

In the Senate of the United States,

August 1, 2002.

Resolved, That the bill from the House of Representatives (H.R. 3253) entitled “An Act 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.”, do pass with the following

AMENDMENTS:

Strike out all after the enacting clause and insert:

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

2 (a) *SHORT TITLE.*—*This Act may be cited as the “De-*
3 *partment of Veterans Affairs Emergency Preparedness Act*
4 *of 2002”.*

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

Sec. 1. Short title; table of contents.

Sec. 2. References to title 38, United States Code.

TITLE I—MEDICAL EMERGENCY PREPAREDNESS

Sec. 101. Medical emergency preparedness centers in Veterans Health Administration.

TITLE II—DEPARTMENT OF VETERANS AFFAIRS ADMINISTRATION

Sec. 201. Additional Assistant Secretary of Veterans Affairs and functions for Assistant Secretaries of Veterans Affairs.

Sec. 202. Additional Deputy Assistant Secretaries of Veterans Affairs.

TITLE III—HEALTH CARE MATTERS

Sec. 301. Authority to furnish health care during major disasters and medical emergencies.

TITLE IV—RESEARCH CORPORATIONS

Sec. 401. Modification of certain authorities on research corporations.

Sec. 402. Coverage of research corporation personnel under Federal Tort Claims Act and other tort claims laws.

Sec. 403. Permanent authority for research corporations.

3 **SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.**

4 *Except as otherwise expressly provided, whenever in*
 5 *this Act an amendment or repeal is expressed in terms of*
 6 *an amendment to, or repeal of, a section or other provision,*
 7 *the reference shall be considered to be made to a section or*
 8 *other provision of title 38, United States Code.*

1 **TITLE I—MEDICAL EMERGENCY**
2 **PREPAREDNESS**

3 **SEC. 101. MEDICAL EMERGENCY PREPAREDNESS CENTERS**
4 **IN VETERANS HEALTH ADMINISTRATION.**

5 (a) *IN GENERAL.*—(1) *Subchapter II of chapter 73 is*
6 *amended by inserting after section 7320 the following new*
7 *section:*

8 **“§ 7320A. Medical emergency preparedness centers**

9 “(a) *The Secretary shall establish and maintain with-*
10 *in the Veterans Health Administration four centers for re-*
11 *search and activities on medical emergency preparedness.*

12 “(b) *The purposes of each center established under sub-*
13 *section (a) shall be as follows:*

14 “(1) *To carry out research on the detection, diag-*
15 *nosis, prevention, and treatment of injuries, diseases,*
16 *and illnesses arising from the use of chemical, biologi-*
17 *cal, radiological, or incendiary or other explosive*
18 *weapons or devices, including the development of*
19 *methods for the detection, diagnosis, prevention, and*
20 *treatment of such injuries, diseases, and illnesses.*

21 “(2) *To provide to health-care professionals in*
22 *the Veterans Health Administration education, train-*
23 *ing, and advice on the treatment of the medical con-*
24 *sequences of the use of chemical, biological, radio-*

1 *logical, or incendiary or other explosive weapons or*
2 *devices.*

3 *“(3) Upon the direction of the Secretary, to pro-*
4 *vide education, training, and advice described in*
5 *paragraph (2) to health-care professionals outside the*
6 *Department through the National Disaster Medical*
7 *System or through interagency agreements entered*
8 *into by the Secretary for that purpose.*

9 *“(4) In the event of a national emergency, to*
10 *provide such laboratory, epidemiological, medical, or*
11 *other assistance as the Secretary considers appro-*
12 *priate to Federal, State, and local health care agen-*
13 *cies and personnel involved in or responding to the*
14 *national emergency.*

15 *“(c)(1) Each center established under subsection (a)*
16 *shall be established at an existing Department medical cen-*
17 *ter, whether at the Department medical center alone or at*
18 *a Department medical center acting as part of a consortium*
19 *of Department medical centers for purposes of this section.*

20 *“(2) The Secretary shall select the sites for the centers*
21 *from among competitive proposals that are submitted by*
22 *Department medical centers seeking to be sites for such cen-*
23 *ters.*

