

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—111th Cong., 1st Sess.

S. _____

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.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. HARKIN (for himself, Mr. ENZI,
Mr. DODD, and Mr. COBURN)

Viz:

1 Strike all after the enacting clause and insert the fol-

2 lowing:

3 **SECTION 1. SHORT TITLE; REFERENCES.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Ryan White HIV/AIDS Treatment Extension Act of
6 2009”.

7 (b) REFERENCES.—Except as otherwise specified,
8 whenever in this Act an amendment is expressed in terms
9 of an amendment to a section or other provision, the ref-

1 erence shall be considered to be made to a section or other
2 provision of the Public Health Service Act (42 U.S.C. 201
3 et seq.).

4 **SEC. 2. REAUTHORIZATION OF HIV HEALTH CARE SERV-**
5 **ICES PROGRAM.**

6 (a) ELIMINATION OF SUNSET PROVISION.—

7 (1) IN GENERAL.—The Ryan White HIV/AIDS
8 Treatment Modernization Act of 2006 (Public Law
9 109–415; 120 Stat. 2767) is amended by striking
10 section 703.

11 (2) CONTINGENCY PROVISIONS.—If this Act is
12 enacted after September 30, 2009—

13 (A) paragraph (1) shall take effect as if
14 enacted on September 30, 2009;

15 (B) the provisions of title XXVI of the
16 Public Health Service Act (42 U.S.C. 300ff et
17 seq.), as in effect on September 30, 2009, are
18 hereby revived; and

19 (C) the amendments made by this Act to
20 title XXVI of the Public Health Service Act (42
21 U.S.C. 300ff et seq.) shall apply to such title as
22 so revived.

23 (b) PART A GRANTS.—Section 2610(a) (42 U.S.C.
24 300ff–20(a)) is amended by striking “and \$649,500,000
25 for fiscal year 2009” and inserting “\$649,500,000 for fis-

1 cal year 2009, \$681,975,000 for fiscal year 2010,
2 \$716,074,000 for fiscal year 2011, \$751,877,000 for fis-
3 cal year 2012, and \$789,471,000 for fiscal year 2013”.

4 (c) PART B GRANTS.—Section 2623(a) (42 U.S.C.
5 300ff–32(a)) is amended by striking “and \$1,285,200,000
6 for fiscal year 2009” and inserting “\$1,285,200,000 for
7 fiscal year 2009, \$1,349,460,000 for fiscal year 2010,
8 \$1,416,933,000 for fiscal year 2011, \$1,487,780,000 for
9 fiscal year 2012, and \$1,562,169,000 for fiscal year
10 2013”.

11 (d) PART C GRANTS.—Section 2655 (42 U.S.C.
12 300ff–55) is amended by striking “and \$235,100,000 for
13 fiscal year 2009” and inserting “\$235,100,000 for fiscal
14 year 2009, \$246,855,000 for fiscal year 2010,
15 \$259,198,000 for fiscal year 2011, \$272,158,000 for fis-
16 cal year 2012, and \$285,766,000 for fiscal year 2013”.

17 (e) PART D GRANTS.—Section 2671(i) (42 U.S.C.
18 300ff–71(i)) is amended by inserting before the period at
19 the end “, \$75,390,000 for fiscal year 2010, \$79,160,000
20 for fiscal year 2011, \$83,117,000 for fiscal year 2012, and
21 \$87,273,000 for fiscal year 2013”.

22 (f) DEMONSTRATION AND TRAINING GRANTS UNDER
23 PART F.—

1 (1) HIV/AIDS COMMUNITIES, SCHOOLS, AND
2 CENTERS.—Section 2692(c) (42 U.S.C. 300ff–
3 111(c)) is amended—

4 (A) in paragraph (1)—

5 (i) by striking “is authorized” and in-
6 serting “are authorized”; and

7 (ii) by inserting before the period at
8 the end “, \$36,535,000 for fiscal year
9 2010, \$38,257,000 for fiscal year 2011,
10 \$40,170,000 for fiscal year 2012, and
11 \$42,178,000 for fiscal year 2013” ; and

12 (B) in paragraph (2)—

13 (i) by striking “is authorized” and in-
14 serting “are authorized”; and

15 (ii) by inserting before the period at
16 the end “, \$13,650,000 for fiscal year
17 2010, \$14,333,000 for fiscal year 2011,
18 \$15,049,000 for fiscal year 2012, and
19 \$15,802,000 for fiscal year 2013”.

20 (2) MINORITY AIDS INITIATIVE.—Section 2693
21 (42 U.S.C. 300ff–121) is amended—

22 (A) in subsection (a), by striking “and
23 \$139,100,000 for fiscal year 2009” and insert-
24 ing “\$139,100,000 for fiscal year 2009,
25 \$146,055,000 for fiscal year 2010,

1 \$153,358,000 for fiscal year 2011,
2 \$161,026,000 for fiscal year 2012, and
3 \$169,077,000 for fiscal year 2013.”; and

4 (B) in subsection (b)(2)—

5 (i) in subparagraph (D), by striking
6 “2009” and inserting “2013”; and

7 (ii) in subparagraph (E), by striking
8 “2009” and inserting “2013”.

