

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 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.”.