

NATIONAL ALL SCHEDULES PRESCRIPTION ELECTRONIC
REPORTING REAUTHORIZATION ACT OF 2010

SEPTEMBER 22, 2010.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. WAXMAN, from the Committee on Energy and Commerce,
submitted the following

R E P O R T

[To accompany H.R. 5710]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 5710) to amend and reauthorize the controlled substance monitoring program under section 399O of the Public Health Service Act, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “National All Schedules Prescription Electronic Reporting Reauthorization Act of 2010”.

SEC. 2. AMENDMENT TO PURPOSE.

Paragraph (1) of section 2 of the National All Schedules Prescription Electronic Reporting Act of 2005 (Public Law 109–60) is amended to read as follows:

“(1) foster the establishment of State-administered controlled substance monitoring systems in order to ensure that—

“(A) health care providers have access to the accurate, timely prescription history information that they may use as a tool for the early identification of patients at risk for addiction in order to initiate appropriate medical interventions and avert the tragic personal, family, and community consequences of untreated addiction; and

“(B) appropriate law enforcement, regulatory, and State professional licensing authorities have access to prescription history information for the purposes of investigating drug diversion and prescribing and dispensing practices of errant prescribers or pharmacists; and”.

SEC. 3. AMENDMENTS TO CONTROLLED SUBSTANCE MONITORING PROGRAM.

Section 3990 of the Public Health Service Act (42 U.S.C. 280g–3) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A), by striking “or”;

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

(C) by adding at the end the following:

“(C) to maintain and operate an existing State-controlled substance monitoring program.”;

(2) by amending subsection (b) to read as follows:

“(b) **MINIMUM REQUIREMENTS.**—The Secretary shall maintain and, as appropriate, supplement or revise (after publishing proposed additions and revisions in the Federal Register and receiving public comments thereon) minimum requirements for criteria to be used by States for purposes of clauses (ii), (v), (vi), and (vii) of subsection (c)(1)(A).”;

(3) in subsection (c)—

(A) in paragraph (1)(B)—

(i) in the matter preceding clause (i), by striking “(a)(1)(B)” and inserting “(a)(1)(B) or (a)(1)(C)”;

(ii) in clause (i), by striking “program to be improved” and inserting “program to be improved or maintained”; and

(iii) in clause (iv), by striking “public health” and inserting “public health or public safety”;

(B) in paragraph (3)—

(i) by striking “If a State that submits” and inserting the following:

“(A) **IN GENERAL.**—If a State that submits”;

(ii) by inserting before the period at the end “and include timelines for full implementation of such interoperability”; and

(iii) by adding at the end the following:

“(B) **MONITORING OF EFFORTS.**—The Secretary shall monitor State efforts to achieve interoperability, as described in subparagraph (A).”;

(C) in paragraph (5)—

(i) by striking “implement or improve” and inserting “establish, improve, or maintain”; and

(ii) by adding at the end the following: “The Secretary shall redistribute any funds that are so returned among the remaining grantees under this section in accordance with the formula described in subsection (a)(2)(B).”;

(4) in the matter preceding paragraph (1) in subsection (d), by striking “In implementing or improving” and all that follows through “(a)(1)(B)” and inserting “In establishing, improving, or maintaining a controlled substance monitoring program under this section, a State shall comply, or with respect to a State that applies for a grant under subparagraph (B) or (C) of subsection (a)(1)”;

(5) in subsections (e), (f)(1), and (g), by striking “implementing or improving” each place it appears and inserting “establishing, improving, or maintaining”;

(6) in subsection (f)—

(A) in paragraph (1)(B) by striking “misuse of a schedule II, III, or IV substance” and inserting “misuse of a controlled substance included in schedule II, III, or IV of section 202(c) of the Controlled Substance Act”; and

(B) by adding at the end the following:

“(3) EVALUATION AND REPORTING.—Subject to subsection (g), a State receiving a grant under subsection (a) shall provide the Secretary with aggregate data and other information determined by the Secretary to be necessary to enable the Secretary—

“(A) to evaluate the success of the State’s program in achieving its purposes; or

“(B) to prepare and submit the report to Congress required by subsection

(k)(2).