9 **SEC. 3. EXTENDED EXEMPTION PERIOD FOR NAMES-BASED**
10 **REPORTING.**

11 (a) PART A GRANTS.—Section 2603(a)(3) (42
12 U.S.C. 300ff–13(a)(3)) is amended—

13 (1) in subparagraph (C)—

14 (A) in clause (ii)—

15 (i) in the matter preceding subclause
16 (I), by striking “2009” and inserting
17 “2012”; and

18 (ii) in subclause (II), by striking “or
19 2009” and inserting “or a subsequent fis-
20 cal year through fiscal year 2012”;

21 (B) in clause (iv), by striking “2010” and
22 inserting “2012”;

23 (C) in clause (v), by inserting “or a subse-
24 quent fiscal year” after “2009”;

1 (D) in clause (vi)(II), by inserting after “5
2 percent” the following: “for fiscal years before
3 fiscal year 2012 (and 6 percent for fiscal year
4 2012)”;

5 (E) in clause (ix)(II)—

6 (i) by striking “2010” and inserting
7 “2013”; and

8 (ii) by striking “2009” and inserting
9 “2012”; and

10 (F) by adding at the end the following:

11 “(xi) FUTURE FISCAL YEARS.—For
12 fiscal years beginning with fiscal year
13 2013, determinations under this paragraph
14 shall be based only on living names-based
15 cases of HIV/AIDS with respect to the
16 area involved.”; and

17 (2) in subparagraph (D)—

18 (A) in clause (i)—

19 (i) in the matter preceding subclause
20 (I), by striking “2009” and inserting
21 “2012”; and

22 (ii) in subclause (II), by striking “and
23 2009” and inserting “through 2012”; and

24 (B) in clause (ii), by striking “2009” and
25 inserting “2012”.

1 (b) PART B GRANTS.—Section 2618(a)(2) (42
2 U.S.C. 300ff–28(a)(2)) is amended—

3 (1) in subparagraph (D)—

4 (A) in clause (ii)—

5 (i) in the matter preceding subclause
6 (I), by striking “2009” and inserting
7 “2012”; and

8 (ii) in subclause (II), by striking “or
9 2009” and inserting “or a subsequent fis-
10 cal year through fiscal year 2012”;

11 (B) in clause (iv), by striking “2010” and
12 inserting “2012”;

13 (C) in clause (v), by inserting “or a subse-
14 quent fiscal year” after “2009”;

15 (D) in clause (vi)(II), by inserting after “5
16 percent” the following: “for fiscal years before
17 fiscal year 2012 (and 6 percent for fiscal year
18 2012)”;

19 (E) in clause (viii)(II)—

20 (i) by striking “2010” and inserting
21 “2013”; and

22 (ii) by striking “2009” and inserting
23 “2012”; and

24 (F) by adding at the end the following:

1 “(x) FUTURE FISCAL YEARS.—For
2 fiscal years beginning with fiscal year
3 2013, determinations under this paragraph
4 shall be based only on living names-based
5 cases of HIV/AIDS with respect to the
6 State involved.”; and

7 (2) in subparagraph (E), by striking “2009”
8 each place it appears and inserting “2012”.

9 **SEC. 4. EXTENSION OF TRANSITIONAL GRANT AREA STA-**
10 **TUS.**

11 (a) ELIGIBILITY.—Section 2609 (42 U.S.C. 300ff–
12 19) is amended—

13 (1) in subsection (c)(1)—

14 (A) in the heading, by striking “2007” and
15 inserting “2011”; and

16 (B) by striking “2007” each place it ap-
17 pears and inserting “2011”; and

18 (C) by striking “2006” and inserting
19 “2010”;

20 (2) in subsection (c)(2)—

21 (A) in subparagraph (A)(ii), by striking
22 “to have a” and inserting “subject to subpara-
23 graph (B), to have a”;

24 (B) by redesignating subparagraph (B) as
25 subparagraph (C);

1 (C) by inserting after subparagraph (A)
2 the following:

3 “(B) PERMITTING MARGIN OF ERROR AP-
4 PLICABLE TO CERTAIN METROPOLITAN
5 AREAS.—In applying subparagraph (A)(ii) for a
6 fiscal year after fiscal year 2008, in the case of
7 a metropolitan area that has a cumulative total
8 of at least 1,400 (and fewer than 1,500) living
9 cases of AIDS as of December 31 of the most
10 recent calendar year for which such data is
11 available, such area shall be treated as having
12 met the criteria of such subparagraph if not
13 more than 5 percent of the total balance from
14 grants awarded to such area under this title is
15 unobligated as of the end of the most recent fis-
16 cal year for which such data is available.”; and

17 (D) in subparagraph (C), as so redesign-
18 nated, by striking “Subparagraph (A) does not
19 apply” and inserting “Subparagraphs (A) and
20 (B) do not apply”; and

21 (3) in subsection (d)(1)(B), strike “2009” and
22 insert “2013”.