24 *“(3) The Secretary may not select a Department med-*
25 *ical center as the site of a center unless the proposal of the*

1 *Department medical center under paragraph (2) provides*
2 *for—*

3 “(A) *an arrangement with an accredited affili-*
4 *ated medical school and an accredited affiliated school*
5 *of public health (or a consortium of such schools)*
6 *under which physicians and other health care per-*
7 *sonnel of such schools receive education and training*
8 *through the Department medical center;*

9 “(B) *an arrangement with an accredited grad-*
10 *uate program of epidemiology under which students*
11 *of the program receive education and training in epi-*
12 *demiology through the Department medical center;*
13 *and*

14 “(C) *the capability to attract scientists who have*
15 *made significant contributions to innovative ap-*
16 *proaches to the detection, diagnosis, prevention, and*
17 *treatment of injuries, diseases, and illnesses arising*
18 *from the use of chemical, biological, radiological, or*
19 *incendiary or other explosive weapons or devices.*

20 “(4) *In selecting sites for the centers, the Secretary*
21 *shall—*

22 “(A) *utilize a peer review panel (consisting of*
23 *members with appropriate scientific and clinical ex-*
24 *pertise) to evaluate proposals submitted under para-*
25 *graph (2) for scientific and clinical merit; and*

1 “(B) to the maximum extent practicable, ensure
2 the geographic dispersal of the sites throughout the
3 United States.

4 “(d)(1) Each center established under subsection (a)
5 shall be administered jointly by the offices within the De-
6 partment that are responsible for directing research and for
7 directing medical emergency preparedness.

8 “(2) The Secretary and the heads of the agencies con-
9 cerned shall take appropriate actions to ensure that the
10 work of each center is carried out—

11 “(A) in close coordination with the Department
12 of Defense, Department of Health and Human Serv-
13 ices, Office of Homeland Security, and other depart-
14 ments, agencies, and elements of the Federal Govern-
15 ment charged with coordination of plans for United
16 States homeland security; and

17 “(B) in accordance with any applicable rec-
18 ommendations of the Working Group on Bioterrorism
19 and Other Public Health Emergencies, or any other
20 joint interagency advisory groups or committees des-
21 ignated to coordinate Federal research on weapons of
22 mass destruction.

23 “(e)(1) Each center established under subsection (a)
24 shall be staffed by officers and employees of the Department.

1 “(2) Subject to the approval of the head of the depart-
2 ment or agency concerned and the Director of the Office
3 of Personnel Management, an officer or employee of another
4 department or agency of the Federal Government may be
5 detailed to a center if the detail will assist the center in
6 carrying out activities under this section. Any detail under
7 this paragraph shall be on a non-reimbursable basis.

8 “(f) In addition to any other activities under this sec-
9 tion, a center established under subsection (a) may, upon
10 the request of the agency concerned and with the approval
11 of the Secretary, provide assistance to Federal, State, and
12 local agencies (including criminal and civil investigative
13 agencies) engaged in investigations or inquiries intended to
14 protect the public safety or health or otherwise obviate
15 threats of the use of a chemical, biological, radiological, or
16 incendiary or other explosive weapon or device.

17 “(g) Notwithstanding any other provision of law, each
18 center established under subsection (a) may, with the ap-
19 proval of the Secretary, solicit and accept contributions of
20 funds and other resources, including grants, for purposes
21 of the activities of such center under this section.”.

22 (2) The table of sections at the beginning of chapter
23 73 is amended by inserting after the item relating to section
24 7320 the following new item:

“7320A. Medical emergency preparedness centers.”.