“(4) RESEARCH BY OTHER ENTITIES.—A department, program, or administration receiving nonidentifiable information under paragraph (1)(D) may make such information available to other entities for research purposes.”;

(7) by redesignating subsections (h) through (n) as subsections (i) through (o), respectively;

(8) in subsections (c)(1)(A)(iv) and (d)(4), by striking “subsection (h)” each place it appears and inserting “subsection (i)”;

(9) by inserting after subsection (g) the following:

“(h) EDUCATION AND ACCESS TO THE MONITORING SYSTEM.—A State receiving a grant under subsection (a) shall take steps to—

“(1) facilitate prescriber use of the State’s controlled substance monitoring system; and

“(2) educate prescribers on the benefits of the system both to them and society.”;

(10) by amending subsection (l), as redesignated, to read as follows:

“(l) PREFERENCE.—Beginning 3 years after the date on which funds are first appropriated to carry out this section, the Secretary, in awarding any competitive grant under title V that is related to drug abuse (as determined by the Secretary) and for which only States or tribes are eligible to apply, may give preference to eligible States with applications approved under this section, to eligible States or tribes with existing controlled substance monitoring programs that meet minimum requirements under this section, or to eligible States or tribes that put forth a good faith effort to meet those requirements (as determined by the Secretary).”.

(11) in subsection (m)(1), as redesignated, by striking “establishment, implementation, or improvement” and inserting “establishment, improvement, or maintenance”;

(12) in subsection (n)(8), as redesignated, by striking “and the District of Columbia” and inserting “, the District of Columbia, and any commonwealth or territory of the United States”; and

(13) by amending subsection (o), as redesignated, to read as follows:

“(o) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated \$15,000,000 for fiscal year 2011 and \$10,000,000 for each of fiscal years 2012 and 2013.”.

PURPOSE AND SUMMARY

H.R. 5710, the “National All Schedules Prescription Electronic Reporting Reauthorization Act of 2010”, was introduced by Rep. Whitfield (R-KY), along with 12 cosponsors from the Committee, and referred to the Committee on Energy and Commerce on July 1, 2010.

The goal of H.R. 5710 is to authorize continued support to states to establish and maintain prescription drug monitoring programs (PDMPs). Toward that end, the bill amends and reauthorizes the controlled substance monitoring program under the Public Health Service Act.

BACKGROUND AND NEED FOR LEGISLATION

The abuse of prescription medications is a growing public health concern in the United States. According to the 2010 National Drug

Control Strategy released by the White House, prescription drug abuse is the fastest growing drug problem in the United States.¹ Several recent studies underscore this point:

- In a study released in July 2010, the Substance Abuse and Mental Health Services Administration (SAMHSA) found that between 1998 and 2008 there was a 400% increase in admissions for those aged 12 and over reporting abuse of prescription pain relievers.²

- In a report published in June 2010, the Centers for Disease Control and Prevention (CDC) noted that emergency department visits associated with non-medical use of prescription controlled substances doubled between 2004 and 2008, reaching a million visits.³

- In a 2008 study, SAMHSA found that youths between the ages of 12 and 17 abuse prescription drugs more than cocaine, heroin, and methamphetamine combined.⁴ It also showed that the scale of the problem is vast: more than six million Americans used a prescription medication for nonmedical purposes in a one-month period. The study further found that 70% of people who abuse prescription pain relievers obtained them from friends or relatives who had obtained them from a doctor.

The National All-Schedules Prescription Electronic Reporting Act (NASPER), enacted in 2005, created a Department of Health and Human Services (HHS) grant program administered by SAMHSA for states to establish PDMPs.⁵ PDMPs track drug prescriptions, with the goal of preventing overuse and illegal diversion. Approximately 40 states maintain PDMPs or have laws that authorize their establishment.⁶ To be eligible for a NASPER grant, state programs must track drugs that fall under schedules II, III, and IV of the Controlled Substances Act, and must adhere to certain privacy, reporting, and interoperability requirements.

The 2005 law authorized \$15 million in each of FY2006 and FY2007, and \$10 million each year for FY2008 through FY2010. In FY2009 and in FY2010, Congress appropriated \$2 million to support NASPER grants in 13 states.