23 (b) TRANSFER OF AMOUNTS DUE TO CHANGE IN
24 STATUS AS TRANSITIONAL AREA.—Subparagraph (B) of

1 section 2610(c)(2) (42 U.S.C. 300ff-20(c)(2)) is amend-
2 ed—

3 (1) by striking “(B)” and inserting “(B)(i) sub-
4 ject to clause (ii),”;

5 (2) by striking the period at the end and insert-
6 ing “; and”; and

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

8 “(ii) for each of fiscal years 2010 through
9 2013, notwithstanding subsection (a)—

10 “(I) there shall be transferred to the
11 State containing the metropolitan area, for
12 purposes described in section 2612(a), an
13 amount (which shall not be taken into ac-
14 count in applying section 2618(a)(2)(H))
15 equal to—

16 “(aa) for the first fiscal year of
17 the metropolitan area not being a
18 transitional area, 75 percent of the
19 amount described in subparagraph
20 (A)(i) for such area;

21 “(bb) for the second fiscal year
22 of the metropolitan area not being a
23 transitional area, 50 percent of such
24 amount; and

1 “(cc) for the third fiscal year of
2 the metropolitan area not being a
3 transitional area, 25 percent of such
4 amount; and

5 “(II) there shall be transferred and
6 made available for grants pursuant to sec-
7 tion 2618(a)(1) for the fiscal year, in addi-
8 tion to amounts available for such grants
9 under section 2623, an amount equal to
10 the amount under subparagraph (A), less
11 the amount for such fiscal year under sub-
12 clause (I).”.

13 **SEC. 5. HOLD HARMLESS.**

14 (a) PART A GRANTS.—Section 2603(a)(4) (42
15 U.S.C. 300ff–13(a)(4)) is amended—

16 (1) in the matter preceding clause (i) in sub-
17 paragraph (A)—

18 (A) by striking “2006” and inserting
19 “2009”; and

20 (B) by striking “2007 through 2009” and
21 inserting “2010 through 2013”;

22 (2) by revising clauses (i) and (ii) in subpara-
23 graph (A) to read as follows:

24 “(i) For fiscal year 2010, an amount
25 equal to 95 percent of the sum of the

1 amount of the grant made pursuant to
2 paragraph (3) and this paragraph for fis-
3 cal year 2009.

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

9 “(iii) For fiscal year 2013, an amount
10 equal to 92.5 percent of the amount of the
11 grant made pursuant to paragraph (3) and
12 this paragraph for fiscal year 2012.”; and

13 (3) in subparagraph (C), by striking “2009”
14 and inserting “2013”.

15 (b) PART B GRANTS.—Section 2618(a)(2)(H) (42
16 U.S.C. 300ff–28(a)(2)(H)) is amended—

17 (1) in clause (i)(I)—

18 (A) by striking “2007” and inserting
19 “2010”; and

20 (B) by striking “2006” and inserting
21 “2009”;

22 (2) by striking clause (ii) and redesignating
23 clause (iii) as clause (ii);

24 (3) in clause (ii), as so redesignated—

1 (A) in the heading, by striking “2008 AND
2 2009” and inserting “2011 AND 2012”;

3 (B) by striking “2008 and 2009” and in-
4 sserting “2011 and 2012”; and

5 (C) by striking “2007” and inserting
6 “2010”;

7 (4) by inserting after clause (ii), as so redesign-
8 nated, the following new clause:

9 “(iii) FISCAL YEAR 2013.—For fiscal
10 year 2013, the Secretary shall ensure that
11 the total for a State of the grant pursuant
12 to paragraph (1) and the grant pursuant
13 to subparagraph (F) is not less than 92.5
14 percent of such total for the State for fis-
15 cal year 2012.”.

16 (5) in clause (v), by striking “2009” and insert-
17 ing “2013”.

18 (c) TECHNICAL CORRECTIONS.—Title XXVI (42
19 U.S.C. 300ff–11 et seq.) is amended—

20 (1) in subparagraphs (A)(i) and (H) of section
21 2618(a)(2), by striking the term “subparagraph
22 (G)” each place it appears and inserting “subpara-
23 graph (F)”;

1 (2) in sections 2620(a)(2) and 2622(e)(1), by
2 striking “2618(a)(2)(G)(i)” and inserting
3 “2618(a)(2)(F)(i)”;

4 (3) in sections 2622(a) and 2623(b)(2)(A), by
5 striking “2618(a)(2)(G)” and inserting
6 “2618(a)(2)(F)”;

7 (4) in section 2622(b), by striking
8 “2618(a)(2)(G)(ii)” and inserting
9 “2618(a)(2)(F)(ii)”.

10 **SEC. 6. AMENDMENTS TO THE GENERAL GRANT PROVI-**
11 **SIONS.**

12 (a) ADMINISTRATION AND PLANNING COUNCIL.—
13 Section 2602(b)(4) (42 U.S.C. 300ff-12(b)(4)) is amend-
14 ed—

15 (1) in subparagraph (A), by inserting “, as well
16 as the size and demographics of the estimated popu-
17 lation of individuals with HIV/AIDS who are un-
18 aware of their HIV status” after “HIV/AIDS”;

19 (2) in subparagraph (B)—

20 (A) in clause (i), by striking “and” at the
21 end after the semicolon;

22 (B) in clause (ii), by inserting “and” after
23 the semicolon; and

24 (C) by adding at the end the following:

1 “(iii) individuals with HIV/AIDS who
2 do not know their HIV status;” and

3 (3) in subparagraph (D)—

4 (A) in clause (ii), by striking “and” at the
5 end after the semicolon;

6 (B) in clause (iii), by inserting “and” after
7 the semicolon; and

8 (C) by adding at the end the following:

9 “(iv) includes a strategy, including
10 discrete goals, a timetable, and appropriate
11 funding, for identifying individuals with
12 HIV/AIDS who do not know their HIV
13 status, making such individuals aware of
14 such status, and enabling such individuals
15 to use the health and support services de-
16 scribed in section 2604, with particular at-
17 tention to reducing barriers to routine test-
18 ing and disparities in access and services
19 among affected subpopulations and histori-
20 cally underserved communities;”.

