

RYAN WHITE HIV/AIDS TREATMENT EXTENSION ACT OF
2009

OCTOBER 20, 2009.—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

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 3792) to amend title XXVI of the Public Health Service Act to revise and extend the program for providing life-saving care for those with HIV/AIDS, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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AMENDMENT

There were no amendments to H.R. 3792 offered or adopted during Committee consideration of the bill.

PURPOSE AND SUMMARY

H.R. 3792, the “Ryan White HIV/AIDS Treatment Extension Act of 2009”, is a bill to reauthorize programs providing comprehensive care, treatment, and support services for Americans living with HIV/AIDS.

BACKGROUND AND NEED FOR LEGISLATION

Since 1981, when the first cases of AIDS were reported to the Centers for Disease Control and Prevention (CDC), the epidemic has continued to expand and, as a result, it is one of the largest public health challenges in this country. According to the most recent surveillance report released by the CDC, a cumulative total of 1,030,832 AIDS cases were reported in the United States from the beginning of the epidemic through 2007. The CDC estimates that 583,298 people died of HIV/AIDS over the same time period. For 2006, the most recent year that data are available, CDC estimated that approximately 56,300 people were newly infected with HIV. More than half (57%) of these new infections occurred in gay and bisexual men. In addition, the incidence rate for African American men and women was estimated to be 7 times as high as the incidence rate among whites. It is clear from these statistics that despite the significant advances in testing, treatment and prevention, the impact of HIV/AIDS on people in the United States has been and continues to be substantial.

The Ryan White HIV/AIDS Program was established by Congress in 1990 (P.L. 101–381) to provide assistance in health care and support services for individuals and families affected by HIV/AIDS. The Ryan White program has been reauthorized and amended by Congress three times: in 1996 (P.L. 104–146), 2000 (P.L. 106–345), and 2006 (P.L. 109–415). The 2006 reauthorization contained a “sunset” provision that would have eliminated the entire title, but a provision in the October 1, 2009, Continuing Resolution (P.L. 111–68) extended the program through the end of October 2009.

LEGISLATIVE HISTORY

H.R. 3792 was introduced on October 13, 2009, by Subcommittee Chairman Pallone, Ranking Member Deal, Committee Chairman Waxman, and Ranking Member Barton. The bill was referred to the Committee on Energy and Commerce, and subsequently to the Subcommittee on Health.

Prior to the bill’s introduction, the Subcommittee on Health held a legislative hearing entitled “‘Ryan White CARE Act Amendments of 2009’ Discussion Draft Legislation” on September 9, 2009. The hearing examined a discussion draft of legislation to extend the Ryan White program for three additional years. The Subcommittee received testimony from Mary Wakefield, Ph.D., R.N., Administrator, Health Resources and Services Administration; Marcia Crosse, Ph.D., Healthcare Director, Government Accountability Of-

fice; Julie Scofield, Executive Director, National Alliance of State and Territorial AIDS Directors; and Donna Elaine Sweet, M.D., M.A.C.P., A.A.H.I.V.S., Professor, Department of Internal Medicine, University of Kentucky, School of Medicine, and Board Chair, American Academy of HIV Medicine.

The language reported by the Committee was developed in bipartisan negotiations with the Senate.

COMMITTEE CONSIDERATION

H.R. 3792 was considered in open markup session by the Subcommittee on Health on Wednesday, October 14, 2009, and was forwarded favorably to the full Committee without amendment. On Thursday, October 15, 2009, the full Committee met in open markup session and considered H.R. 3792, as approved by the Subcommittee on Health. Subsequently, the Committee ordered H.R. 3792 favorably reported to the House, without amendment, 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 the record votes on the motion to report legislation and amendments thereto. A motion by Mr. Pallone to order H.R. 3792 favorably reported to the House, without amendment, was adopted by a voice vote. There were no amendments offered to H.R. 3792 during the Committee's consideration and no recorded votes were requested on the bill.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee are reflected in the descriptive portions of this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 3792 would result in no new budget authority, entitlement authority, or tax expenditures or revenues.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

The goal of H.R. 3792, the Ryan White HIV/AIDS Treatment Extension Act of 2009, is to provide HIV-related health services to address unmet needs.

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. 3792 is provided in Article I, section 8, clauses 1, 3, and 18.

EARMARKS AND TAX AND TARIFF BENEFITS

H.R. 3792 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the Rules of the House of Representatives.

ADVISORY COMMITTEE STATEMENT

No advisory committees were created by H.R. 3792 within the meaning of section 5 U.S.C. App., 5(b) of the Federal Advisory Committee Act.

APPLICABILITY OF LAW TO THE LEGISLATIVE BRANCH

The Committee finds that H.R. 3792 does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act of 1985.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimates of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandate Reform Act.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d) of rule XIII of the Rules of the House of Representatives, the Committee will adopt as its own the cost estimate on H.R. 3792 prepared by the Director of the Congressional Budget Office (CBO) pursuant to section 402 of the Congressional Budget Act.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, a complete cost estimate on H.R. 3792 by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not available when the Committee filed this report. CBO has, however, determined that the bill would not impact direct spending, as discussed in the letter that follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 19, 2009.

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

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 3792, the Ryan White HIV/AIDS Treatment Extension Act of 2009, as ordered reported by the Committee on Energy and Commerce on October 15, 2009, and determined that the bill would have no impact on direct spending or revenues. The bill would reauthorize the Ryan White program in title XXVI of the Public Health Service Act and would authorize appropriations for purposes specified in the bill. CBO has not completed an estimate of the legislation's impact on spending subject to appropriation.

H.R. 3792 would impose intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) because it would require public and private medical facilities to comply with new procedures for notifying emergency response employees of possible exposures to an infectious disease. CBO estimates that the costs of the mandates would fall below the annual thresholds established in UMRA for both intergovernmental and private-sector mandates (\$69 million and \$139 million in 2009, respectively, adjusted annually for inflation). In general, funds authorized in the bill would benefit state, local, and tribal governments that participate in medical and other support programs for individuals with HIV/AIDS.

If you wish further details, we will be pleased to provide them. The CBO staff contact is Lisa Ramirez-Branum.

Sincerely,

DOUGLAS W. ELMENDORF,
Director.

Enclosure.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title; references

Section 1 establishes the short title of the Act as the “Ryan White HIV/AIDS Treatment Extension Act of 2009”.

Section 2. Reauthorization of HIV health care services program

Section 2 re-establishes the provisions of the Act, retroactive to September 30, 2009, and repeals all prior sunset provisions. It provides a 5% increase over fiscal year 2009 authorization levels across Parts A through D and Part F for each of fiscal years 2010 through 2013.

Section 2 contains several provisions that pertain to the Minority AIDS Initiative (MAI), which addresses HIV/AIDS among racial and ethnic minorities, who as a whole, face disproportionate incidence and prevalence rates of the disease, as well as heightened barriers to care and treatment. It synchronizes the MAI application schedules across Ryan White Parts A through D and Part F to streamline the MAI application process.

Section 2 also reverts competitive funding under MAI Parts A and Part B to formula funding. Prior to the 2006 Ryan White HIV/AIDS Treatment Modernization Act (RWHATMA), Part A and Part B MAI funding was allocated to cities and states based on their share of total AIDS cases among racial and ethnic minorities. RWHATMA shifted MAI funding to a competitive process. According to the Government Accountability Office (GAO), this created a large administrative burden, and resulted in a number of jurisdictions receiving no funding; no improvements in program performance were reported. Therefore, this section shifts MAI funding for Part A and Part B to a formula basis. It is the Committee’s intent that the Secretary distribute MAI funding for Part A and Part B based on the distribution of HIV/AIDS cases among racial and ethnic minorities.

In addition, the section requires the GAO to report on MAI activities across the Department of Health and Human Services (HHS) departmental agencies, including a description of best prac-

tices in capacity-building, particularly for minority community-based organizations. The section also requires the Secretary of HHS to prepare a plan for the use of MAI funds for capacity-building, taking into consideration the findings of the GAO report.

The legislation retains the existing requirement that 75% of funding be spent on “core medical services”. The Committee encourages grantees and subgrantees to maximize flexibility in the use of support services in support of medical outcomes, including finding methods of reducing costs. Grantees may seek to adopt systems that reasonably ensure the ability of clients to attain support services that minimize cost or accounting burden wherever possible. Examples that have come to the Committee’s attention include the use of monthly bus or subway passes and weekly or monthly gas cards or vouchers that may allow incidental non-Ryan White Program travel but are cheaper overall than individual bus passes or taxi vouchers.

The Committee is concerned about the prevalence of HIV in the nation’s prison system. Disparities in the epidemic are exacerbated by the lack of access to adequate health and support services for inmates while incarcerated and upon their return to the community. The Committee notes that the Health Research and Services Administration (HRSA) has developed guidance on the permitted use of Ryan White dollars for pre- and post-release programs for HIV-positive inmates being released back to the community, and believes that HRSA should encourage Part B grantees to develop and implement such programs as appropriate.

More than 30% of HIV-infected persons in the United States are chronically infected with the hepatitis C virus (HCV). Ryan White grantees require additional assistance in addressing the complex needs of co-infected clients, particularly in large urban areas where the majority of HIV/HCV co-infected patients live and receive services. The Committee encourages the HRSA to increase the capacity of Ryan White grantees to deliver medical management, treatment, and support services for clients co-infected with HIV and HCV by implementing training and technical assistance initiatives, so that Ryan White funded programs are able to increase HCV education, testing, medical management, case management, and treatment services to meet the needs of their respective communities. While not all co-infected patients are appropriate candidates for treatment, the low uptake in hepatitis treatment despite availability of medications on ADAP formularies is troubling. The Committee encourages HRSA to address this concern through the creation of best practices from successful efforts in the field, increased provider education, case manager capacity building and creation of educational materials for clients.

