATION OF DUTIES OF SECRETARY OF VETERANS AFFAIRS RELATING TO EMERGENCY PREPAREDNESS.

(a) IN GENERAL.—(1) Subchapter I of chapter 81 of title 38, United States Code, is amended by adding at the end the following new section:

#### “§8117. Emergency preparedness

“(a) READINESS OF DEPARTMENT MEDICAL CENTERS.—(1) The Secretary shall take appropriate actions to provide for the readiness of Department medical centers to protect the patients and staff of such centers from chemical or biological attack or otherwise to respond to such an attack so as to enable such centers to fulfill their obligations as part of the Federal response to public health emergencies.

“(2) Actions under paragraph (1) shall include—

“(A) the provision of decontamination equipment and personal protection equipment at Department medical centers; and

“(B) the provision of training in the use of such equipment to staff of such centers.

“(b) SECURITY AT DEPARTMENT MEDICAL AND RESEARCH FACILITIES.—(1) The Secretary shall take appropriate actions to provide for the security of Department medical centers and research facilities, including staff and patients at such centers and facilities.

“(2) In taking actions under paragraph (1), the Secretary shall take into account the results of the evaluation of the security needs at Department medical centers and research facilities required by section 154(b)(1) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107-188; 116 Stat. 631), including the results of such evaluation relating to the following needs:



“(A) Needs for the protection of patients and medical staff during emergencies, including a chemical or biological attack or other terrorist attack.

“(B) Needs, if any, for screening personnel engaged in research relating to biological pathogens or agents, including work associated with such research.

“(C) Needs for securing laboratories or other facilities engaged in research relating to biological pathogens or agents.

“(C) TRACKING OF PHARMACEUTICALS AND MEDICAL SUPPLIES AND EQUIPMENT.—The Secretary shall develop and maintain a centralized system for tracking the current location and availability of pharmaceuticals, medical supplies, and medical equipment throughout the Department health care system in order to permit the ready identification and utilization of such pharmaceuticals, supplies, and equipment for a variety of purposes, including response to a chemical or biological attack or other terrorist attack.

“(d) TRAINING.—The Secretary shall ensure that the Department medical centers, in consultation with the accredited medical school affiliates of such medical centers, develop and implement curricula to train resident physicians and health care personnel in medical matters relating to biological, chemical, or radiological attacks or attacks from an incendiary or other explosive weapon.

“(e) PARTICIPATION IN NATIONAL DISASTER MEDICAL SYSTEM.—(1) The Secretary shall establish and maintain a training program to facilitate the participation of the staff of Department medical centers, and of the community partners of such centers, in the National Disaster Medical System established pursuant to section 2811(b) of the Public Health Service Act (42 U.S.C. 300hh–11(b)).

“(2) The Secretary shall establish and maintain the training program under paragraph (1) in accordance with the recommendations of the working group on the prevention, preparedness, and response to bioterrorism and other public health emergencies established under section 319F(a) of the Public Health Service Act (42 U.S.C. 247d–6(a)).

“(3) The Secretary shall establish and maintain the training program under paragraph (1) in consultation with the following:

“(A) The Secretary of Defense.

“(B) The Secretary of Health and Human Services.

“(C) The Director of the Federal Emergency Management Agency.

“(f) MENTAL HEALTH COUNSELING.—(1) With respect to activities conducted by personnel serving at Department medical centers, the Secretary shall develop and maintain various strategies for providing mental health counseling and assistance, including counseling and assistance for post-traumatic stress disorder, following a bioterrorist attack or other public health emergency to the following persons:

“(A) Veterans.

“(B) Local and community emergency response providers.

“(C) Active duty military personnel.

“(D) Individuals seeking care at Department medical centers.

“(2) The strategies under paragraph (1) shall include the following:

“(A) Training and certification of providers of mental health counseling and assistance.

“(B) Mechanisms for coordinating the provision of mental health counseling and assistance to emergency response providers referred to in paragraph (1).

“(3) The Secretary shall develop and maintain the strategies under paragraph (1) in consultation with the Secretary of Health and Human Services, the American Red Cross, and the working group referred to in subsection (e)(2).”.