1 **(b) AUTHORIZATION OF APPROPRIATIONS.**—(1) *There*
2 *is hereby authorized to be appropriated for the Department*
3 *of Veterans Affairs amounts for the centers established*
4 *under section 7320A of title 38, United States Code (as*
5 *added by subsection (a)), \$20,000,000 for each of fiscal*
6 *years 2003 through 2007.*

7 (2) *The amount authorized to be appropriated by*
8 *paragraph (1) is not authorized to be appropriated for the*
9 *Veterans Health Administration for Medical Care, but is*
10 *authorized to be appropriated for the Administration sepa-*
11 *rately and solely for purposes of the centers referred to in*
12 *that paragraph.*

13 (3) *Of the amount authorized to be appropriated by*
14 *paragraph (1) for a fiscal year, \$5,000,000 shall be avail-*
15 *able for such fiscal year for each center referred to in that*
16 *paragraph.*

1 **TITLE II—DEPARTMENT OF VET-**
2 **ERANS AFFAIRS ADMINISTRA-**
3 **TION**

4 **SEC. 201. ADDITIONAL ASSISTANT SECRETARY OF VET-**
5 **ERANS AFFAIRS AND FUNCTIONS FOR AS-**
6 **SISTANT SECRETARIES OF VETERANS AF-**
7 **FAIRS.**

8 *(a) INCREASE IN MAXIMUM AUTHORIZED NUMBER OF*
9 *ASSISTANT SECRETARIES OF VETERANS AFFAIRS.—Section*
10 *308(a) is amended by striking “six” and inserting “seven”.*

11 *(b) ADDITIONAL AUTHORIZED FUNCTIONS.—Section*
12 *308(b) is amended by adding at the end the following new*
13 *paragraph:*

14 *“(11) Operations, preparedness, security, and*
15 *law enforcement functions.”.*

16 *(c) CONFORMING AMENDMENT.—Section 5315 of title*
17 *5, United States Code, is amended by striking the item re-*
18 *lating to Assistant Secretaries, Department of Veterans Af-*
19 *fairs and inserting the following new item:*

20 *“Assistant Secretaries, Department of Veterans*
21 *Affairs (7)”.*

22 **SEC. 202. ADDITIONAL DEPUTY ASSISTANT SECRETARIES**
23 **OF VETERANS AFFAIRS.**

24 *Section 308(d)(1) is amended by striking “18” and in-*
25 *serting “20”.*

1 **TITLE III—HEALTH CARE**
2 **MATTERS**

3 **SEC. 301. AUTHORITY TO FURNISH HEALTH CARE DURING**
4 **MAJOR DISASTERS AND MEDICAL EMER-**
5 **GENCIES.**

6 (a) *IN GENERAL.*—(1) *Subchapter VII of chapter 17*
7 *is amended by inserting after section 1784 the following*
8 *new section:*

9 **“§ 1785. Care and services during major disasters and**
10 **medical emergencies**

11 “(a) *During and immediately following a disaster or*
12 *emergency referred to in subsection (b), the Secretary may*
13 *furnish hospital care and medical services to individuals*
14 *responding to, involved in, or otherwise affected by such dis-*
15 *aster or emergency, as the case may be.*

16 “(b) *A disaster or emergency referred to in this sub-*
17 *section is any disaster or emergency as follows:*

18 “(1) *A major disaster or emergency declared by*
19 *the President under the Robert B. Stafford Disaster*
20 *Relief and Emergency Assistance Act (42 U.S.C. 5121*
21 *et seq.).*

22 “(2) *A disaster or emergency in which the Na-*
23 *tional Disaster Medical System is activated.*

24 “(c) *The Secretary may furnish care and services*
25 *under this section to veterans without regard to their enroll-*

1 *ment in the system of annual patient enrollment under sec-*
2 *tion 1705 of this title.*

3 “(d) *The Secretary may give a higher priority to the*
4 *furnishing of care and services under this section than to*
5 *the furnishing of care and services to any other group of*
6 *persons eligible for care and services in medical facilities*
7 *of the Department with the exception of—*

8 “(1) *veterans with service-connected disabilities;*
9 *and*

10 “(2) *members of the Armed Forces on active duty*
11 *who are furnished health-care services under section*
12 *8111A of this title.*