21 (b) TYPE AND DISTRIBUTION OF GRANTS.—Section
22 2603(b) (42 U.S.C. 300ff-13(b)) is amended—

23 (1) in paragraph (1)—

24 (A) in subparagraph (G), by striking
25 “and” at the end after the semicolon;

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

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

4 “(I) demonstrates success in identifying in-
5 dividuals with HIV/AIDS as described in
6 clauses (i) through (iii) of paragraph (2)(A).”;
7 and

8 (2) in paragraph (2)(A), by striking the period
9 and inserting: “, and demonstrated success in identi-
10 fying individuals with HIV/AIDS who do not now
11 know their HIV status and making them aware of
12 such status counting one-third. In making such de-
13 termination, the Secretary shall consider—

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

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

21 “(iii) of those individuals described in
22 clause (ii), the number who have been re-
23 ferred to appropriate treatment and care.”.

24 (c) APPLICATION.—Section 2605(b)(1) (42 U.S.C.
25 300ff-15(b)(1)) is amended by inserting “, including the

1 identification of individuals with HIV/AIDS as described
2 in clauses (i) through (iii) of section 2603(b)(2)(A))” be-
3 fore the semicolon at the end.

4 **SEC. 7. INCREASE IN ADJUSTMENT FOR NAMES-BASED RE-**
5 **PORTING.**

6 (a) PART A GRANTS.—

7 (1) FORMULA GRANTS.—Section
8 2603(a)(3)(C)(vi) (42 U.S.C. 300ff-13(a)(3)(C)(vi))
9 is amended by adding at the end the following:

10 “(III) INCREASED ADJUSTMENT
11 FOR AREAS PREVIOUSLY USING
12 NAMES-BASED REPORTING.—With re-
13 spect to an eligible area that in fiscal
14 year 2007 was under a names-based
15 reporting system for living non-AIDS
16 cases of HIV and that received a de-
17 crease in total funding of at least 30
18 percent from fiscal year 2006 to fiscal
19 year 2007 as a result of determina-
20 tions based on such reporting system,
21 the Secretary shall provide for an in-
22 crease of 3 percent in the number of
23 living cases of HIV and AIDS con-
24 firmed by the Centers for Disease
25 Control and Prevention for the eligible

1 area, for the most recent year con-
2 firmed, for purposes of this subpara-
3 graph.”.

4 (2) SUPPLEMENTAL GRANTS.—Section
5 2603(b)(2) (42 U.S.C. 300ff-13(b)(2)) is amended
6 by adding at the end the following:

7 “(D) INCREASED ADJUSTMENT FOR AREAS
8 PREVIOUSLY USING NAMES-BASED REPORT-
9 ING.—With respect to an eligible area that in
10 fiscal year 2007 was under a names-based re-
11 porting system for living non-AIDS cases of
12 HIV and that received a decrease in total fund-
13 ing of at least 30 percent from fiscal year 2006
14 to fiscal year 2007 as a result of determinations
15 based on such reporting system, the Secretary
16 shall provide for an increase of 3 percent in the
17 number of living cases of HIV and AIDS con-
18 firmed by the Centers for Disease Control and
19 Prevention for the eligible area, for the most re-
20 cent year confirmed, for purposes of this para-
21 graph.”.

22 (b) PART B GRANTS.—Section 2618(a)(2)(D)(vi) (42
23 U.S.C. 300ff-28(a)(2)(D)(vi)) is amended by adding at the
24 end the following:

1 “(III) INCREASED ADJUSTMENT
2 FOR STATES PREVIOUSLY USING
3 NAMES-BASED REPORTING.—With re-
4 spect to a State or State with an eligi-
5 ble area that in fiscal year 2007 was
6 under a names-based reporting system
7 for living non-AIDS cases of HIV and
8 that received a decrease in total fund-
9 ing of at least 30 percent from fiscal
10 year 2006 to fiscal year 2007 as a re-
11 sult of determinations based on such
12 reporting system, the Secretary shall
13 provide for an increase of 3 percent in
14 the number of living cases of HIV and
15 AIDS confirmed by the Centers for
16 Disease Control and Prevention for
17 the State, for the most recent year
18 confirmed, for purposes of this sub-
19 paragraph.”.

20 **SEC. 8. TREATMENT OF UNOBLIGATED FUNDS.**

21 (a) ELIGIBILITY FOR SUPPLEMENTAL GRANTS.—
22 Title XXVI (42 U.S.C. 300ff–11 et seq.) is amended—
23 (1) in section 2603(b)(1)(H) (42 U.S.C. 300ff–
24 13(b)(1)(H)), by striking “2 percent” and inserting
25 “5 percent”; and

1 (2) in section 2620(a)(2) (42 U.S.C. 300ff–
2 29a(a)(2)), by striking “2 percent” and inserting “5
3 percent”.