(2) The table of sections at the beginning of such chapter is amended by inserting after the

item relating to section 8116 the following new item:

“8117. Emergency preparedness.”.

(b) REPEAL OF CODIFIED PROVISIONS.—Subsections (a), (b)(2), (c), (d), (e), and (f) of section 154 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188; 38 U.S.C. note prec. 8101) are repealed.

(c) CONFORMING AMENDMENTS.—Subsection (g) of such section is amended—

(1) in paragraph (1), by inserting “of section 8117 of title 38, United States Code” after “subsection (a)”;

(2) in paragraph (2), by striking “subsections (b) through (f)” and inserting “subsection (b)(1) of this section and subsections (b) through (f) of section 8117 of title 38, United States Code”.

Mr. SMITH of New Jersey. Mr. Speaker, I rise to urge my colleagues to support H.R. 3253, as amended, the “Department of Veterans Affairs Emergency Preparedness Act of 2002.” H.R. 3253 will provide the federal government with another tool to prevent, or if necessary, respond to future acts of terrorism against the United States. This legislation will mobilize the strength of the VA health care infrastructure in defending our nation against future acts of terrorism.

Almost exactly one year ago today, on October 15, 2001, I chaired a hearing of the Veterans' Affairs Committee to examine the role of the Department of Veterans Affairs in homeland security. At that hearing, I proposed to use VA's expertise in biomedical research to help in finding treatments and vaccines against deadly chemical and biological threats posed by terrorists. Just two days later, Congress was itself facing anthrax attacks from letters that had been sent through the main post office in my congressional district in Hamilton, New Jersey.

Mr. Speaker, I know from my own experience during these anthrax attacks that our nation needs to quickly develop new tests and treatments for anthrax and other dangerous biological and chemical agents that could be used by terrorists. When anthrax was discovered in the Hamilton Post Office, I was astounded to discover that there were no existing protocols to test, quarantine, or treat victims. The confusion that followed discovery of anthrax made a bad situation even worse. We must learn from that experience.

H.R. 3253 will marshal some of our nation's best and brightest scientists in a focused effort to develop new protocols for testing, vaccinating and treatment our citizens who may be victims of biological, chemical and radiological terrorism.

Although it may come as a surprise to many, the Department of Veterans Affairs operates our nation's largest integrated health care network, with over 200,000 health care practitioners, 163 medical centers, more than 800 outpatient clinics, 115 medical research programs, affiliations with over 100 schools of medicine and a \$25 billion annual budget, including over \$1 billion for its research programs.

The VA health care system must be an integral component of any homeland security strategy. In fact, VA already does have defined roles in both the National Disaster Medical System (NDMS) and the Federal Response Plan (FRP) in the event of national emergencies.

Among VA's current specialized duties are: conducting and evaluating disaster and ter-

rorist attack simulation exercises; managing the nation's stockpile of drugs to counter the effects of biological and chemical poisons; maintaining a rapid response team for radioactive releases; and training public and private NDMS medical center personnel around the country in properly responding to biological, chemical, or radiological disasters.

H.R. 3253 was developed in order to apply the existing experience and expertise of VA's health care research programs as a defensive tool in the war on terrorism.

As amended, H.R. 3253 will authorize VA to establish four National Medical Preparedness Centers. These centers would undertake research and develop new protocols for detecting, diagnosing, vaccinating and treating potential victims of terrorism. In particular, the Centers would focus on ways to prevent and treat victims of biological, chemical, radiological or other explosive terrorist acts.

The new centers would conduct direct research and coordinate ongoing and promising new research with affiliated universities and other government agencies. These Centers would serve as training resources for thousands of community hospital staffs, hazardous materials “HAZMAT” teams, Emergency Medical Technicians, firefighters and police officers, who must be first medical responders in the event of terrorist attacks.

The emergency preparedness centers would also be charged with establishing state-of-the-art laboratories to help local health authorities detect the presence of dangerous biological and chemical poisons. The funding to support these centers would come from the additional funds provided for combating terrorism and would not use or otherwise reduce funding for veterans' health care.