COMMITTEE CONSIDERATION

H.R. 5710, the “National All Schedule Prescription Electronic Reporting Reauthorization Act of 2010”, was introduced by Rep. Whitfield (R-KY) and referred to the Committee on Energy and Commerce on July 1, 2010. The bill was subsequently referred to the Subcommittee on Health on July 13, 2010. On July 22, 2010, the Subcommittee on Health conducted a legislative hearing on the bill and afterwards met in open markup session to consider H.R. 5710. An amendment in the nature of a substitute (manager’s

¹The 2010 National Drug Control Strategy, at 29 (online at <http://www.whitehousedrugpolicy.gov/publications/policy/ndcs10/ndcs2010.pdf>).

²Substance Abuse Treatment Admissions Involving Abuse of Pain Relievers: 1998–2008 (July 15, 2010) (online at <http://oas.samhsa.gov/2k10/230/230PainRelvr2k10Web.pdf>).

³Centers for Disease Control and Prevention, Emergency Department Visits Involving Non-medical Use of Selected Prescription Drugs—United States, 2004–2008 (June 18, 2010) (online at <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5923a1.htm>).

⁴Results from the 2008 National Survey on Drug Use and Health, at 15–30 (online at <http://www.oas.samhsa.gov/nsduh/2k8nsduh/2k8Results.pdf>).

⁵P.L. 109–60.

⁶Substance Abuse and Mental Health Services Administration, SAMHSA FY2011 Congressional Budget Justification (online at samhsa.gov/Budget/FY2011/SAMHSA_FY11CJ.pdf).

amendment) by Rep. Pallone was adopted by a voice vote. Subsequently, H.R. 5710 was favorably forwarded to the full Committee, amended, by a voice vote.

On July 28, 2010, the Committee on Energy and Commerce met in open markup session and considered H.R. 5710 as approved by the Subcommittee. Subsequently, the Committee ordered H.R. 5710 favorably reported to the House, as amended by the Subcommittee on Health, by a voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list each record vote on the motion to report legislation and amendments thereto. A motion by Mr. Waxman ordering H.R. 5710 reported to the House, as amended by the Subcommittee on Health on July 22, 2010, was approved by a voice vote. There were no record votes taken during consideration of this bill.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

In accordance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the oversight findings and recommendations of the Committee are reflected in the descriptive portions of this report, including the finding that abuse of prescription drugs is of growing concern in the United States.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Regarding compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 5710 would result in no new budget authority, entitlement authority, or tax expenditures or revenues.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of the Committee are reflected in the descriptive portions of this report, including the goal to provide continuing support to prescription drug monitoring programs.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the constitutional authority for H.R. 5710 is provided under Article I, section 8, clauses 3 and 18 of the Constitution of the United States.

EARMARKS AND TAX AND TARIFF BENEFITS

H.R. 5710 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI of the Rules of the House of Representatives.

FEDERAL ADVISORY COMMITTEE STATEMENT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., section 5(b) of the Federal Advisory Committee Act.

APPLICABILITY OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104-1 requires a description of the application of this bill to the legislative branch where the bill relates to terms and conditions of employment or access to public services and accommodations. H.R. 5710 contains no such provisions.

FEDERAL MANDATES STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act of 1974 (as amended by section 101(a)(2) of the Unfunded Mandates Reform Act, P. L. 104-4) requires a statement on whether the provisions of the report include unfunded mandates. In compliance with this requirement the Committee adopts as its own the estimates of federal mandates prepared by the Director of the Congressional Budget Office.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the cost estimate of H.R. 5710 prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 5710 from the Director of Congressional Budget Office:

AUGUST 27, 2010.

Hon. HENRY A. WAXMAN,
Chairman, Committee on Energy and Commerce,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5710, the National All Schedules Prescription Electronic Reporting Reauthorization Act of 2010, as ordered reported on July 28, 2010.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Ellen Werble.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 5710—National All Schedules Prescription Electronic Reporting Reauthorization Act of 2010

H.R. 5710 would reauthorize funding for grants to states and territories to establish, improve, and maintain an electronic database system for monitoring the dispensing of controlled substances. The database would be used to identify, and report to appropriate authorities, the potential unlawful diversion or misuse of controlled substances. The bill also would require the Secretary of Health and Human Services to monitor the states' efforts to achieve interoperability of the database system for the purpose of sharing information with bordering states. In 2010, \$2 million was appropriated for these purposes.