4 (b) CORRESPONDING REDUCTION IN FUTURE
5 GRANT.—Title XXVI (42 U.S.C. 300ff–11 et seq.) is
6 amended—

7 (1) in section 2603(c)(3)(D)(i)(42 U.S.C.
8 300ff–13(c)(3)(D)(i)), in the matter following sub-
9 clause (II), by striking “2 percent” and inserting “5
10 percent”; and

11 (2) in 2622(c)(4)(A) (42 U.S.C. 300ff–
12 31a(c)(A)), in the matter following clause (ii), by
13 striking “2 percent” and inserting “5 percent”.

14 (c) CONSIDERATION OF WAIVER AMOUNTS IN DE-
15 TERMINING UNOBLIGATED BALANCES.—

16 (1) PART A GRANTS.—Section
17 2603(c)(3)(D)(i)(I) (42 U.S.C. 300ff–
18 14(c)(3)(D)(i)(I)) is amended by inserting after “un-
19 obligated balance” the following: “(less any amount
20 of such balance that is the subject of a waiver of
21 cancellation under subparagraph (A))”.

22 (2) PART B GRANTS.—Section 2622(c)(4)(A)(i)
23 (42 U.S.C. 300ff–31a(c)(4)(A)(i)) is amended by in-
24 serting after “unobligated balance” the following:
25 “(less any amount of such balance that is the sub-

1 ject of a waiver of cancellation under paragraph
2 (1))”.

3 **SEC. 9. APPLICATIONS BY STATES.**

4 Section 2617(b) (42 U.S.C. Section 300ff-27(b)) is
5 amended—

6 (1) in paragraph (6), by striking “and” at the
7 end;

8 (2) in paragraph (7), by striking the period at
9 the end and inserting “; and”; and

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

11 “(8) a comprehensive plan—

12 “(A) containing an identification of indi-
13 viduals with HIV/AIDS as described in clauses
14 (i) through (iii) of section 2603(b)(2)(A)) and
15 the strategy required under section
16 2602(b)(4)(D)(iv);

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

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

24 “(D) describing the manner in which the
25 State will provide undiagnosed individuals who

1 are made aware of their status with access to
2 medical treatment for their HIV/AIDS; and

3 “(E) describing efforts to remove legal bar-
4 riers, including State laws and regulations, to
5 routine testing.”.

6 **SEC. 10. ADAP REBATE FUNDS.**

7 (a) USE OF UNOBLIGATED FUNDS.—Section 2622(d)
8 (42 U.S.C. 300ff-31a(d)) is amended by adding at the end
9 the following: “If an expenditure of ADAP rebate funds
10 would trigger a penalty under this section or a higher pen-
11 alty than would otherwise have applied, the State may re-
12 quest that for purposes of this section, the Secretary deem
13 the State’s unobligated balance to be reduced by the
14 amount of rebate funds in the proposed expenditure. Any
15 unobligated amount under section 2616 that is returned
16 to the Secretary for reallocation shall be used by the Sec-
17 retary for—

18 “(1) the ADAP program if the Secretary deter-
19 mines appropriate; or

20 “(2) for additional amounts for grants pursuant
21 to section 2620.”.

22 (b) TECHNICAL CORRECTION.—Subclause (V) of sec-
23 tion 2618(a)(2)(F)(ii) (42 U.S.C. 300ff-28(a)(2)(F)(ii))
24 is amended by striking “, subject to subclause (VI)”.

1 **SEC. 11. APPLICATION TO PRIMARY CARE SERVICES.**

2 (a) IN GENERAL.—Section 2671 (42 U.S.C. 300ff–
3 71), as amended, is amended—

4 (1) by redesignating subsection (i) as subsection
5 (j);

6 (2) in subsection (g), by striking “subsection
7 (i)” and inserting “subsection (j)”; and

8 (3) by inserting after subsection (h) the fol-
9 lowing:

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

16 (b) PROVISION OF CARE THROUGH MEMORANDUM
17 OF UNDERSTANDING.—Section 2671(a) (42 U.S.C.
18 300ff–71(a)) is amended by striking “(directly or through
19 contracts)” and inserting “(directly or through contracts
20 or memoranda of understanding)”.

21 **SEC. 12. NATIONAL HIV/AIDS TESTING GOAL.**

22 Part E of title XXVI (42 U.S.C. 300ff-81 et seq.)
23 is amended—

24 (a) by redesignating section 2688 as section 2689;
25 and

26 (b) by inserting after section 2687 the following:

1 **“SEC. 2688. NATIONAL HIV/AIDS TESTING GOAL.**

2 “(a) IN GENERAL.—Not later than January 1, 2010,
3 the Secretary shall establish a national HIV/AIDS testing
4 goal of 5,000,000 tests for HIV/AIDS annually through
5 federally-supported HIV/AIDS prevention, treatment, and
6 care programs, including programs under this title and
7 other programs administered by the Centers for Disease
8 Control and Prevention.

9 “(b) ANNUAL REPORT.—Not later than January 1,
10 2011, and annually thereafter, the Secretary, acting
11 through the Director of the Centers for Disease Control
12 and Prevention, shall submit to Congress a report describ-
13 ing, with regard to the preceding 12-month reporting pe-
14 riod—

15 “(1) whether the testing goal described in sub-
16 section (a) has been met;

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

21 “(3) the number of individuals who—

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

24 “(B) through federally-supported and
25 other HIV/AIDS prevention, treatment, and

1 care programs, were diagnosed and referred
2 into treatment and care during such period;

3 “(4) any barriers, including State laws and reg-
4 ulations, that the Secretary determines to be a bar-
5 rier to meeting the testing goal described in sub-
6 section (a);

7 “(5) the amount of funding the Secretary deter-
8 mines necessary to meet the annual testing goal in
9 the following 12 months and the amount of Federal
10 funding expended to meet the testing goal in the
11 prior 12-month period; and

12 “(6) the most cost-effective strategies for iden-
13 tifying and diagnosing individuals who were unaware
14 of their HIV status, including voluntary testing with
15 pre-test counseling, routine screening including opt-
16 out testing, partner counseling and referral services,
17 and mass media campaigns.