Under the compromise agreement reached with the Senate, VA's authority to provide emergency medical treatment would be expanded to include first responders, other Federal agencies, veterans not enrolled in the VA health care system, active duty service members and other persons receiving VA care in declared domestic emergencies. Reimbursements collected for the cost of care, whether coming from FEMA, the Defense Department or an insurance company, would be credited to the VA's Medical Care Collections Fund, the same as in other VA collections efforts.

In addition, a new assistant secretary for preparedness, security and law enforcement would be established at VA. Finally, Mr. Speaker, the compromise bill would codify in title 38 of the United States Code various provisions from Public Law 107–188, the “Public Health Security and Bioterrorism Preparedness and Response Act of 2002”, that pertain to the Department of Veterans Affairs.

Mr. Speaker, I ask unanimous consent to revise and extend my remarks and that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material on H.R. 3253, as amended.

Mr. Speaker, with our approval today, H.R. 3253 will go to the President for his signature and enactment. I urge all Members to support this vital legislation.

Mr. MORAN of Virginia. Mr. Speaker, a little more than a year after the assaults on New York and Washington, we are still in a heightened state of concern about the safety of our Nation.

With the bill we pass today, H.R. 3253, the Department of Veterans Affairs Emergency

Preparedness Act of 2002, strengthens the role of the Department of Veterans Affairs to protect the people of the United States from terrorists, particularly bio-terrorism threats such as last year's anthrax attacks in Washington, New York, New Jersey and Florida. We must be proactive in preparing the United States for a future terrorist attack. As Vice President CHENEY cautioned this year, "The prospects of a future attack against the United States are almost certain. Not a matter of it, but when. It could happen tomorrow, it could happen next week, it could happen next year, but they will keep trying." We must respond in an effective and comprehensive manner to protect the American people when an attack occurs. This bill would help do just that.

Under this bill, four geographically separated National Medical Emergency Preparedness Centers would be established. Each center would study and develop treatments for human exposure to chemical, biological, explosive and nuclear substances that may be used as weapons of mass destruction.

The Department of Veterans Affairs is a good host for such a new and important mission. In addition to its medical care mission to care for millions of veterans, the veterans health care system is the nation's largest provider of graduate medical education and is a major contributor to biomedical and other scientific research. Because of its widely dispersed, integrated health care system, VA is an essential asset in responding to national, regional and local emergencies. The VA is an integral part of the Federal Response Plan, and an important local resource in natural disasters. This bill strengthens VA's role as a helping agency in such events, and particularly those that may be caused in the future by those bent on destruction of freedom and the American way of life.

Not only would the four emergency preparedness centers conduct research and develop detection, diagnosis, prevention, and treatment methods; but they would also be charged as clearinghouses to disseminate the information to other public and private health care providers, to improve the quality of care for patients who may be exposed to deadly chemicals or radiation.

In addition, our bill would also require the Secretary of Veterans Affairs to carry out a program to develop and disseminate model education and training programs for medical response to terrorist activities. VA's infrastructure, which includes affiliations with over 107 medical schools, and other schools of health professions, would prepare current and future medical professionals in this country to be knowledgeable and medically competent in the treatment of casualties from terrorist attacks. In my home state, the University of Kansas School of Medicine currently partners with 4 Veterans Medical Centers and educates over 700 medical students and more than 390 resident physicians in training.

This bill also provides the VA a formal role in the national disaster medical system, and authorizes the VA to treat first responders, active-duty military forces deployed in domestic deployments, fire fighters, police officers and members of the general public who may fall victim to terrorism or mass casualty disasters. Another important part of this bill is the establishment of a centralized office at VA headquarters to manage all emergency preparedness, security and law enforcement activities,

and to organize the VA's resources for maximum efficiency and effectiveness in protecting the security of VA's patients, staff, and infrastructure from the risk and threat of terrorism.