The bill would authorize the appropriation of \$15 million in fiscal year 2011 and \$10 million a year for fiscal years 2012 through 2015. Assuming appropriation of those amounts, and based on spending patterns for similar programs, CBO estimates that implementing H.R. 5710 would cost \$50 million over the 2011–2015 period as shown in the following table. The costs of this legislation fall within budget function 550 (health). Enacting H.R. 5710 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

	By fiscal year, in millions of dollars—					
	2011	2012	2013	2014	2015	2011–2015
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Authorization Level	15	10	10	10	10	55
Estimated Outlays	5	14	12	10	10	50

H.R. 5710 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. Funds authorized in the bill would benefit states that implement and administer a monitoring system for controlled substances.

The CBO staff contact for this estimate is Ellen Werble. This estimate was approved by Peter H. Fontaine, Assistant Director for Budget Analysis.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 1 designates that the short title of the Act may be cited as the “National All Schedules Prescription Electronic Reporting Reauthorization Act of 2010”.

Section 2. Amendment to purpose

Section 2 amends the purpose of the Act to include giving healthcare providers accurate prescription history information to identify patients at risk for addiction and prevent negative health outcomes; and to give law enforcement, regulatory, and licensing authorities the ability to investigate drug diversion and inappropriate prescribing practices.

Section 3. Amendments to controlled substance monitoring program

Section 3 does the following:

- Expands permitted use of funds to include maintaining existing programs. Under current law, states can use NASPER funds to “establish and implement” or “make improvements to” a prescription drug monitoring programs.
 - Specifies that state interoperability plans must include timelines for implementation, and directs the Secretary to monitor such efforts. Under current law, states adjacent to other states with NASPER grants must submit a plan for interoperability among the states’ systems.
 - Directs that funds returned by states with terminated grants or programs be redistributed based on the existing allocation formula.
 - Requires states that are not in compliance with all reporting requirements to submit a plan for entering compliance.
 - Establishes the requirement that states give the HHS Secretary aggregate data and other information needed to evaluate the success of a state’s program and to fulfill congressional reporting requirements.
- It is the opinion of the Committee that the program should be implemented in a manner that optimizes the ability of local, state, and federal health agencies to conduct public health research and surveillance based on program data. States receiving funds should be encouraged to make deidentified information available for such purposes, consistent with applicable privacy laws.
- Permits entities receiving nonidentifiable, summary data from a PDMP to make such data available to other entities for research purposes.
 - Requires states to take certain steps to promote prescriber use of the monitoring system and education on the system’s benefits.
 - Clarifies language regarding granting preference in certain other SAMHSA programs to states that have prescription drug monitoring programs.
 - Makes commonwealths and territories of the United States eligible for NASPER grants.
 - Authorizes \$15 million for FY2011 and \$10 million for FY2012 and FY2013.

EXPLANATION OF AMENDMENTS

During the Subcommittee on Health’s consideration of H.R. 5710, the Subcommittee agreed to a manager’s amendment offered by Subcommittee Chairman Pallone (D–NJ). This amendment makes certain technical corrections; changes the authorization period to three years, so that the next reauthorization can take into account the results of an agency evaluation of the program scheduled to be completed in 2012; and clarifies language regarding granting preference in certain other SAMHSA programs to states that have prescription drug monitoring programs.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**NATIONAL ALL SCHEDULES PRESCRIPTION
ELECTRONIC REPORTING ACT OF 2005**

* * * * *

SEC. 2. PURPOSE.

It is the purpose of this Act to—

[(1) foster the establishment of State-administered controlled substance monitoring systems in order to ensure that health care providers have access to the accurate, timely prescription history information that they may use as a tool for the early identification of patients at risk for addiction in order to initiate appropriate medical interventions and avert the tragic personal, family, and community consequences of untreated addiction; and]

(1) foster the establishment of State-administered controlled substance monitoring systems in order to ensure that—

(A) health care providers have access to the accurate, timely prescription history information that they may use as a tool for the early identification of patients at risk for addiction in order to initiate appropriate medical interventions and avert the tragic personal, family, and community consequences of untreated addiction; and

(B) appropriate law enforcement, regulatory, and State professional licensing authorities have access to prescription history information for the purposes of investigating drug diversion and prescribing and dispensing practices of errant prescribers or pharmacists; and

* * * * *

PUBLIC HEALTH SERVICE ACT

**TITLE III—GENERAL POWERS AND DUTIES OF PUBLIC
HEALTH SERVICE**

* * * * *

PART P—ADDITIONAL PROGRAMS

* * * * *

SEC. 3990. CONTROLLED SUBSTANCE MONITORING PROGRAM.