Numerous studies and reports, including the National Healthcare Disparities Report and Unequal Treatment, the 2002 Institute of Medicine Report, document extensive health disparities across the country. These studies have found that, on average, racial and ethnic minorities are disproportionately afflicted with chronic and acute conditions—such as cancer, diabetes, and hypertension—as well as communicable diseases like HIV/AIDS, and suffer worse health outcomes, worse health status, and higher mortality rates than the general population.

The Ryan White Act provides the best opportunity for individuals affected by HIV/AIDS to access health care. Comorbidities such as hepatitis C have a substantial impact on health-related quality for patients with HIV/AIDS. By ensuring patients with comorbidities have access to care, the Ryan White Act is taking a small but necessary step in reducing the serious health disparities that disproportionately affect racial and ethnic minorities.

Most low-income HIV-positive individuals co-infected with HBV or HCV can obtain services through the Ryan White Program, but coverage for HBV and HCV treatment and viral load testing, which is crucial for diagnosis and monitoring response to treatment, is limited. Unfortunately, coverage for diagnostics, monitoring, treatment and vaccination against viral hepatitis is not uniformly available through state AIDS Drug Assistance Programs (ADAPs), due to funding shortfalls. The Committee believes resources under the Ryan White Program are urgently needed for care, treatment, diagnostics, hepatitis vaccine, case management, and support services for patients undergoing hepatitis treatment, as well as to improve provider education on HBV and HCV medical management and treatment.

The Committee recognizes that despite the progress made to treat individuals with HIV/AIDS, including through the Ryan White Act, that there is still significant progress that needs to be made to prevent HIV transmission. From 2004 to 2007, the estimated number of newly diagnosed HIV/AIDS cases increased among all races and ethnicities, and increased 18% among males and 8% among females during that time period. In recognition of this trend, the Committee supports the development of an HIV vaccine as a solution for ending the HIV pandemic. Of the more than 80 HIV/AIDS vaccine candidates that have undergone Phase I clinical trials, 2 have entered phase III trials. The development and testing of HIV vaccines should be encouraged by the public and private sector, along with other promising science that seeks to eradicate HIV/AIDS in the United States.

Section 3. Extended exemption period for names-based reporting

Section 3 maintains the code-based protections established under the 2006 reauthorization for states and jurisdictions with maturing names-based HIV case data during the first three years of the reauthorization period. For the first two years, jurisdictions that report code-based data to HRSA will continue to incur a 5% penalty against their count of living cases of HIV and will still be subject to a 5% cap on increases in the HIV case count. In 2012, the penalty will be increased to 6%. Beginning in fiscal year 2013, code-based protections will be eliminated and all states will be required to report cases using a names-based system.

Section 4. Extension of transitional grant area status

Section 4 extends current rules for transitional grant area (TGA) status. It adds a provision that if a metropolitan area receiving Part A funding has between 1400 and 1500 cumulative living AIDS cases and did not have more than 5% of its total grants unobligated at the end of the grant period for the prior fiscal year, it will be treated as having met the criteria for continued eligibility as a TGA.

Section 4 also modifies the transfer of amounts from TGAs that lose their eligibility during the reauthorization period. Under current law, when a TGA loses its status, \$500,000 is transferred to the overall Part B pool for states, along with the state's most recent formula grant award. Section 4 provides transitional funding as the clients of a former TGA are absorbed by the overall state program. In the first year after a TGA loses eligibility for Part A funding, the state in which the TGA is located will retain 75% of the TGA formula funding. The amount will decline to 50% in the second year and 25% in the third. By the fourth year, all of the former TGAs funding will be part of the overall Part B pool.

Section 5. Hold harmless

Section 5 continues the hold harmless pattern established in 2006 for the first three years of the reauthorization period. States and EMAs will receive no less than 95% of fiscal year 2009 formula award amounts in 2010 and 100% of fiscal year 2010 formula award amounts for each of the fiscal years 2011 and 2012. For fiscal year 2013, states and EMAs may not receive less than 92.5% of the previous fiscal year's grant.

Section 6. Amendments to the general grant provisions

Section 6 encourages early identification of individuals infected with HIV. It requires the planning councils for Part A grant recipients to develop a strategy, in coordination with other appropriate community strategies or activities, to identify and diagnose individuals with HIV/AIDS who are unaware of their status and link them with the appropriate care and treatment.

For the purposes of allocating competitive Part A supplemental grants, one-third of the criteria on which allocations are made will be based on demonstrated success in identifying undiagnosed individuals with HIV/AIDS, making them aware of their status, and linking them to appropriate care.

Section 7. Increase in adjustment for names-based reporting

Section 7 adds an adjustment for Part A and B jurisdictions that switched to names-based reporting early in 2007 and received a decrease in total funding of at least 30% from year 2006 as a result of determinations based on the new reporting system. For those jurisdictions, the Secretary shall base awards on living HIV/AIDS cases plus an adjustment of 3%.

Section 8. Treatment of unobligated funds

Under current law, if a Part A or Part B grantee has unobligated formula funding at the end of the grant year, it can request a waiver to carry over the funding. If the waiver is not granted or if the funds remain unspent by the end of the carryover year, the funds return to the Secretary and become available for supplemental grants.

If the unobligated formula balance is 2% or more of the total award, certain penalties apply, whether or not the jurisdiction receives a carryover waiver. For formula funds, future formula funding will be reduced by the amount of the unobligated balance, beginning in the year following the report. In addition, the jurisdic-

tion will not be eligible for supplemental funding in the year following the report.

Because of multiple factors (such as statewide budget problems and hiring freezes) it has at times been difficult for all Part A and Part B grantees to obligate 98% of their funds by the end of the year. Nine states experienced a reduction in their fiscal year 2009 grants due to unobligated balances in fiscal year 2007.

Section 7 increases the unobligated penalty threshold from 2% of the total award to 5%. It retains the provision that a jurisdiction with more than 5% of its funds unobligated will be ineligible for supplemental funding in the following year. For formula funds, if the unobligated amount is more than the 5% threshold, the next year's formula funding will be reduced by the amount of unobligated balance, but the reduction amount will not include any unobligated balance that was approved for carryover by HRSA.

Section 9. Application by States

Section 9 requires states, as part of their planning process for Ryan White funding, to establish a comprehensive strategy to identify and diagnose individuals with HIV/AIDS who are unaware of their status and link them with the appropriate care and treatment.

Section 10. ADAP rebate funds

The unobligated balances requirement addressed in section 8 intersects with the treatment of rebate dollars under the AIDS Drug Assistance Program (ADAP). Under current law, many states purchase ADAP drugs directly from the manufacturer and receive substantial rebates in return. These rebates must be put back into the program and, as a general requirement, states must spend rebate dollars before grant dollars. The amount and timing of rebate dollars, however, is unpredictable. For example, a state may receive a significant rebate late in the award year. Since rebates must be spent before program funds, the state could end the year with more than the permitted threshold of unobligated program funds.

Section 10 of the bill provides that if an expenditure of ADAP rebate funds would trigger a penalty or a higher penalty than would otherwise have applied, the Secretary shall deem the state's unobligated balance to be reduced by the amount of rebate funds in the proposed expenditure.

Section 10 also specifies that any unobligated ADAP grant amounts that are returned to the Secretary shall go to the state ADAP program, if the Secretary deems appropriate, or to Part B supplemental fund.

Section 11. Application to primary care services

Part D of Ryan White provides grants to entities serving women, infants, children, and youths living with HIV/AIDS. Programs provide for outpatient medical care and offer case management, referrals, and other services to enable participation in the program, including outreach efforts to youth with HIV.

Section 11 clarifies that Part D should be the payer of last resort and specifies memoranda of understanding as vehicles for Part D providers to ensure access to primary care.

Section 12. National HIV/AIDS testing goal

Section 12 requires the Secretary to establish a national HIV/AIDS testing goal of 5 million HIV tests provided through all federally-supported HIV/AIDS programs.

Also, Section 12 requires the Secretary to report to Congress each year on the progress made toward achieving the goal. The Secretary is required to review each domestic HIV/AIDS prevention program to determine its effectiveness based on the program's stated purposes and on its contributions toward the testing goal.

Section 13. Notification of possible exposure to infectious diseases

Section 13 establishes requirements to ensure that emergency responders are notified if exposed to potentially life-threatening infectious diseases, while preserving confidentiality requirements. A nearly identical section was in statute prior to the 2006 reauthorization. The legislation makes minor changes to the original language, including permitting the Secretary to suspend the requirements in a federal public health emergency. Because states and many localities have their own requirements for infectious disease surveillance, prevention, investigation, and control, the Committee expects that in developing the disease list under this section, the Secretary will consult as appropriate with state and local governmental public health authorities, and work to optimize efficiency and coordination with state and local procedures.

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):

**RYAN WHITE HIV/AIDS TREATMENT MODERNIZATION
ACT OF 2006**

* * * * *

**TITLE VII—MISCELLANEOUS
PROVISIONS**

* * * * *

[SEC. 703. REPEAL.

[Effective on October 1, 2009, title XXVI of the Public Health Service Act (42 U.S.C. 300ff et seq.) is repealed.]

PUBLIC HEALTH SERVICE ACT

* * * * *

TITLE XXVI—HIV HEALTH CARE SERVICES PROGRAM

PART A—EMERGENCY RELIEF FOR AREAS WITH SUBSTANTIAL NEED FOR SERVICES

Subpart I—General Grant Provisions

* * * * *

SEC. 2602. ADMINISTRATION AND PLANNING COUNCIL.