13 “(e)(1) *The cost of any care or services furnished under*
14 *this section to an officer or employee of a department or*
15 *agency of the Federal Government other than the Depart-*
16 *ment shall be reimbursed at such rates as may be agreed*
17 *upon by the Secretary and the head of such department or*
18 *agency based on the cost of the care or service furnished.*

19 “(2) *Amounts received by the Department under this*
20 *subsection shall be credited to the funds allotted to the De-*
21 *partment facility that furnished the care or services con-*
22 *cerned.*

23 “(f) *Within 60 days of the commencement of a disaster*
24 *or emergency referred to in subsection (b) in which the Sec-*
25 *retary furnishes care and services under this section (or as*

1 *soon thereafter as is practicable), the Secretary shall submit*
2 *to the Committees on Veterans' Affairs of the Senate and*
3 *the House of Representatives a report on the Secretary's al-*
4 *location of facilities and personnel in order to furnish such*
5 *care and services.*

6 “(g) *The Secretary shall prescribe regulations gov-*
7 *erning the exercise of the authority of the Secretary under*
8 *this section.*”.

9 (2) *The table of sections at the beginning of that chap-*
10 *ter is amended by inserting after the item relating to section*
11 *1784 the following new item:*

“1785. Care and services during major disasters and medical emergencies.”.

12 (b) *EXCEPTION FROM REQUIREMENT FOR CHARGES*
13 *FOR EMERGENCY CARE.—Section 1784 is amended by in-*
14 *serting “, except as provided in section 1785 of this title*
15 *with respect to a disaster or emergency covered by that sec-*
16 *tion,” after “but”.*

17 (c) *MEMBERS OF THE ARMED FORCES.—Subsection*
18 *(a) of section 8111A is amended to read as follows:*

19 “(a)(1) *During and immediately following a period of*
20 *war, or a period of national emergency declared by the*
21 *President or Congress that involves the use of the Armed*
22 *Forces in armed conflict, the Secretary may furnish hos-*
23 *pital care, nursing home care, and medical services to mem-*
24 *bers of the Armed Forces on active duty.*

1 “(2)(A) *During and immediately following a disaster*
2 *or emergency referred to in subparagraph (B), the Secretary*
3 *may furnish hospital care and medical services to members*
4 *of the Armed Forces on active duty responding to or in-*
5 *olved in such disaster or emergency, as the case may be.*

6 “(B) *A disaster or emergency referred to in this sub-*
7 *paragraph is any disaster or emergency follows:*

8 “(i) *A major disaster or emergency declared by*
9 *the President under the Robert B. Stafford Disaster*
10 *Relief and Emergency Assistance Act (42 U.S.C. 5121*
11 *et seq.).*

12 “(ii) *A disaster or emergency in which the Na-*
13 *tional Disaster Medical System is activated.*

14 “(3) *The Secretary may give a higher priority to the*
15 *furnishing of care and services under this section than to*
16 *the furnishing of care and services to any other group of*
17 *persons eligible for care and services in medical facilities*
18 *of the Department with the exception of veterans with serv-*
19 *ice-connected disabilities.*

20 “(4) *In this section, the terms ‘hospital care’, ‘nursing*
21 *home care’, and ‘medical services’ have the meanings given*
22 *such terms by sections 1701(5), 101(28), and 1701(6) of this*
23 *title, respectively.”.*

1 **TITLE IV—RESEARCH**
2 **CORPORATIONS**

3 **SEC. 401. MODIFICATION OF CERTAIN AUTHORITIES ON RE-**
4 **SEARCH CORPORATIONS.**

5 (a) *RESTATEMENT AND ENHANCEMENT OF AUTHORITY*
6 *ON AVAILABILITY OF FUNDS.*—Section 7362 is amended—

7 (1) *by redesignating subsection (b) as subsection*
8 *(c);*

9 (2) *by striking the second sentence of subsection*
10 *(a); and*

11 (3) *by inserting after subsection (a) the following*
12 *new subsection (b):*

13 “(b)(1) *Any funds, other than funds appropriated for*
14 *the Department, that are received by the Secretary for the*
15 *conduct of research or education and training may be*
16 *transferred to and administered by a corporation estab-*
17 *lished under this subchapter for the purposes set forth in*
18 *subsection (a).*