18 “(c) REVIEW OF PROGRAM EFFECTIVENESS.—Not
19 later than 1 year after the date of enactment of this sec-
20 tion, the Secretary, in consultation with the Director of
21 the Centers for Disease Control and Prevention, shall sub-
22 mit a report to Congress based on a comprehensive review
23 of each of the programs and activities conducted by the
24 Centers for Disease Control and Prevention as part of the

1 Domestic HIV/AIDS Prevention Activities, including the
2 following:

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

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

7 “(3) The annual goals for each program or ac-
8 tivity.

9 “(4) The relative effectiveness of each program
10 or activity with relation to the other programs and
11 activities conducted by the Centers for Disease Con-
12 trol and Prevention, based on the—

13 “(A) number of previously undiagnosed in-
14 dividuals with HIV/AIDS made aware of their
15 status and referred into the appropriate treat-
16 ment;

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

21 “(C) program’s contribution to the Na-
22 tional HIV/AIDS testing goal; and

23 “(D) progress made toward the goals de-
24 scribed in paragraph (3).

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

5 “(d) COORDINATION WITH OTHER FEDERAL ACTIVI-
6 TIES.—In pursuing the National HIV/AIDS testing goal,
7 the Secretary, where appropriate, shall consider and co-
8 ordinate with other national strategies conducted by the
9 Federal Government to address HIV/AIDS.”.

10 **SEC. 13. NOTIFICATION OF POSSIBLE EXPOSURE TO INFEC-**
11 **TIOUS DISEASES.**

12 Title XXVI (42 U.S.C. 300ff-11 et seq.) is amended
13 by adding at the end the following:

14 **“PART G—NOTIFICATION OF POSSIBLE**
15 **EXPOSURE TO INFECTIOUS DISEASES**

16 **“SEC. 2695. INFECTIOUS DISEASES AND CIRCUMSTANCES**
17 **RELEVANT TO NOTIFICATION REQUIRE-**
18 **MENTS.**

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

22 “(1) a list of potentially life-threatening infec-
23 tious diseases, including emerging infectious dis-
24 eases, to which emergency response employees may
25 be exposed in responding to emergencies;

1 “(2) guidelines describing the circumstances in
2 which such employees may be exposed to such dis-
3 eases, taking into account the conditions under
4 which emergency response is provided; and

5 “(3) guidelines describing the manner in which
6 medical facilities should make determinations for
7 purposes of section 2695B(d).

8 “(b) SPECIFICATION OF AIRBORNE INFECTIOUS DIS-
9 EASES.—The list developed by the Secretary under sub-
10 section (a)(1) shall include a specification of those infec-
11 tious diseases on the list that are routinely transmitted
12 through airborne or aerosolized means.

13 “(c) DISSEMINATION.—The Secretary shall—

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

19 “(2) make such copies available to the public.

20 **“SEC. 2695A. ROUTINE NOTIFICATIONS WITH RESPECT TO**
21 **AIRBORNE INFECTIOUS DISEASES IN VIC-**
22 **TIMS ASSISTED.**

23 “(a) ROUTINE NOTIFICATION OF DESIGNATED OFFI-
24 CER.—

1 “(1) DETERMINATION BY TREATING FACIL-
2 ITY.—If a victim of an emergency is transported by
3 emergency response employees to a medical facility
4 and the medical facility makes a determination that
5 the victim has an airborne infectious disease, the
6 medical facility shall notify the designated officer of
7 the emergency response employees who transported
8 the victim to the medical facility of the determina-
9 tion.

10 “(2) DETERMINATION BY FACILITY
11 ASCERTAINING CAUSE OF DEATH.—If a victim of an
12 emergency is transported by emergency response em-
13 ployees to a medical facility and the victim dies at
14 or before reaching the medical facility, the medical
15 facility ascertaining the cause of death shall notify
16 the designated officer of the emergency response em-
17 ployees who transported the victim to the initial
18 medical facility of any determination by the medical
19 facility that the victim had an airborne infectious
20 disease.

21 “(b) REQUIREMENT OF PROMPT NOTIFICATION.—
22 With respect to a determination described in paragraph
23 (1) or (2) of subsection (a), the notification required in
24 each of such paragraphs shall be made as soon as is prac-

1 ticable, but not later than 48 hours after the determina-
2 tion is made.

3 **“SEC. 2695B. REQUEST FOR NOTIFICATION WITH RESPECT**
4 **TO VICTIMS ASSISTED.**

5 “(a) INITIATION OF PROCESS BY EMPLOYEE.—If an
6 emergency response employee believes that the employee
7 may have been exposed to an infectious disease by a victim
8 of an emergency who was transported to a medical facility
9 as a result of the emergency, and if the employee attended,
10 treated, assisted, or transported the victim pursuant to the
11 emergency, then the designated officer of the employee
12 shall, upon the request of the employee, carry out the du-
13 ties described in subsection (b) regarding a determination
14 of whether the employee may have been exposed to an in-
15 fectious disease by the victim.