(a) * * *

(b) HIV HEALTH SERVICES PLANNING COUNCIL.—

(1) * * *

* * * * *

(4) DUTIES.—The planning council established or designated under paragraph (1) shall—

(A) determine the size and demographics of the population of individuals with HIV/AIDS, *as well as the size and demographics of the estimated population of individuals with HIV/AIDS who are unaware of their HIV status;*

(B) determine the needs of such population, with particular attention to—

(i) individuals with HIV/AIDS who know their HIV status and are not receiving HIV-related services; **[and]**

(ii) disparities in access and services among affected subpopulations and historically underserved communities; *and*

(iii) *individuals with HIV/AIDS who do not know their HIV status;*

* * * * *

(D) develop a comprehensive plan for the organization and delivery of health and support services described in section 2604 that—

(i) * * *

(ii) includes a strategy to coordinate the provision of such services with programs for HIV prevention (including outreach and early intervention) and for the prevention and treatment of substance abuse (including programs that provide comprehensive treatment services for such abuse); **[and]**

(iii) is compatible with any State or local plan for the provision of services to individuals with HIV/AIDS; *and*

(iv) *includes a strategy, coordinated as appropriate with other community strategies and efforts, including discrete goals, a timetable, and appropriate funding, for identifying individuals with HIV/AIDS who do not know their HIV status, making such individuals aware of such status, and enabling such individuals to use the health and support services described in section 2604, with particular attention to reducing barriers to*

routine testing and disparities in access and services among affected subpopulations and historically underserved communities;

* * * * *

SEC. 2603. TYPE AND DISTRIBUTION OF GRANTS.

(a) GRANTS BASED ON RELATIVE NEED OF AREA.—

(1) * * *

* * * * *

(3) AMOUNT OF GRANT.—

(A) * * *

* * * * *

(C) LIVING CASES OF HIV/AIDS.—

(i) * * *

(ii) TRANSITION PERIOD; EXEMPTION REGARDING NON-AIDS CASES.—For each of the fiscal years 2007 through **[2009] 2012**, an eligible area is, subject to clauses (iii) through (v), exempt from the requirement under clause (i) that living names-based non-AIDS cases of HIV be reported unless—

(I) * * *

(II) no later than the beginning of fiscal year 2008 **[or 2009]** or a subsequent fiscal year through fiscal year 2012, the Secretary, in consultation with the chief executive of the State in which the area is located, determines that a system has become operational in the State that provides sufficiently accurate and reliable names-based reporting of such cases throughout the State.

* * * * *

(iv) REQUIREMENT FOR EXEMPTION AS OF FISCAL YEAR 2008.—For each of the fiscal years 2008 through **[2010] 2012**, an exemption under clause (ii) for an eligible area applies only if, as of April 1, 2008, the State in which the area is located is substantially in compliance with the agreement under clause (iii)(II).

(v) PROGRESS TOWARD NAMES-BASED REPORTING.—For fiscal year 2009 or a subsequent fiscal year, the Secretary may terminate an exemption under clause (ii) for an eligible area if the State in which the area is located submitted a plan under clause (iii)(I)(aa) and the Secretary determines that the State is not substantially following the plan.

(vi) COUNTING OF CASES IN AREAS WITH EXEMPTIONS.—

(I) * * *

(II) ADJUSTMENT RATE.—The adjustment rate under subclause (I) for an eligible area shall be a reduction of 5 percent for fiscal years before fiscal year 2012 (and 6 percent for fiscal year 2012) in the number of living non-AIDS cases of HIV reported for the area.

(III) INCREASED ADJUSTMENT FOR CERTAIN AREAS PREVIOUSLY USING CODE-BASED REPORTING.—For purposes of this subparagraph for each of fiscal years 2010 through 2012, the Secretary shall deem the applicable number of living cases of HIV/AIDS in an area that were reported to and confirmed by the Centers for Disease Control and Prevention to be 3 percent higher than the actual number if—

(aa) for fiscal year 2007, such area was a transitional area;

(bb) fiscal year 2007 was the first year in which the count of living non-AIDS cases of HIV in such area, for purposes of this section, was based on a names-based reporting system; and

(cc) the amount of funding that such area received under this part for fiscal year 2007 was less than 70 percent of the amount of funding (exclusive of funds that were identified as being for purposes of the Minority AIDS Initiative) that such area received under such part for fiscal year 2006.

* * * * *

(ix) RULES OF CONSTRUCTION REGARDING ACCEPTANCE OF REPORTS.—

(I) * * *

(II) APPLICABILITY OF EXEMPTION REQUIREMENTS.—The provisions of clauses (ii) through (viii) may not be construed as having any legal effect for fiscal year ~~2010~~ 2013 or any subsequent fiscal year, and accordingly, the status of a State for purposes of such clauses may not be considered after fiscal year ~~2009~~ 2012.

* * * * *

(xi) FUTURE FISCAL YEARS.—For fiscal years beginning with fiscal year 2013, determinations under this paragraph shall be based only on living names-based cases of HIV/AIDS with respect to the area involved.

(D) CODE-BASED AREAS; LIMITATION ON INCREASE IN GRANT.—

(i) IN GENERAL.—For each of the fiscal years 2007 through ~~2009~~ 2012, if code-based reporting (within the meaning of subparagraph (C)(vi)) applies in an eligible area or any portion thereof as of the beginning of the fiscal year involved, then notwithstanding any other provision of this paragraph, the amount of the grant pursuant to this paragraph for such area for such fiscal year may not—

(I) * * *

(II) for each of the fiscal years 2008 [and 2009] through 2012, exceed by more than 5 percent the amount of the grant pursuant to this paragraph

and paragraph (4) for the area for the preceding fiscal year.

(ii) USE OF AMOUNTS INVOLVED.—For each of the fiscal years 2007 through ~~2009~~ 2012, amounts available as a result of the limitation under clause (i) shall be made available by the Secretary as additional amounts for grants pursuant to subsection (b) for the fiscal year involved, subject to paragraph (4) and section 2610(d)(2).

(4) INCREASES IN GRANT.—

(A) IN GENERAL.—For each eligible area that received a grant pursuant to this subsection for fiscal year ~~2006~~ 2009, the Secretary shall, for each of the fiscal years ~~2007 through 2009~~ 2010 through 2013, increase the amount of the grant made pursuant to paragraph (3) for the area to ensure that the amount of the grant for the fiscal year involved is not less than the following amount, as applicable to such fiscal year:

[(i) For fiscal year 2007, an amount equal to 95 percent of the amount of the grant that would have been made pursuant to paragraph (3) and this paragraph for fiscal year 2009 (as such paragraphs were in effect for such fiscal year) if paragraph (2) (as so in effect) had been applied by substituting “66²/₃ percent” for “50 percent”.

[(ii) For each of the fiscal years 2008 and 2009, an amount equal to 100 percent of the amount of the grant made pursuant to paragraph (3) and this paragraph for fiscal year 2007.]

(i) For fiscal year 2010, an amount equal to 95 percent of the sum of the amount of the grant made pursuant to paragraph (3) and this paragraph for fiscal year 2009.

(ii) For each of the fiscal years 2011 and 2012, an amount equal to 100 percent of the amount of the grant made pursuant to paragraph (3) and this paragraph for fiscal year 2010.

(iii) For fiscal year 2013, an amount equal to 92.5 percent of the amount of the grant made pursuant to paragraph (3) and this paragraph for fiscal year 2012.

* * * * *

(C) LIMITATION.—This paragraph may not be construed as having any applicability after fiscal year ~~2009~~ 2013.

(b) SUPPLEMENTAL GRANTS.—

(1) IN GENERAL.—Subject to subsection (a)(4)(B)(i) and section 2610(d), the Secretary shall disburse the remainder of amounts not disbursed under section 2603(a)(2) for such fiscal year for the purpose of making grants under section 2601(a) to eligible areas whose application under section 2605(b)—

(A) * * *

* * * * *

(G) demonstrates the manner in which the proposed services are consistent with the local needs assessment and the statewide coordinated statement of need; ~~and~~

(H) demonstrates the ability of the applicant to expend funds efficiently by not having had, for the most recent grant year under subsection (a) for which data is available, more than ~~2 percent~~ 5 percent of grant funds under such subsection ~~canceled~~ canceled, offset under subsection (c)(4), or covered by any waivers under subsection (c)(3) ~~.~~; and

(I) demonstrates success in identifying individuals with HIV/AIDS as described in clauses (i) through (iii) of paragraph (2)(A).

(2) AMOUNT OF GRANT.—

(A) IN GENERAL.—The amount of each grant made for purposes of this subsection shall be determined by the Secretary based on a weighting of factors under paragraph (1), with demonstrated need under subparagraph (B) of such paragraph counting one-third ~~.~~, and demonstrated success in identifying individuals with HIV/AIDS who do not know their HIV status and making them aware of such status counting one-third. In making such determination, the Secretary shall consider—

(i) the number of individuals who have been tested for HIV/AIDS;

(ii) of those individuals described in clause (i), the number of individuals who tested for HIV/AIDS who are made aware of their status, including the number who test positive; and

(iii) of those individuals described in clause (ii), the number who have been referred to appropriate treatment and care.

* * * * *

(D) INCREASED ADJUSTMENT FOR CERTAIN AREAS PREVIOUSLY USING CODE-BASED REPORTING.—For purposes of this subsection for each of fiscal years 2010 through 2012, the Secretary shall deem the applicable number of living cases of HIV/AIDS in an area that were reported to and confirmed by the Centers for Disease Control and Prevention to be 3 percent higher than the actual number if the conditions described in items (aa) through (cc) of subsection (a)(3)(C)(vi)(III) are all satisfied.