19 “(2) *Funds appropriated for the Department are*
20 *available for the conduct of research or education and train-*
21 *ing by a corporation, but only pursuant to the terms of*
22 *a contract or other agreement between the Department and*
23 *such corporation that is entered into in accordance with*
24 *applicable law and regulations.*

1 “(3) A contract or agreement executed pursuant to
2 paragraph (2) or section 8153 of this title may facilitate
3 only research or education and training described in sub-
4 section (a). Such contract or agreement may not be executed
5 for the provision of a health-care resource unless such
6 health-care resource is related to such research or education
7 and training.”.

8 (b) *TREATMENT OF CORPORATIONS AS AFFILIATED IN-*
9 *STITUTIONS FOR SHARING OF HEALTH-CARE RE-*
10 *SOURCES.*—Section 8153(a)(3) is amended—

11 (1) by redesignating subparagraphs (C), (D),
12 and (E) as subsections (D), (E), and (F), respectively;

13 (2) by inserting after subparagraph (B) the fol-
14 lowing new subparagraph (C):

15 “(C) If the resource required is research or education
16 and training (as that term is defined in section 7362(c)
17 of this title) and is to be acquired from a corporation estab-
18 lished under subchapter IV of chapter 73 of this title, the
19 Secretary may make arrangements for acquisition of the re-
20 source without regard to any law or regulation (including
21 any Executive order, circular, or other administrative pol-
22 icy) that would otherwise require the use of competitive pro-
23 cedures for acquiring the resource.”;

1 (3) in subparagraph (D), as so redesignated, by
2 striking “(A) or (B)” and inserting “(A), (B), or
3 (C)”; and

4 (4) in subparagraph (E), as so redesignated, by
5 striking “(A)” and inserting “(A) or (B)”.

6 **SEC. 402. COVERAGE OF RESEARCH CORPORATION PER-**
7 **SONNEL UNDER FEDERAL TORT CLAIMS ACT**
8 **AND OTHER TORT CLAIMS LAWS.**

9 (a) *IN GENERAL.*—Subchapter IV of chapter 73 is
10 amended by inserting after section 7364 the following new
11 section:

12 **“§ 7364A. Coverage of employees under certain Fed-**
13 **eral tort claims laws**

14 “(a) An employee of a corporation established under
15 this subchapter who is described by subsection (b) shall be
16 considered an employee of the government, or a medical care
17 employee of the Veterans Health Administration, for pur-
18 poses of the following provisions of law:

19 “(1) Section 1346(b) of title 28.

20 “(2) Chapter 171 of title 28.

21 “(3) Section 7316 of this title.

22 “(b) An employee described in this subsection is an em-
23 ployee who—

24 “(1) has an appointment with the Department,
25 whether with or without compensation;

1 “(2) is directly or indirectly involved or engaged
2 in research or education and training that is ap-
3 proved in accordance with procedures established by
4 the Under Secretary for Health for research or edu-
5 cation and training; and

6 “(3) performs such duties under the supervision
7 of Department personnel.”.

8 (b) *CLERICAL AMENDMENT.*—The table of sections at
9 the beginning of chapter 73 is amended by inserting after
10 the item relating to section 7364 the following new item:

 “7364A. Coverage of employees under certain Federal tort claims laws.”.

11 **SEC. 403. PERMANENT AUTHORITY FOR RESEARCH COR-**
12 **PORATIONS.**

13 (a) *REPEAL OF SUNSET.*—Section 7368 is repealed.

14 (b) *CLERICAL AMENDMENT.*—The table of sections at
15 the beginning of chapter 73 is amended by striking the item
16 relating to section 7368.

 Amend the title so as to read: “An Act to amend
title 38, United States Code, to enhance the emergency
preparedness of the Department of Veterans Affairs, and
for other purposes.”.

Attest:

Secretary.

107TH CONGRESS
2D SESSION

H. R. 3253

AMENDMENTS