(a) GRANTS.—

(1) IN GENERAL.—Each fiscal year, the Secretary shall award a grant to each State with an application approved under this section to enable the State—

(A) to establish and implement a State controlled substance monitoring program; **[or]**

(B) to make improvements to an existing State controlled substance monitoring program~~[\.]~~; *or*

(C) to maintain and operate an existing State-controlled substance monitoring program.

* * * * *

[(b) DEVELOPMENT OF MINIMUM REQUIREMENTS.—Prior to awarding a grant under this section, and not later than 6 months

after the date on which funds are first appropriated to carry out this section, after seeking consultation with States and other interested parties, the Secretary shall, after publishing in the Federal Register proposed minimum requirements and receiving public comments, establish minimum requirements for criteria to be used by States for purposes of clauses (ii), (v), (vi), and (vii) of subsection (c)(1)(A).】

(b) *MINIMUM REQUIREMENTS.*—*The Secretary shall maintain and, as appropriate, supplement or revise (after publishing proposed additions and revisions in the Federal Register and receiving public comments thereon) minimum requirements for criteria to be used by States for purposes of clauses (ii), (v), (vi), and (vii) of subsection (c)(1)(A).*

(c) APPLICATION APPROVAL PROCESS.—

(1) IN GENERAL.—To be eligible to receive a grant under this section, a State shall submit an application to the Secretary at such time, in such manner, and containing such assurances and information as the Secretary may reasonably require. Each such application shall include—

(A) with respect to a State that intends to use funds under the grant as provided for in subsection (a)(1)(A)—

(i) * * *

* * * * *

(iv) criteria for meeting the uniform electronic format requirement of 【subsection (h)】 *subsection (i)*;

* * * * *

(B) with respect to a State that intends to use funds under the grant as provided for in subsection 【(a)(1)(B)】 *(a)(1)(B) or (a)(1)(C)*—

(i) a budget cost estimate for the controlled substance monitoring 【program to be improved】 *program to be improved or maintained* under the grant;

* * * * *

(iv) assurances of compliance with all other requirements of this section or a statement describing why such compliance is not feasible or is contrary to the best interests of 【public health】 *public health or public safety* in such State.

* * * * *

(3) INTEROPERABILITY.—【If a State that submits】

(A) *IN GENERAL.*—*If a State that submits an application under this subsection geographically borders another State that is operating a controlled substance monitoring program under subsection (a)(1) on the date of submission of such application, and such applicant State has not achieved interoperability for purposes of information sharing between its monitoring program and the monitoring program of such border State, such applicant State shall, as part of the plan under paragraph (1)(B)(iii), describe the manner in which the applicant State will achieve interoperability between the monitoring programs of such States and include timelines for full implementation of such interoperability.*

(B) *MONITORING OF EFFORTS.*—*The Secretary shall monitor State efforts to achieve interoperability, as described in subparagraph (A).*

* * * * *

(5) *RETURN OF FUNDS.*—If the Secretary withdraws approval of a State’s application under this section, or the State chooses to cease to **implement or improve** *establish, improve, or maintain* a controlled substance monitoring program under this section, a funding agreement for the receipt of a grant under this section is that the State will return to the Secretary an amount which bears the same ratio to the overall grant as the remaining time period for expending the grant funds bears to the overall time period for expending the grant (as specified by the Secretary at the time of the grant). *The Secretary shall redistribute any funds that are so returned among the remaining grantees under this section in accordance with the formula described in subsection (a)(2)(B).*

(d) *REPORTING REQUIREMENTS.*—**In implementing or improving** a controlled substance monitoring program under this section, a State shall comply, or with respect to a State that applies for a grant under subsection (a)(1)(B) **In establishing, improving, or maintaining a controlled substance monitoring program under this section, a State shall comply, or with respect to a State that applies for a grant under subparagraph (B) or (C) of subsection (a)(1)** submit to the Secretary for approval a statement of why such compliance is not feasible or is contrary to the best interests of public health in such State, with the following:

(1) * * *

* * * * *

(4) The State shall require dispensers to report information under this section in accordance with the electronic format specified by the Secretary under **subsection (h)** *subsection (i)*, except that the State may waive the requirement of such format with respect to an individual dispenser that is unable to submit such information by electronic means.