* * * * *

(c) TIMEFRAME FOR OBLIGATION AND EXPENDITURE OF GRANT FUNDS.—

(1) * * *

* * * * *

(3) FORMULA GRANTS; CANCELLATION OF UNOBLIGATED BALANCE OF GRANT AWARD; WAIVER PERMITTING CARRYOVER.—

(A) * * *

* * * * *

(D) CORRESPONDING REDUCTION IN FUTURE GRANT.—

(i) IN GENERAL.—In the case of an eligible area for which a balance from a grant award under subsection (a) is unobligated as of the end of the grant year for the award—

(I) the Secretary shall reduce, by the same amount as such unobligated balance (*less any amount of such balance that is the subject of a waiver of cancellation under subparagraph (A)*), the amount of the grant under such subsection for the first fiscal year beginning after the fiscal year in which the Secretary obtains the information necessary for determining that such balance was unobligated as of the end of the grant year (which requirement for a reduction applies without regard to whether a waiver under subparagraph (A) has been approved with respect to such balance); and

* * * * *
 except that this clause does not apply to the eligible area if the amount of the unobligated balance was **2 percent** 5 percent or less.

* * * * *
 (4) *AUTHORITY REGARDING ADMINISTRATION OF PROVISIONS.—In administering paragraphs (2) and (3) with respect to the unobligated balance of an eligible area, the Secretary may elect to reduce the amount of future grants to the area under subsection (a) or (b), as applicable, by the amount of any such unobligated balance in lieu of cancelling such amount as provided for in paragraph (2) or (3)(A). In such case, the Secretary may permit the area to use such unobligated balance for purposes of any such future grant. An amount equal to such reduction shall be available for use as additional amounts for grants pursuant to subsection (b), subject to subsection (a)(4) and section 2610(d)(2). Nothing in this paragraph shall be construed to affect the authority of the Secretary under paragraphs (2) and (3), including the authority to grant waivers under paragraph (3)(A). The reduction in future grants authorized under this paragraph shall be notwithstanding the penalty required under paragraph (3)(D) with respect to unobligated funds.*

SEC. 2605. APPLICATION.

- (a) * * *
- (b) **APPLICATION.**—An eligible area that desires to receive a grant under section 2603(b) shall prepare and submit to the Secretary an application, in accordance with subsection (c) regarding a single application and grant award, at such time, in such form, and containing such information as the Secretary shall require, including the information required under such subsection and information concerning—
- (1) the number of individuals to be served within the eligible area with assistance provided under the grant, *including the identification of individuals with HIV/AIDS as described in clauses (i) through (iii) of section 2603(b)(2)(A)*;

* * * * *

Subpart II—Transitional Grants

SEC. 2609. ESTABLISHMENT OF PROGRAM.

(a) * * *

* * * * *

(c) CERTAIN ELIGIBILITY RULES.—

(1) FISCAL YEAR ~~2007~~ 2011.—With respect to grants under subsection (a) for fiscal year ~~2007~~ 2011, a metropolitan area that received funding under subpart I for fiscal year ~~2006~~ 2010 but does not for fiscal year ~~2007~~ 2011 qualify under such subpart as an eligible area and does not qualify under subsection (b) as a transitional area shall, notwithstanding subsection (b), be considered a transitional area.

(2) CONTINUED STATUS AS TRANSITIONAL AREA.—

(A) IN GENERAL.—Notwithstanding subsection (b), a metropolitan area that is a transitional area for a fiscal year continues, except as provided in subparagraph (B), to be a transitional area until the metropolitan area fails, for three consecutive fiscal years—

(i) * * *

(ii) ~~to have a~~ *subject to subparagraphs (B) and (C), to have a* cumulative total of 1,500 or more living cases of AIDS (reported to and confirmed by the Director of the Centers for Disease Control and Prevention) as of December 31 of the most recent calendar year for which such data is available.

(B) PERMITTING MARGIN OF ERROR APPLICABLE TO CERTAIN METROPOLITAN AREAS.—In applying subparagraph (A)(ii) for a fiscal year after fiscal year 2008, in the case of a metropolitan area that has a cumulative total of at least 1,400 (and fewer than 1,500) living cases of AIDS as of December 31 of the most recent calendar year for which such data is available, such area shall be treated as having met the criteria of such subparagraph if not more than 5 percent of the total grants awarded to such area under this part is unobligated as of the end of the most recent fiscal year for which such data is available.

~~[(B)] (C) EXCEPTION REGARDING STATUS AS ELIGIBLE AREA.—[Subparagraph (A) does not apply] Subparagraphs (A) and (B) do not apply~~ for a fiscal year if the metropolitan area involved qualifies under subpart I as an eligible area.

(d) APPLICATION OF CERTAIN PROVISIONS OF SUBPART I.—

(1) ADMINISTRATION; PLANNING COUNCIL.—

(A) * * *

(B) EXCEPTION.—For each of the fiscal years 2007 through ~~2009~~ 2013, the exception described in subparagraph (A) does not apply if the transitional area involved received funding under subpart I for fiscal year 2006.

* * * * *

Subpart III—General Provisions

SEC. 2610. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—For the purpose of carrying out this part, there are authorized to be appropriated \$604,000,000 for fiscal year 2007, \$626,300,000 for fiscal year 2008, [and \$649,500,000 for fiscal year 2009] *\$649,500,000 for fiscal year 2009, \$681,975,000 for fiscal year 2010, \$716,074,000 for fiscal year 2011, \$751,877,000 for fiscal year 2012, and \$789,471,000 for fiscal year 2013.* Amounts appropriated under the preceding sentence for a fiscal year are available for obligation by the Secretary until the end of the second succeeding fiscal year.

* * * * *

(c) TRANSFER OF CERTAIN AMOUNTS; CHANGE IN STATUS AS ELIGIBLE AREA OR TRANSITIONAL AREA.—Notwithstanding subsection (b):

(1) * * *

(2) If a metropolitan area is a transitional area under section 2609 for a fiscal year, but for a subsequent fiscal year ceases to be a transitional area by reason of section 2609(c)(2) (and does not qualify for such subsequent fiscal year as an eligible area under subpart I)—

(A) * * *

(B)(i) *subject to clause (ii)*, an amount equal to the amount of the reduction under subparagraph (A) for such year is, notwithstanding subsection (a), transferred and made available for grants pursuant to section 2618(a)(1), in addition to amounts available for such grants under section 2623[.]; and

(ii) *for each of fiscal years 2010 through 2013, notwithstanding subsection (a)—*

(I) *there shall be transferred to the State containing the metropolitan area, for purposes described in section 2612(a), an amount (which shall not be taken into account in applying section 2618(a)(2)(H)) equal to—*

(aa) *for the first fiscal year of the metropolitan area not being a transitional area, 75 percent of the amount described in subparagraph (A)(i) for such area;*

(bb) *for the second fiscal year of the metropolitan area not being a transitional area, 50 percent of such amount; and*

(cc) *for the third fiscal year of the metropolitan area not being a transitional area, 25 percent of such amount; and*

(II) *there shall be transferred and made available for grants pursuant to section 2618(a)(1) for the fiscal year, in addition to amounts available for such grants under section 2623, an amount equal to the total amount of the reduction for such fiscal year under subparagraph (A), less the amount transferred for such fiscal year under subclause (I).*

* * * * *

PART B—CARE GRANT PROGRAM

Subpart I—General Grant Provisions

* * * * *

SEC. 2617. STATE APPLICATION.

(a) * * *

(b) DESCRIPTION OF INTENDED USES AND AGREEMENTS.—The application submitted under subsection (a) shall contain—

(1) * * *

* * * * *

(6) an assurance that the public health agency administering the grant for the State will periodically convene a meeting of individuals with HIV/AIDS, members of a Federally recognized Indian tribe as represented in the State, representatives of grantees under each part under this title, providers, and public agency representatives for the purpose of developing a state-wide coordinated statement of need; [and]

(7) an assurance by the State that—

(A) * * *

* * * * *

(G) entities within areas in which activities under the grant are carried out will maintain appropriate relationships with entities in the area served that constitute key points of access to the health care system for individuals with HIV/AIDS (including emergency rooms, substance abuse treatment programs, detoxification centers, adult and juvenile detention facilities, sexually transmitted disease clinics, HIV counseling and testing sites, mental health programs, and homeless shelters), and other entities under section 2612(c) and 2652(a), for the purpose of facilitating early intervention for individuals newly diagnosed with HIV/AIDS and individuals knowledgeable of their HIV status but not in care[.]; and

(8) a comprehensive plan—

(A) containing an identification of individuals with HIV/AIDS as described in clauses (i) through (iii) of section 2603(b)(2)(A) and the strategy required under section 2602(b)(4)(D)(iv);

(B) describing the estimated number of individuals within the State with HIV/AIDS who do not know their status;

(C) describing activities undertaken by the State to find the individuals described in subparagraph (A) and to make such individuals aware of their status;

(D) describing the manner in which the State will provide undiagnosed individuals who are made aware of their status with access to medical treatment for their HIV/AIDS; and

(E) describing efforts to remove legal barriers, including State laws and regulations, to routine testing.

* * * * *

SEC. 2618. DISTRIBUTION OF FUNDS.