Mr. Speaker, this is a good bill for the American people. The professionals who need to be trained in saving lives will be properly armed with information, education and expertise to provide health care. Mechanisms will be put in place to study the likely avenues and methods of chemical, biological, and radiological poisoning. The VA will also be a part of a national presence for rapid response by local and Federal officials in types of emergencies that only a year ago we could scarcely imagine.

H.R. 3253 is a bipartisan and bicameral compromise, Mr. Speaker. As Chairman of the Subcommittee on Health of the Committee on Veterans Affairs, I am very pleased that the long journey of this legislation concludes today and that we shall send the bill to the President. I want to commend my Chairman, the gentleman from New Jersey, Mr. SMITH, for his leadership and advocacy on this measure, as well as our colleagues, the Ranking Member of the full Committee, the gentleman from Illinois, Mr. EVANS, and the Ranking Member of my Subcommittee, the gentleman from California, Mr. FILNER, for their work. As my Chairman has said previously on the floor of this Chamber, he feels a personal obligation, from events in his own district in the anthrax incidents, that Congress act to improve our safety and prevent such future travesties. I commend him for his dedication and agree that this measure aids in that respect.

I also thank our colleagues in the Senate for their cooperation, contributions and comity.

This bill may be seen as only a small effort today, Mr. Speaker, but it could pay large dividends down the road in America's war on terrorism. I urge its adoption by the House.

Mr. EVANS. Mr. Speaker, I rise in strong support of H.R. 3253, the Department of Veterans Affairs Emergency Preparedness Act of 2002, as amended.

After the tragic events of September 11th last year, our Chairman, CHRIS SMITH, again demonstrated his leadership. He authored and introduced legislation authorizing an important role for the Department of Veterans Affairs in our national fight against terrorism. This is the primary purpose of the measure before us.

VA provides medical care to millions of veterans each year. It conducts ground-breaking health care research. It also provides educational opportunities to many of our nation's health care providers. VA is truly an unparalleled national resource.

This legislation provides the structure and authority for VA to leverage its expertise to combat terrorism. For VA to achieve this goal it must have adequate resources.

Today, VA does not have enough resources. This is not my judgment. This is the judgment of the Task Force to Improve Health Care Delivery to Veterans established by President Bush. I call on the President to fully fund the VA, to provide all funding needed by VA to deliver timely and quality care to our veterans. Mr. President, provide VA the resources it requires to combat terrorism.

I am pleased H.R. 3253, as amended, has been approved by the other body. I urge all Members to support this important legislation so it can be sent to the White House for action by the President.

Mr. Speaker, I urge my colleagues to support passage of this legislation.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Without objection, the various amendments to the titles are agreed to.

There was no objection.

#### AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF VARIOUS LEGISLATIVE MEASURES

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that, in the engrossment of the measures just passed, the Clerk be authorized to correct spelling, punctuation, numbering, and cross-references, and to make such other changes as may be necessary to reflect the actions of the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

#### GENERAL LEAVE

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the measures just passed and to insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

#### RELATING TO EARLY ORGANIZATION OF THE HOUSE OF REPRESENTATIVES FOR THE 108TH CONGRESS

Mr. ARMEY. Mr. Speaker, I offer a resolution (H. Res. 590), and I ask unanimous consent for its immediate consideration.

The Clerk read the resolution, as follows:

##### H. RES. 590

*Resolved*, That any organizational caucus or conference in the House of Representatives for the One Hundred Eighth Congress may begin on or after November 1, 2002.

SEC. 2. (a) With the approval of the majority leader (in the case of a Member or Member-elect of the majority party) or the minority leader (in the case of a Member or Member-elect of the minority party), the provisions of law described in subsection (b) shall apply with respect to the attendance of a Member or Member-elect at a program conducted by the Committee on House Administration for the orientation of new members of the One Hundred Eighth Congress in the same manner as such provisions apply to the attendance of the Member or Member-elect at the organizational caucus or conference.

(b) The provisions of law described in this subsection are as follows:

(1) Subsections (b) and (c) of section 202 of House Resolution 988, Ninety-third Congress, agreed to on October 8, 1974, and enacted into permanent law by chapter III of title I of the Supplemental Appropriations Act, 1975 (2 U.S.C. 29a).