16 “(b) INITIAL DETERMINATION BY DESIGNATED OF-
17 FICER.—The duties referred to in subsection (a) are
18 that—

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

23 “(2) the designated officer evaluate such facts
24 and make a determination of whether, if the victim
25 involved had any infectious disease included on the

1 list issued under paragraph (1) of section 2695(a),
2 the employee would have been exposed to the disease
3 under such facts, as indicated by the guidelines
4 issued under paragraph (2) of such section.

5 “(c) SUBMISSION OF REQUEST TO MEDICAL FACIL-
6 ITY.—

7 “(1) IN GENERAL.—If a designated officer
8 makes a determination under subsection (b)(2) that
9 an emergency response employee may have been ex-
10 posed to an infectious disease, the designated officer
11 shall submit to the medical facility to which the vic-
12 tim involved was transported a request for a re-
13 sponse under subsection (d) regarding the victim of
14 the emergency involved.

15 “(2) FORM OF REQUEST.—A request under
16 paragraph (1) shall be in writing and be signed by
17 the designated officer involved, and shall contain a
18 statement of the facts collected pursuant to sub-
19 section (b)(1).

20 “(d) EVALUATION AND RESPONSE REGARDING RE-
21 QUEST TO MEDICAL FACILITY.—

22 “(1) IN GENERAL.—If a medical facility re-
23 ceives a request under subsection (c), the medical fa-
24 cility shall evaluate the facts submitted in the re-
25 quest and make a determination of whether, on the

1 basis of the medical information possessed by the fa-
2 cility regarding the victim involved, the emergency
3 response employee was exposed to an infectious dis-
4 ease included on the list issued under paragraph (1)
5 of section 2695(a), as indicated by the guidelines
6 issued under paragraph (2) of such section.

7 “(2) NOTIFICATION OF EXPOSURE.—If a med-
8 ical facility makes a determination under paragraph
9 (1) that the emergency response employee involved
10 has been exposed to an infectious disease, the med-
11 ical facility shall, in writing, notify the designated
12 officer who submitted the request under subsection
13 (c) of the determination.

14 “(3) FINDING OF NO EXPOSURE.—If a medical
15 facility makes a determination under paragraph (1)
16 that the emergency response employee involved has
17 not been exposed to an infectious disease, the med-
18 ical facility shall, in writing, inform the designated
19 officer who submitted the request under subsection
20 (c) of the determination.

21 “(4) INSUFFICIENT INFORMATION.—

22 “(A) If a medical facility finds in evalu-
23 ating facts for purposes of paragraph (1) that
24 the facts are insufficient to make the deter-
25 mination described in such paragraph, the med-

1 ical facility shall, in writing, inform the des-
2 ignated officer who submitted the request under
3 subsection (c) of the insufficiency of the facts.

4 “(B)(i) If a medical facility finds in mak-
5 ing a determination under paragraph (1) that
6 the facility possesses no information on whether
7 the victim involved has an infectious disease in-
8 cluded on the list under section 2695(a), the
9 medical facility shall, in writing, inform the des-
10 ignated officer who submitted the request under
11 subsection (c) of the insufficiency of such med-
12 ical information.

13 “(ii) If after making a response under
14 clause (i) a medical facility determines that the
15 victim involved has an infectious disease, the
16 medical facility shall make the determination
17 described in paragraph (1) and provide the ap-
18 plicable response specified in this subsection.

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

25 “(f) DEATH OF VICTIM OF EMERGENCY.—

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

10 “(2) RESPONSIBILITY OF FACILITY.—Upon the
11 receipt of a copy of a request for purposes of para-
12 graph (1), the duties otherwise established in this
13 subpart regarding medical facilities shall apply to
14 the medical facility ascertaining the cause of death
15 of the victim in the same manner and to the same
16 extent as such duties apply to the medical facility
17 originally receiving the request.

18 “(g) ASSISTANCE OF PUBLIC HEALTH OFFICER.—

19 “(1) EVALUATION OF RESPONSE OF MEDICAL
20 FACILITY REGARDING INSUFFICIENT FACTS.—

21 “(A) In the case of a request under sub-
22 section (c) to which a medical facility has made
23 the response specified in subsection (d)(4)(A)
24 regarding the insufficiency of facts, the public
25 health officer for the community in which the

1 medical facility is located shall evaluate the re-
2 quest and the response, if the designated officer
3 involved submits such documents to the officer
4 with the request that the officer make such an
5 evaluation.

6 “(B) As soon as is practicable after a pub-
7 lic health officer receives a request under para-
8 graph (1), but not later than 48 hours after re-
9 ceipt of the request, the public health officer
10 shall complete the evaluation required in such
11 paragraph and inform the designated officer of
12 the results of the evaluation.

13 “(2) FINDINGS OF EVALUATION.—

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

19 “(i) the public health officer shall, on
20 behalf of the designated officer involved,
21 resubmit the request to the medical facil-
22 ity; and

23 “(ii) (ii) the medical facility shall pro-
24 vide to the designated officer the applicable
25 response specified in subsection (d).