(e) *DATABASE.*—**In implementing or improving** *establishing, improving, or maintaining* a controlled substance monitoring program under this section, a State shall comply with the following:

(1) * * *

* * * * *

(f) *USE AND DISCLOSURE OF INFORMATION.*—

(1) *IN GENERAL.*—Subject to subsection (g), in **implementing or improving** *establishing, improving, or maintaining* a controlled substance monitoring program under this section, a State may disclose information from the database established under subsection (e) and, in the case of a request under subparagraph (D), summary statistics of such information, only in response to a request by—

(A) * * *

(B) any local, State, or Federal law enforcement, narcotics control, licensure, disciplinary, or program authority, who certifies, under the procedures determined by the State, that the requested information is related to an indi-

vidual investigation or proceeding involving the unlawful diversion or **[misuse of a schedule II, III, or IV substance]** misuse of a controlled substance included in schedule II, III, or IV of section 202(c) of the Controlled Substance Act, and such information will further the purpose of the investigation or assist in the proceeding;

* * * * *

(3) *EVALUATION AND REPORTING.*—Subject to subsection (g), a State receiving a grant under subsection (a) shall provide the Secretary with aggregate data and other information determined by the Secretary to be necessary to enable the Secretary—

(A) to evaluate the success of the State’s program in achieving its purposes; or

(B) to prepare and submit the report to Congress required by subsection (k)(2).

(4) *RESEARCH BY OTHER ENTITIES.*—A department, program, or administration receiving nonidentifiable information under paragraph (1)(D) may make such information available to other entities for research purposes.

(g) *LIMITATIONS.*—In **[implementing or improving]** establishing, improving, or maintaining a controlled substance monitoring program under this section, a State—

(1) * * *

* * * * *

(h) *EDUCATION AND ACCESS TO THE MONITORING SYSTEM.*—A State receiving a grant under subsection (a) shall take steps to—

(1) facilitate prescriber use of the State’s controlled substance monitoring system; and

(2) educate prescribers on the benefits of the system both to them and society.

[(h)] (i) ELECTRONIC FORMAT.—The Secretary shall specify a uniform electronic format for the reporting, sharing, and disclosure of information under this section.

[(i)] (j) RULES OF CONSTRUCTION.—

(1) * * *

* * * * *

[(j)] (k) STUDIES AND REPORTS.—

(1) * * *

* * * * *

[(k) PREFERENCE.—Beginning 3 years after the date on which funds are first appropriated to carry out this section, the Secretary, in awarding any competitive grant that is related to drug abuse (as determined by the Secretary) and for which only States are eligible to apply, shall give preference to any State with an application approved under this section. The Secretary shall have the discretion to apply such preference to States with existing controlled substance monitoring programs that meet minimum requirements under this section or to States that put forth a good faith effort to meet those requirements (as determined by the Secretary).]

(l) *PREFERENCE.*—Beginning 3 years after the date on which funds are first appropriated to carry out this section, the Secretary, in awarding any competitive grant under title V that is related to drug abuse (as determined by the Secretary) and for which only

States or tribes are eligible to apply, may give preference to eligible States with applications approved under this section, to eligible States or tribes with existing controlled substance monitoring programs that meet minimum requirements under this section, or to eligible States or tribes that put forth a good faith effort to meet those requirements (as determined by the Secretary).

[(1)] (m) ADVISORY COUNCIL.—

(1) **ESTABLISHMENT.**—A State may establish an advisory council to assist in the **[establishment, implementation, or improvement]** *establishment, improvement, or maintenance* of a controlled substance monitoring program under this section.

* * * * *

[(m)] (n) DEFINITIONS.—For purposes of this section:

(1) * * *

* * * * *

(8) The term “State” means each of the 50 States **[and the District of Columbia]**, *the District of Columbia, and any commonwealth or territory of the United States.*

* * * * *

[(n)] AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated—

[(1)] \$15,000,000 for each of fiscal years 2006 and 2007; and

[(2)] \$10,000,000 for each of fiscal years 2008, 2009, and 2010.]

(o) **AUTHORIZATION OF APPROPRIATIONS.—***To carry out this section, there are authorized to be appropriated \$15,000,000 for fiscal year 2011 and \$10,000,000 for each of fiscal years 2012 and 2013.*

* * * * *