(a) AMOUNT OF GRANT TO STATE.—

(1) * * *

(2) DETERMINATION.—

(A) FORMULA.—For purposes of paragraph (1), the amount referred to in this paragraph for a State (including a territory) for a fiscal year is, subject to subparagraphs (E) and (F)—

(i) an amount equal to the amount made available under section 2623 for the fiscal year involved for grants pursuant to paragraph (1), subject to [subparagraph (G)] *subparagraph (F)*; and

* * * * *

(D) LIVING CASES OF HIV/AIDS.—

(i) * * *

(ii) TRANSITION PERIOD; EXEMPTION REGARDING NON-AIDS CASES.—For each of the fiscal years 2007 through [2009] 2012, a State is, subject to clauses (iii) through (v), exempt from the requirement under clause (i) that living non-AIDS names-based cases of HIV be reported unless—

(I) * * *

(II) no later than the beginning of fiscal year 2008 [or 2009] or a subsequent fiscal year through fiscal year 2012, the Secretary, after consultation with the chief executive of the State, determines that a system has become operational in the State that provides sufficiently accurate and reliable names-based reporting of such cases throughout the State.

* * * * *

(iv) REQUIREMENT FOR EXEMPTION AS OF FISCAL YEAR 2008.—For each of the fiscal years 2008 through [2010] 2012, an exemption under clause (ii) for a State applies only if, as of April 1, 2008, the State is substantially in compliance with the agreement under clause (iii)(II).

(v) PROGRESS TOWARD NAMES-BASED REPORTING.—For fiscal year 2009 or a subsequent fiscal year, the Secretary may terminate an exemption under clause (ii) for a State if the State submitted a plan under clause (iii)(I)(aa) and the Secretary determines that the State is not substantially following the plan.

(vi) COUNTING OF CASES IN AREAS WITH EXEMPTIONS.—

(I) * * *

(II) ADJUSTMENT RATE.—The adjustment rate under subclause (I) for a State shall be a reduction of 5 percent for fiscal years before fiscal year 2012 (and 6 percent for fiscal year 2012) in the number of living non-AIDS cases of HIV reported for the State.

(III) INCREASED ADJUSTMENT FOR CERTAIN STATES PREVIOUSLY USING CODE-BASED REPORT-

ING.—For purposes of this subparagraph for each of fiscal years 2010 through 2012, the Secretary shall deem the applicable number of living cases of HIV/AIDS in a State that were reported to and confirmed by the Centers for Disease Control and Prevention to be 3 percent higher than the actual number if—

(aa) there is an area in such State that satisfies all of the conditions described in items (aa) through (cc) of section 2603(a)(3)(C)(vi)(III); or

(bb)(AA) fiscal year 2007 was the first year in which the count of living non-AIDS cases of HIV in such area, for purposes of this part, was based on a names-based reporting system; and

(BB) the amount of funding that such State received under this part for fiscal year 2007 was less than 70 percent of the amount of funding that such State received under such part for fiscal year 2006.

* * * * *

(viii) RULES OF CONSTRUCTION REGARDING ACCEPTANCE OF REPORTS.—

(I) * * *

(II) APPLICABILITY OF EXEMPTION REQUIREMENTS.—The provisions of clauses (ii) through (vii) may not be construed as having any legal effect for fiscal year ~~2010~~ 2013 or any subsequent fiscal year, and accordingly, the status of a State for purposes of such clauses may not be considered after fiscal year ~~2009~~ 2012.

* * * * *

(x) *FUTURE FISCAL YEARS.—For fiscal years beginning with fiscal year 2013, determinations under this paragraph shall be based only on living names-based cases of HIV/AIDS with respect to the State involved.*

(E) CODE-BASED STATES; LIMITATION ON INCREASE IN GRANT.—

(i) IN GENERAL.—For each of the fiscal years 2007 through ~~2009~~ 2012, if code-based reporting (within the meaning of subparagraph (D)(vi)) applies in a State as of the beginning of the fiscal year involved, then notwithstanding any other provision of this paragraph, the amount of the grant pursuant to paragraph (1) for the State may not for the fiscal year involved exceed by more than 5 percent the amount of the grant pursuant to this paragraph for the State for the preceding fiscal year, except that the limitation under this clause may not result in a grant pursuant to paragraph (1) for a fiscal year that is less than the minimum amount that applies to the State under such paragraph for such fiscal year.

(ii) USE OF AMOUNTS INVOLVED.—For each of the fiscal years 2007 through ~~2009~~ 2012, amounts available as a result of the limitation under clause (i) shall be made available by the Secretary as additional amounts for grants pursuant to section 2620, subject to subparagraph (H).

(F) APPROPRIATIONS FOR TREATMENT DRUG PROGRAM.—

(i) * * *

(ii) SUPPLEMENTAL TREATMENT DRUG GRANTS.—

(I) * * *

* * * * *

(V) FUNDING.—For the purpose of making grants under this clause, the Secretary shall each fiscal year reserve 5 percent of the amount referred to in clause (i) with respect to section 2616, subject to subclause (VI).

* * * * *

(H) INCREASE IN FORMULA GRANTS.—

(i) ASSURANCE OF AMOUNT.—

(I) GENERAL RULE.—For fiscal year ~~2007~~ 2010, the Secretary shall ensure, subject to clauses (ii) through (iv), that the total for a State of the grant pursuant to paragraph (1) and the grant pursuant to ~~subparagraph (G)~~ *subparagraph (F)* is not less than 95 percent of such total for the State for fiscal year ~~2006~~ 2009.

(II) RULE OF CONSTRUCTION.—With respect to the application of subclause (I), the 95 percent requirement under such subclause shall apply with respect to each grant awarded under paragraph (1) and with respect to each grant awarded under ~~subparagraph (G)~~ *subparagraph (F)*.

~~[(ii) FISCAL YEAR 2007.—For purposes of clause (i) as applied for fiscal year 2007, the references in such clause to subparagraph (G) are deemed to be references to subparagraph (I) as such subparagraph was in effect for fiscal year 2006.]~~

~~[(iii) (ii) FISCAL YEARS ~~2008 AND 2009~~ 2011 AND 2012.—For each of the fiscal years ~~2008 and 2009~~ 2011 and 2012, the Secretary shall ensure that the total for a State of the grant pursuant to paragraph (1) and the grant pursuant to ~~subparagraph (G)~~ *subparagraph (F)* is not less than 100 percent of such total for the State for fiscal year ~~2007~~ 2010.~~

~~(iii) FISCAL YEAR 2013.—For fiscal year 2013, the Secretary shall ensure that the total for a State of the grant pursuant to paragraph (1) and the grant pursuant to *subparagraph (F)* is not less than 92.5 percent of such total for the State for fiscal year 2012.~~

* * * * *

(v) APPLICABILITY.—This paragraph may not be construed as having any applicability after fiscal year **2009** 2013.

* * * * *

SEC. 2620. SUPPLEMENTAL GRANTS.

(a) IN GENERAL.—For the purpose of providing services described in section 2612(a), the Secretary shall make grants to States—

(1) * * *

(2) that did not, for the most recent grant year pursuant to section 2618(a)(1) or **2618(a)(2)(G)(i)** 2618(a)(2)(F)(i) for which data is available, have more than **2 percent** 5 percent of grant funds under such sections **canceled** canceled, offset under section 2622(e), or covered by any waivers under section 2622(c).

* * * * *

SEC. 2622. TIMEFRAME FOR OBLIGATION AND EXPENDITURE OF GRANT FUNDS.

(a) OBLIGATION BY END OF GRANT YEAR.—Effective for fiscal year 2007 and subsequent fiscal years, funds from a grant award made to a State for a fiscal year pursuant to section 2618(a)(1) or **2618(a)(2)(G)** 2618(a)(2)(F), or under section 2620 or 2621, are available for obligation by the State through the end of the one-year period beginning on the date in such fiscal year on which funds from the award first become available to the State (referred to in this section as the “grant year for the award”), except as provided in subsection (c)(1).

(b) SUPPLEMENTAL GRANTS; CANCELLATION OF UNOBLIGATED BALANCE OF GRANT AWARD.—Effective for fiscal year 2007 and subsequent fiscal years, if a grant award made to a State for a fiscal year pursuant to section **2618(a)(2)(G)(ii)** 2618(a)(2)(F)(ii), or under section 2620 or 2621, has an unobligated balance as of the end of the grant year for the award—

(1) * * *

* * * * *

(c) FORMULA GRANTS; CANCELLATION OF UNOBLIGATED BALANCE OF GRANT AWARD; WAIVER PERMITTING CARRYOVER.—

(1) IN GENERAL.—Effective for fiscal year 2007 and subsequent fiscal years, if a grant award made to a State for a fiscal year pursuant to section 2618(a)(1) or **2618(a)(2)(G)(i)** 2618(a)(2)(F)(i) has an unobligated balance as of the end of the grant year for the award, the Secretary shall cancel that unobligated balance of the award, and shall require the State to return any amounts from such balance that have been disbursed to the State, unless—

(A) * * *

* * * * *

(4) CORRESPONDING REDUCTION IN FUTURE GRANT.—

(A) IN GENERAL.—In the case of a State for which a balance from a grant award made pursuant to section 2618(a)(1) or **2618(a)(2)(G)(i)** 2618(a)(2)(F)(i) is unobligated as of the end of the grant year for the award—

(i) the Secretary shall reduce, by the same amount as such unobligated balance (*less any amount of such balance that is the subject of a waiver of cancellation under paragraph (1)*), the amount of the grant under such section for the first fiscal year beginning after the fiscal year in which the Secretary obtains the information necessary for determining that such balance was unobligated as of the end of the grant year (which requirement for a reduction applies without regard to whether a waiver under paragraph (1) has been approved with respect to such balance); and

* * * * *
 except that this subparagraph does not apply to the State if the amount of the unobligated balance was **[2]** 5 percent or less.
 * * * * *