1 “(B) If an evaluation under paragraph
2 (1)(A) indicates that the facts provided in the
3 request to the medical facility were insufficient
4 for purposes of determinations specified in sub-
5 section (c)—

6 “(i) the public health officer shall pro-
7 vide advice to the designated officer re-
8 garding the collection and description of
9 appropriate facts; and

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

12 “(I) the public health officer
13 shall, on behalf of the designated offi-
14 cer involved, resubmit the request to
15 the medical facility; and

16 “(II) the medical facility shall
17 provide to the designated officer the
18 appropriate response under subsection
19 (c).

20 **“SEC. 2695C. PROCEDURES FOR NOTIFICATION OF EXPO-**
21 **SURE.**

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

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

3 “(2) the date on which the victim of the emer-
4 gency involved was transported by emergency re-
5 sponse employees to the medical facility involved.

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

9 “(1) the medical facility sending the notification
10 shall, upon sending the notification, inform the des-
11 ignated officer to whom the notification is sent of
12 the fact that the notification has been sent; and

13 “(2) such designated officer shall, not later
14 than 10 days after being informed by the medical fa-
15 cility that the notification has been sent, inform
16 such medical facility whether the designated officer
17 has received the notification.

18 **“SEC. 2695D. NOTIFICATION OF EMPLOYEE.**

19 “(a) IN GENERAL.—After receiving a notification for
20 purposes of section 2695A or 2695B(d)(2), a designated
21 officer of emergency response employees shall, to the ex-
22 tent practicable, immediately notify each of such employ-
23 ees who—

24 “(1) responded to the emergency involved; and

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

4 “(b) CERTAIN CONTENTS OF NOTIFICATION TO EM-
5 PLOYEE.—A notification under this subsection to an emer-
6 gency response employee shall inform the employee of—

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

10 “(2) any action by the employee that, as indi-
11 cated by guidelines developed by the Secretary, is
12 medically appropriate; and

13 “(3) if medically appropriate under such cri-
14 teria, the date of such emergency.

15 “(c) RESPONSES OTHER THAN NOTIFICATION OF
16 EXPOSURE.—After receiving a response under paragraph
17 (3) or (4) of subsection (d) of section 2695B, or a re-
18 sponse under subsection (g)(1) of such section, the des-
19 ignated officer for the employee shall, to the extent prac-
20 ticable, immediately inform the employee of the response.

21 **“SEC. 2695E. SELECTION OF DESIGNATED OFFICERS.**

22 “(a) IN GENERAL.—For the purposes of receiving no-
23 tifications and responses and making requests under this
24 subpart on behalf of emergency response employees, the
25 public health officer of each State shall designate 1 official

1 or officer of each employer of emergency response employ-
2 ees in the State.

3 “(b) PREFERENCE IN MAKING DESIGNATIONS.—In
4 making the designations required in subsection (a), a pub-
5 lic health officer shall give preference to individuals who
6 are trained in the provision of health care or in the control
7 of infectious diseases.

8 **“SEC. 2695F. LIMITATION WITH RESPECT TO DUTIES OF**
9 **MEDICAL FACILITIES.**

10 “The duties established in this subpart for a medical
11 facility—

12 “(1) shall apply only to medical information
13 possessed by the facility during the period in which
14 the facility is treating the victim for conditions aris-
15 ing from the emergency, or during the 60-day period
16 beginning on the date on which the victim is trans-
17 ported by emergency response employees to the facil-
18 ity, whichever period expires first; and

19 “(2) shall not apply to any extent after the ex-
20 piration of the 30-day period beginning on the expi-
21 ration of the applicable period referred to in para-
22 graph (1), except that such duties shall apply with
23 respect to any request under section 2695B(e) re-
24 ceived by a medical facility before the expiration of
25 such 30-day period.

1 **“SEC. 2695G. RULES OF CONSTRUCTION.**

2 “(a) **LIABILITY OF MEDICAL FACILITIES AND DES-**
3 **IGNATED OFFICERS.**—This subpart may not be construed
4 to authorize any cause of action for damages or any civil
5 penalty against any medical facility, or any designated of-
6 ficer, for failure to comply with the duties established in
7 this subpart.

8 “(b) **TESTING.**—This subpart may not, with respect
9 to victims of emergencies, be construed to authorize or re-
10 quire a medical facility to test any such victim for any
11 infectious disease.

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

18 “(d) **FAILURE TO PROVIDE EMERGENCY SERV-**
19 **ICES.**—This subpart may not be construed to authorize
20 any emergency response employee to fail to respond, or
21 to deny services, to any victim of an emergency.

22 **“SEC. 2695H. INJUNCTIONS REGARDING VIOLATION OF**
23 **PROHIBITION.**

24 “(a) **IN GENERAL.**—The Secretary may, in any court
25 of competent jurisdiction, commence a civil action for the

1 purpose of obtaining temporary or permanent injunctive
2 relief with respect to any violation of this subpart.

3 “(b) FACILITATION OF INFORMATION ON VIOLA-
4 TIONS.—The Secretary shall establish an administrative
5 process for encouraging emergency response employees to
6 provide information to the Secretary regarding violations
7 of this subpart. As appropriate, the Secretary shall inves-
8 tigate alleged such violations and seek appropriate injunc-
9 tive relief.

10 **“SEC. 2695I. APPLICABILITY OF SUBPART.**

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