(d) TREATMENT OF DRUG REBATES.—For purposes of this section, funds that are drug rebates referred to in section 2616(g) may not be considered part of any grant award referred to in subsection (a). *If an expenditure of ADAP rebate funds would trigger a penalty under this section or a higher penalty than would otherwise have applied, the State may request that for purposes of this section, the Secretary deem the State’s unobligated balance to be reduced by the amount of rebate funds in the proposed expenditure. Notwithstanding 2618(a)(2)(F), any unobligated amount under section 2618(a)(2)(F)(ii)(V) that is returned to the Secretary for reallocation shall be used by the Secretary for—*

- (1) *the ADAP supplemental program if the Secretary determines appropriate; or*
- (2) *for additional amounts for grants pursuant to section 2620.*

(e) AUTHORITY REGARDING ADMINISTRATION OF PROVISIONS.—*In administering subsections (b) and (c) with respect to the unobligated balance of a State, the Secretary may elect to reduce the amount of future grants to the State under section 2618, 2620, or 2621, as applicable, by the amount of any such unobligated balance in lieu of cancelling such amount as provided for in subsection (b) or (c)(1). In such case, the Secretary may permit the State to use such unobligated balance for purposes of any such future grant. An amount equal to such reduction shall be available for use as additional amounts for grants pursuant to section 2620, subject to section 2618(a)(2)(H). Nothing in this paragraph shall be construed to affect the authority of the Secretary under subsections (b) and (c), including the authority to grant waivers under subsection (c)(1). The reduction in future grants authorized under this subsection shall be notwithstanding the penalty required under subsection (c)(4) with respect to unobligated funds.*

SEC. 2623. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—For the purpose of carrying out this subpart, there are authorized to be appropriated \$1,195,500,000 for fiscal year 2007, \$1,239,500,000 for fiscal year 2008, **[and \$1,285,200,000 for fiscal year 2009]** *\$1,285,200,000 for fiscal year 2009, \$1,349,460,000 for fiscal year 2010, \$1,416,933,000 for fiscal year 2011, \$1,487,780,000 for fiscal year 2012, and \$1,562,169,000 for*

fiscal year 2013. Amounts appropriated under the preceding sentence for a fiscal year are available for obligation by the Secretary until the end of the second succeeding fiscal year.

(b) RESERVATION OF AMOUNTS.—

(1) * * *

(2) SUPPLEMENTAL GRANTS.—

(A) IN GENERAL.—Of the amount appropriated under subsection (a) for a fiscal year in excess of the 2006 adjusted amount, the Secretary shall reserve $\frac{1}{3}$ for grants under section 2620, except that the availability of the reserved funds for such grants is subject to section 2618(a)(2)(H) as applied for such year, and except that any amount appropriated exclusively for carrying out section 2616 (and, accordingly, distributed under section [2618(a)(2)(G)] *2618(a)(2)(F)*) is not subject to this subparagraph.

* * * * *

PART C—EARLY INTERVENTION SERVICES

Subpart I—Categorical Grants

* * * * *

SEC. 2655. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of making grants under section 2651, there are authorized to be appropriated, \$218,600,000 for fiscal year 2007, \$226,700,000 for fiscal year 2008, [and \$235,100,000 for fiscal year 2009] *\$235,100,000 for fiscal year 2009, \$246,855,000 for fiscal year 2010, \$259,198,000 for fiscal year 2011, \$272,158,000 for fiscal year 2012, and \$285,766,000 for fiscal year 2013.*

* * * * *

PART D—WOMEN, INFANTS, CHILDREN, AND YOUTH

SEC. 2671. GRANTS FOR COORDINATED SERVICES AND ACCESS TO RESEARCH FOR WOMEN, INFANTS, CHILDREN, AND YOUTH.

(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall award grants to public and nonprofit private entities (including a health facility operated by or pursuant to a contract with the Indian Health Service) for the purpose of providing family-centered care involving outpatient or ambulatory care [(directly or through contracts)] (*directly or through contracts or memoranda of understanding*) for women, infants, children, and youth with HIV/AIDS.

* * * * *

(g) TRAINING AND TECHNICAL ASSISTANCE.—From the amounts appropriated under [subsection (i)] *subsection (j)* for a fiscal year, the Secretary may use not more than 5 percent to provide, directly or through contracts with public and private entities (which may include grantees under subsection (a)), training and technical as-

sistance to assist applicants and grantees under subsection (a) in complying with the requirements of this section.

* * * * *

(i) *APPLICATION TO PRIMARY CARE SERVICES.*—Nothing in this part shall be construed as requiring funds under this part to be used for primary care services when payments are available for such services from other sources (including under titles XVIII, XIX, and XXI of the Social Security Act).

[(i)] (j) *AUTHORIZATION OF APPROPRIATIONS.*—For the purpose of carrying out this section, there are authorized to be appropriated, \$71,800,000 for each of the fiscal years 2007 through 2009, \$75,390,000 for fiscal year 2010, \$79,160,000 for fiscal year 2011, \$83,117,000 for fiscal year 2012, and \$87,273,000 for fiscal year 2013.

PART E—GENERAL PROVISIONS

* * * * *

[SEC. 2686. GAO REPORT.

[The Comptroller General of the Government Accountability Office shall biennially submit to the appropriate committees of Congress a report that includes a description of Federal, State, and local barriers to HIV program integration, particularly for racial and ethnic minorities, including activities carried out under subpart III of part F, and recommendations for enhancing the continuity of care and the provision of prevention services for individuals with HIV/AIDS or those at risk for such disease. Such report shall include a demonstration of the manner in which funds under this subpart are being expended and to what extent the services provided with such funds increase access to prevention and care services for individuals with HIV/AIDS and build stronger community linkages to address HIV prevention and care for racial and ethnic minority communities.]

SEC. 2686. GAO REPORT.

The Comptroller General of the Government Accountability Office shall, not less than 1 year after the date of enactment of the Ryan White HIV/AIDS Treatment Extension Act of 2009, submit to the appropriate committees of Congress a report describing Minority AIDS Initiative activities across the Department of Health and Human Services, including programs under this title and programs at the Centers for Disease Control and Prevention, the Substance Abuse and Mental Health Services Administration, and other departmental agencies. Such report shall include a history of program activities within each relevant agency and a description of activities conducted, people served and types of grantees funded, and shall collect and describe best practices in community outreach and capacity-building of community based organizations serving the communities that are disproportionately affected by HIV/AIDS.

* * * * *

SEC. 2688. NATIONAL HIV/AIDS TESTING GOAL.

(a) *IN GENERAL.*—Not later than January 1, 2010, the Secretary shall establish a national HIV/AIDS testing goal of 5,000,000 tests for HIV/AIDS annually through federally supported HIV/AIDS

prevention, treatment, and care programs, including programs under this title and other programs administered by the Centers for Disease Control and Prevention.

(b) *ANNUAL REPORT.*—Not later than January 1, 2011, and annually thereafter, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall submit to Congress a report describing, with regard to the preceding 12-month reporting period—

(1) whether the testing goal described in subsection (a) has been met;

(2) the total number of individuals tested through federally supported and other HIV/AIDS prevention, treatment, and care programs in each State;

(3) the number of individuals who—

(A) prior to such 12-month period, were unaware of their HIV status; and

(B) through federally supported and other HIV/AIDS prevention, treatment, and care programs, were diagnosed and referred into treatment and care during such period;

(4) any barriers, including State laws and regulations, that the Secretary determines to be a barrier to meeting the testing goal described in subsection (a);

(5) the amount of funding the Secretary determines necessary to meet the annual testing goal in the following 12 months and the amount of Federal funding expended to meet the testing goal in the prior 12-month period; and

(6) the most cost-effective strategies for identifying and diagnosing individuals who were unaware of their HIV status, including voluntary testing with pre-test counseling, routine screening including opt-out testing, partner counseling and referral services, and mass media campaigns.

(c) *REVIEW OF PROGRAM EFFECTIVENESS.*—Not later than 1 year after the date of enactment of this section, the Secretary, in consultation with the Director of the Centers for Disease Control and Prevention, shall submit a report to Congress based on a comprehensive review of each of the programs and activities conducted by the Centers for Disease Control and Prevention as part of the Domestic HIV/AIDS Prevention Activities, including the following:

(1) The amount of funding provided for each program or activity.

(2) The primary purpose of each program or activity.

(3) The annual goals for each program or activity.

(4) The relative effectiveness of each program or activity with relation to the other programs and activities conducted by the Centers for Disease Control and Prevention, based on the—

(A) number of previously undiagnosed individuals with HIV/AIDS made aware of their status and referred into the appropriate treatment;

(B) amount of funding provided for each program or activity compared to the number of undiagnosed individuals with HIV/AIDS made aware of their status;

(C) program's contribution to the National HIV/AIDS testing goal; and

(D) progress made toward the goals described in paragraph (3).

(5) Recommendations if any to Congress on ways to allocate funding for domestic HIV/AIDS prevention activities and programs in order to achieve the National HIV/AIDS testing goal.

(d) COORDINATION WITH OTHER FEDERAL ACTIVITIES.—In pursuing the National HIV/AIDS testing goal, the Secretary, where appropriate, shall consider and coordinate with other national strategies conducted by the Federal Government to address HIV/AIDS.

SEC. [2688.] 2689. DEFINITIONS.

For purposes of this title:

(1) * * *

* * * * *

PART F—DEMONSTRATION AND TRAINING

* * * * *

Subpart II—AIDS Education and Training Centers

SEC. 2692. HIV/AIDS COMMUNITIES, SCHOOLS, AND CENTERS.

(a) * * *

* * * * *

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) SCHOOLS; CENTERS.—For the purpose of awarding grants under subsection (a), there [is authorized] *are authorized* to be appropriated \$34,700,000 for each of the fiscal years 2007 through 2009, \$36,535,000 for fiscal year 2010, \$38,257,000 for fiscal year 2011, \$40,170,000 for fiscal year 2012, and \$42,178,000 for fiscal year 2013.

(2) DENTAL SCHOOLS.—For the purpose of awarding grants under subsection (b), there [is authorized] *are authorized* to be appropriated \$13,000,000 for each of the fiscal years 2007 through 2009, \$13,650,000 for fiscal year 2010, \$14,333,000 for fiscal year 2011, \$15,049,000 for fiscal year 2012, and \$15,802,000 for fiscal year 2013.

Subpart III—Minority AIDS Initiative

SEC. 2693. MINORITY AIDS INITIATIVE.

(a) IN GENERAL.—For the purpose of carrying out activities under this section to evaluate and address the disproportionate impact of HIV/AIDS on, and the disparities in access, treatment, care, and outcomes for, racial and ethnic minorities (including African Americans, Alaska Natives, Latinos, American Indians, Asian Americans, Native Hawaiians, and Pacific Islanders), there are authorized to be appropriated \$131,200,000 for fiscal year 2007, \$135,100,000 for fiscal year 2008, [and \$139,100,000 for fiscal year 2009.] \$139,100,000 for fiscal year 2009, \$146,055,000 for fiscal year 2010, \$153,358,000 for fiscal year 2011, \$161,026,000 for fiscal year 2012, and \$169,077,000 for fiscal year 2013. The Secretary shall develop a formula for the awarding of grants under subsections (b)(1)(A) and (b)(1)(B) that ensures that funding is provided based on the distribution of populations disproportionately impacted by HIV/AIDS.

(b) CERTAIN ACTIVITIES.—

(1) * * *

(2) ALLOCATIONS AMONG ACTIVITIES.—Activities under paragraph (1) shall be carried out by the Secretary in accordance with the following:

(A) For **competitive,** supplemental grants to improve HIV-related health outcomes to reduce existing racial and ethnic health disparities, the Secretary shall, of the amount appropriated under subsection (a) for a fiscal year, reserve the following, as applicable:

(i) * * *

* * * * *

(iv) For fiscal year 2010, \$46,738,000.

(v) For fiscal year 2011, \$49,075,000.

(vi) For fiscal year 2012, \$51,528,000.

(vii) For fiscal year 2013, \$54,105,000.

(B) For **competitive** grants used for supplemental support education and outreach services to increase the number of eligible racial and ethnic minorities who have access to treatment through the program under section 2616 for therapeutics, the Secretary shall, of the amount appropriated for a fiscal year under subsection (a), reserve the following, as applicable:

(i) * * *

* * * * *

(iv) For fiscal year 2010, \$8,763,000.

(v) For fiscal year 2011, \$9,202,000.

(vi) For fiscal year 2012, \$9,662,000.

(vii) For fiscal year 2013, \$10,145,000.

(C) For planning grants, capacity-building grants, and services grants to health care providers who have a history of providing culturally and linguistically appropriate care and services to racial and ethnic minorities, the Secretary shall, of the amount appropriated for a fiscal year under subsection (a), reserve the following, as applicable:

(i) * * *

* * * * *

(iv) For fiscal year 2010, \$61,343,000.

(v) For fiscal year 2011, \$64,410,000.

(vi) For fiscal year 2012, \$67,631,000.

(vii) For fiscal year 2013, \$71,012,000.

(D) For eliminating racial and ethnic disparities in the delivery of comprehensive, culturally and linguistically appropriate care services for HIV disease for women, infants, children, and youth, the Secretary shall, of the amount appropriated under subsection (a), reserve **[\$18,500,000 for each of the fiscal years 2007 through 2009.]** *the following, as applicable:*

(i) For fiscal year 2010, \$20,448,000.

(ii) For fiscal year 2011, \$21,470,000.

(iii) For fiscal year 2012, \$22,543,000.

(iv) For fiscal year 2013, \$23,671,000.

(E) For increasing the training capacity of centers to expand the number of health care professionals with treat-

ment expertise and knowledge about the most appropriate standards of HIV disease-related treatments and medical care for racial and ethnic minority adults, adolescents, and children with HIV disease, the Secretary shall, of the amount appropriated under subsection (a), reserve **[\$8,500,000 for each of the fiscal years 2007 through 2009.]** *the following, as applicable:*

- (i) *For fiscal year 2010, \$8,763,000.*
- (ii) *For fiscal year 2011, \$9,201,000.*
- (iii) *For fiscal year 2012, \$9,662,000.*
- (iv) *For fiscal year 2013, \$10,144,000.*

* * * * *

(g) **SYNCHRONIZATION OF MINORITY AIDS INITIATIVE.**—*For fiscal year 2010 and each subsequent fiscal year, the Secretary shall incorporate and synchronize the schedule of application submissions and funding availability under this section with the schedule of application submissions and funding availability under the corresponding provisions of this title XXVI as follows:*

- (1) *The schedule for carrying out subsection (b)(1)(A) shall be the same as the schedule applicable to emergency assistance under part A.*
- (2) *The schedule for carrying out subsection (b)(1)(B) shall be the same as the schedule applicable to care grants under part B.*
- (3) *The schedule for carrying out subsection (b)(1)(C) shall be the same as the schedule applicable to grants for early intervention services under part C.*
- (4) *The schedule for carrying out subsection (b)(1)(D) shall be the same as the schedule applicable to grants for services through projects for HIV-related care under part D.*
- (5) *The schedule for carrying out subsection (b)(1)(E) shall be the same as the schedule applicable to grants and contracts for activities through education and training centers under section 2692.*

* * * * *

PART G—NOTIFICATION OF POSSIBLE EXPOSURE TO INFECTIOUS DISEASES

SEC. 2695. INFECTIOUS DISEASES AND CIRCUMSTANCES RELEVANT TO NOTIFICATION REQUIREMENTS.

(a) **IN GENERAL.**—*Not later than 180 days after the date of the enactment of this part, the Secretary shall complete the development of—*

- (1) *a list of potentially life-threatening infectious diseases, including emerging infectious diseases, to which emergency response employees may be exposed in responding to emergencies;*
- (2) *guidelines describing the circumstances in which such employees may be exposed to such diseases, taking into account the conditions under which emergency response is provided; and*
- (3) *guidelines describing the manner in which medical facilities should make determinations for purposes of section 2695B(d).*

(b) *SPECIFICATION OF AIRBORNE INFECTIOUS DISEASES.*—The list developed by the Secretary under subsection (a)(1) shall include a specification of those infectious diseases on the list that are routinely transmitted through airborne or aerosolized means.

(c) *DISSEMINATION.*—The Secretary shall—

(1) transmit to State public health officers copies of the list and guidelines developed by the Secretary under subsection (a) with the request that the officers disseminate such copies as appropriate throughout the States; and

(2) make such copies available to the public.

SEC. 2695A. ROUTINE NOTIFICATIONS WITH RESPECT TO AIRBORNE INFECTIOUS DISEASES IN VICTIMS ASSISTED.

(a) *ROUTINE NOTIFICATION OF DESIGNATED OFFICER.*—

(1) *DETERMINATION BY TREATING FACILITY.*—If a victim of an emergency is transported by emergency response employees to a medical facility and the medical facility makes a determination that the victim has an airborne infectious disease, the medical facility shall notify the designated officer of the emergency response employees who transported the victim to the medical facility of the determination.

(2) *DETERMINATION BY FACILITY ASCERTAINING CAUSE OF DEATH.*—If a victim of an emergency is transported by emergency response employees to a medical facility and the victim dies at or before reaching the medical facility, the medical facility ascertaining the cause of death shall notify the designated officer of the emergency response employees who transported the victim to the initial medical facility of any determination by the medical facility that the victim had an airborne infectious disease.

(b) *REQUIREMENT OF PROMPT NOTIFICATION.*—With respect to a determination described in paragraph (1) or (2) of subsection (a), the notification required in each of such paragraphs shall be made as soon as is practicable, but not later than 48 hours after the determination is made.

SEC. 2695B. REQUEST FOR NOTIFICATION WITH RESPECT TO VICTIMS ASSISTED.

(a) *INITIATION OF PROCESS BY EMPLOYEE.*—If an emergency response employee believes that the employee may have been exposed to an infectious disease by a victim of an emergency who was transported to a medical facility as a result of the emergency, and if the employee attended, treated, assisted, or transported the victim pursuant to the emergency, then the designated officer of the employee shall, upon the request of the employee, carry out the duties described in subsection (b) regarding a determination of whether the employee may have been exposed to an infectious disease by the victim.

(b) *INITIAL DETERMINATION BY DESIGNATED OFFICER.*—The duties referred to in subsection (a) are that—

(1) the designated officer involved collect the facts relating to the circumstances under which, for purposes of subsection (a), the employee involved may have been exposed to an infectious disease; and

(2) the designated officer evaluate such facts and make a determination of whether, if the victim involved had any infectious disease included on the list issued under paragraph (1) of

section 2695(a), the employee would have been exposed to the disease under such facts, as indicated by the guidelines issued under paragraph (2) of such section.

(c) *SUBMISSION OF REQUEST TO MEDICAL FACILITY.—*

(1) *IN GENERAL.—*If a designated officer makes a determination under subsection (b)(2) that an emergency response employee may have been exposed to an infectious disease, the designated officer shall submit to the medical facility to which the victim involved was transported a request for a response under subsection (d) regarding the victim of the emergency involved.

(2) *FORM OF REQUEST.—*A request under paragraph (1) shall be in writing and be signed by the designated officer involved, and shall contain a statement of the facts collected pursuant to subsection (b)(1).

(d) *EVALUATION AND RESPONSE REGARDING REQUEST TO MEDICAL FACILITY.—*

(1) *IN GENERAL.—*If a medical facility receives a request under subsection (c), the medical facility shall evaluate the facts submitted in the request and make a determination of whether, on the basis of the medical information possessed by the facility regarding the victim involved, the emergency response employee was exposed to an infectious disease included on the list under paragraph (1) of section 2695(a), as indicated by the guidelines issued under paragraph (2) of such section.

(2) *NOTIFICATION OF EXPOSURE.—*If a medical facility makes a determination under paragraph (1) that the emergency response employee involved has been exposed to an infectious disease, the medical facility shall, in writing, notify the designated officer who submitted the request under subsection (c) of the determination.

(3) *FINDING OF NO EXPOSURE.—*If a medical facility makes a determination under paragraph (1) that the emergency response employee involved has not been exposed to an infectious disease, the medical facility shall, in writing, inform the designated officer who submitted the request under subsection (c) of the determination.

(4) *INSUFFICIENT INFORMATION.—*

(A) *If a medical facility finds in evaluating facts for purposes of paragraph (1) that the facts are insufficient to make the determination described in such paragraph, the medical facility shall, in writing, inform the designated officer who submitted the request under subsection (c) of the insufficiency of the facts.*

(B)(i) *If a medical facility finds in making a determination under paragraph (1) that the facility possesses no information on whether the victim involved has an infectious disease included on the list under section 2695(a), the medical facility shall, in writing, inform the designated officer who submitted the request under subsection (c) of the insufficiency of such medical information.*

(ii) *If after making a response under clause (i) a medical facility determines that the victim involved has an infectious disease, the medical facility shall make the determination described in paragraph (1) and provide the applicable response specified in this subsection.*

(e) *TIME FOR MAKING RESPONSE.*—After receiving a request under subsection (c) (including any such request resubmitted under subsection (g)(2)), a medical facility shall make the applicable response specified in subsection (d) as soon as is practicable, but not later than 48 hours after receiving the request.

(f) *DEATH OF VICTIM OF EMERGENCY.*—

(1) *FACILITY ASCERTAINING CAUSE OF DEATH.*—If a victim described in subsection (a) dies at or before reaching the medical facility involved, and the medical facility receives a request under subsection (c), the medical facility shall provide a copy of the request to the medical facility ascertaining the cause of death of the victim, if such facility is a different medical facility than the facility that received the original request.

(2) *RESPONSIBILITY OF FACILITY.*—Upon the receipt of a copy of a request for purposes of paragraph (1), the duties otherwise established in this subpart regarding medical facilities shall apply to the medical facility ascertaining the cause of death of the victim in the same manner and to the same extent as such duties apply to the medical facility originally receiving the request.

(g) *ASSISTANCE OF PUBLIC HEALTH OFFICER.*—

(1) *EVALUATION OF RESPONSE OF MEDICAL FACILITY REGARDING INSUFFICIENT FACTS.*—

(A) In the case of a request under subsection (c) to which a medical facility has made the response specified in subsection (d)(4)(A) regarding the insufficiency of facts, the public health officer for the community in which the medical facility is located shall evaluate the request and the response, if the designated officer involved submits such documents to the officer with the request that the officer make such an evaluation.

(B) As soon as is practicable after a public health officer receives a request under subparagraph (A), but not later than 48 hours after receipt of the request, the public health officer shall complete the evaluation required in such paragraph and inform the designated officer of the results of the evaluation.

(2) *FINDINGS OF EVALUATION.*—

(A) If an evaluation under paragraph (1)(A) indicates that the facts provided to the medical facility pursuant to subsection (c) were sufficient for purposes of determinations under subsection (d)(1)—

(i) the public health officer shall, on behalf of the designated officer involved, resubmit the request to the medical facility; and

(ii) the medical facility shall provide to the designated officer the applicable response specified in subsection (d).

(B) If an evaluation under paragraph (1)(A) indicates that the facts provided in the request to the medical facility were insufficient for purposes of determinations specified in subsection (c)—

(i) the public health officer shall provide advice to the designated officer regarding the collection and description of appropriate facts; and

(ii) if sufficient facts are obtained by the designated officer—

(I) the public health officer shall, on behalf of the designated officer involved, resubmit the request to the medical facility; and

(II) the medical facility shall provide to the designated officer the appropriate response under subsection (c).

SEC. 2695C. PROCEDURES FOR NOTIFICATION OF EXPOSURE.

(a) **CONTENTS OF NOTIFICATION TO OFFICER.**—In making a notification required under section 2695A or section 2695B(d)(2), a medical facility shall provide—

(1) the name of the infectious disease involved; and

(2) the date on which the victim of the emergency involved was transported by emergency response employees to the medical facility involved.

(b) **MANNER OF NOTIFICATION.**—If a notification under section 2695A or section 2695B(d)(2) is mailed or otherwise indirectly made—

(1) the medical facility sending the notification shall, upon sending the notification, inform the designated officer to whom the notification is sent of the fact that the notification has been sent; and

(2) such designated officer shall, not later than 10 days after being informed by the medical facility that the notification has been sent, inform such medical facility whether the designated officer has received the notification.

SEC. 2695D. NOTIFICATION OF EMPLOYEE.

(a) **IN GENERAL.**—After receiving a notification for purposes of section 2695A or 2695B(d)(2), a designated officer of emergency response employees shall, to the extent practicable, immediately notify each of such employees who—

(1) responded to the emergency involved; and

(2) as indicated by guidelines developed by the Secretary, may have been exposed to an infectious disease.

(b) **CERTAIN CONTENTS OF NOTIFICATION TO EMPLOYEE.**—A notification under this subsection to an emergency response employee shall inform the employee of—

(1) the fact that the employee may have been exposed to an infectious disease and the name of the disease involved;

(2) any action by the employee that, as indicated by guidelines developed by the Secretary, is medically appropriate; and

(3) if medically appropriate under such criteria, the date of such emergency.

(c) **RESPONSES OTHER THAN NOTIFICATION OF EXPOSURE.**—After receiving a response under paragraph (3) or (4) of subsection (d) of section 2695B, or a response under subsection (g)(1) of such section, the designated officer for the employee shall, to the extent practicable, immediately inform the employee of the response.

SEC. 2695E. SELECTION OF DESIGNATED OFFICERS.

(a) **IN GENERAL.**—For the purposes of receiving notifications and responses and making requests under this subpart on behalf of emergency response employees, the public health officer of each State

shall designate 1 official or officer of each employer of emergency response employees in the State.

(b) **PREFERENCE IN MAKING DESIGNATIONS.**—In making the designations required in subsection (a), a public health officer shall give preference to individuals who are trained in the provision of health care or in the control of infectious diseases.

SEC. 2695F. LIMITATION WITH RESPECT TO DUTIES OF MEDICAL FACILITIES.

The duties established in this subpart for a medical facility—

(1) shall apply only to medical information possessed by the facility during the period in which the facility is treating the victim for conditions arising from the emergency, or during the 60-day period beginning on the date on which the victim is transported by emergency response employees to the facility, whichever period expires first; and

(2) shall not apply to any extent after the expiration of the 30-day period beginning on the expiration of the applicable period referred to in paragraph (1), except that such duties shall apply with respect to any request under section 2695B(c) received by a medical facility before the expiration of such 30-day period.

SEC. 2695G. MISCELLANEOUS PROVISIONS.

(a) **LIABILITY OF MEDICAL FACILITIES, DESIGNATED OFFICERS, AND PUBLIC HEALTH OFFICERS.**—This subpart may not be construed to authorize any cause of action for damages or any civil penalty against any medical facility, any designated officer, or any other public health officer for failure to comply with the duties established in this subpart.

(b) **TESTING.**—This subpart may not, with respect to victims of emergencies, be construed to authorize or require a medical facility to test any such victim for any infectious disease.

(c) **CONFIDENTIALITY.**—This subpart may not be construed to authorize or require any medical facility, any designated officer of emergency response employees, or any such employee, to disclose identifying information with respect to a victim of an emergency or with respect to an emergency response employee.

(d) **FAILURE TO PROVIDE EMERGENCY SERVICES.**—This subpart may not be construed to authorize any emergency response employee to fail to respond, or to deny services, to any victim of an emergency.

(e) **NOTIFICATION AND REPORTING DEADLINES.**—In any case in which the Secretary determines that, wholly or partially as a result of a public health emergency that has been determined pursuant to section 319(a), individuals or public or private entities are unable to comply with the requirements of this part, the Secretary may, notwithstanding any other provision of law, temporarily suspend, in whole or in part, the requirements of this part as the circumstances reasonably require. Before or promptly after such a suspension, the Secretary shall notify the Congress of such action and publish in the Federal Register a notice of the suspension.

(f) **CONTINUED APPLICATION OF STATE AND LOCAL LAW.**—Nothing in this part shall be construed to limit the application of State or local laws that require the provision of data to public health authorities.

SEC. 2695H. INJUNCTIONS REGARDING VIOLATION OF PROHIBITION.

(a) *IN GENERAL.*—The Secretary may, in any court of competent jurisdiction, commence a civil action for the purpose of obtaining temporary or permanent injunctive relief with respect to any violation of this subpart.

(b) *FACILITATION OF INFORMATION ON VIOLATIONS.*—The Secretary shall establish an administrative process for encouraging emergency response employees to provide information to the Secretary regarding violations of this subpart. As appropriate, the Secretary shall investigate alleged such violations and seek appropriate injunctive relief.

SEC. 2695I. APPLICABILITY OF SUBPART.

This subpart shall not apply in a State if the chief executive officer of the State certifies to the Secretary that the law of the State is substantially consistent with this subpart.

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