

***In the Senate of the United States,***

*December 6, 2006.*

*Resolved*, That the bill from the House of Representatives (H.R. 6143) entitled “An Act 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.”, do pass with the following

**AMENDMENT:**

Strike out all after the enacting clause and insert:

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

2       (a) *SHORT TITLE*.—*This Act may be cited as the*  
3 *“Ryan White HIV/AIDS Treatment Modernization Act of*  
4 *2006”*.

*TITLE I—EMERGENCY RELIEF FOR ELIGIBLE AREAS*

*TITLE II—CARE GRANTS*

*TITLE III—EARLY INTERVENTION SERVICES*

*TITLE IV—WOMEN, INFANTS, CHILDREN, AND YOUTH*

*TITLE V—GENERAL PROVISIONS*

## TITLE VI—DEMONSTRATION AND TRAINING

## TITLE VII—MISCELLANEOUS PROVISIONS

† **HR 6143 EAS**

*Sec. 702. Certain references.*

*Sec. 703. Repeal.*

# **TITLE I—EMERGENCY RELIEF FOR ELIGIBLE AREAS**

## **SEC. 101. ESTABLISHMENT OF PROGRAM; GENERAL ELIGIBILITY FOR GRANTS.**

(a) *IN GENERAL.*—Section 2601 of the Public Health Service Act (42 U.S.C. 300ff–11) is amended by striking subsections (b) through (d) and inserting the following:

“(b) *CONTINUED STATUS AS ELIGIBLE AREA.*—Notwithstanding any other provision of this section, a metropolitan area that is an eligible area for a fiscal year continues to be an eligible area until the metropolitan area fails, for three consecutive fiscal years—

“(1) to meet the requirements of subsection (a); and

“(2) to have a cumulative total of 3,000 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.

“(c) *BOUNDARIES.*—For purposes of determining eligibility under this part—

“(1) with respect to a metropolitan area that received funding under this part in fiscal year 2006, the boundaries of such metropolitan area shall be the

1     *boundaries that were in effect for such area for fiscal*  
 2     *year 1994; or*

3             *“(2) with respect to a metropolitan area that be-*  
 4     *comes eligible to receive funding under this part in*  
 5     *any fiscal year after fiscal year 2006, the boundaries*  
 6     *of such metropolitan area shall be the boundaries that*  
 7     *are in effect for such area when such area initially*  
 8     *receives funding under this part.”.*

9     ***(b) TECHNICAL AND CONFORMING AMENDMENTS.—***  
 10    *Section 2601(a) of the Public Health Service Act (42 U.S.C.*  
 11    *300ff–11(a)) is amended—*

12             *(1) by striking “through (d)” and inserting*  
 13     *“through (c)”;* and

14             *(2) by inserting “and confirmed by” after “re-*  
 15     *ported to”.*

16     ***(c) DEFINITION OF METROPOLITAN AREA.—****Section*  
 17    *2607(2) of the Public Health Service Act (42 U.S.C. 300ff–*  
 18    *17(2)) is amended—*

19             *(1) by striking “area referred” and inserting*  
 20     *“area that is referred”;* and

21             *(2) by inserting before the period the following:*  
 22     *“, and that has a population of 50,000 or more indi-*  
 23     *viduals”.*

1 **SEC. 102. TYPE AND DISTRIBUTION OF GRANTS; FORMULA**  
 2 **GRANTS.**

3 (a) *DISTRIBUTION PERCENTAGES.*—Section  
 4 2603(a)(2) of the Public Health Service Act (42 U.S.C.  
 5 300ff–13(a)(2)) is amended—

6 (1) in the first sentence—

7 (A) by striking “50 percent of the amount  
 8 appropriated under section 2677” and inserting  
 9 “66<sup>2</sup>/<sub>3</sub> percent of the amount made available  
 10 under section 2610(b) for carrying out this sub-  
 11 part”; and

12 (B) by striking “paragraph (3)” and insert-  
 13 ing “paragraphs (3) and (4)”.

14 (2) by striking the last sentence.

15 (b) *DISTRIBUTION BASED ON LIVING CASES OF HIV/*  
 16 *AIDS.*—Section 2603(a)(3) of the Public Health Service  
 17 Act (42 U.S.C. 300ff–13(a)(3)) is amended—

18 (1) in subparagraph (B), by striking “estimated  
 19 living cases of acquired immune deficiency syndrome”  
 20 and inserting “living cases of HIV/AIDS (reported to  
 21 and confirmed by the Director of the Centers for Dis-  
 22 ease Control and Prevention)”; and

23 (2) by striking subparagraphs (C) through (E)  
 24 and inserting the following:

25 “(C) *LIVING CASES OF HIV/AIDS.*—

1                   “(i) *REQUIREMENT OF NAMES-BASED*  
2                   *REPORTING.—Except as provided in clause*  
3                   *(ii), the number determined under this sub-*  
4                   *paragraph for an eligible area for a fiscal*  
5                   *year for purposes of subparagraph (B) is*  
6                   *the number of living names-based cases of*  
7                   *HIV/AIDS that, as of December 31 of the*  
8                   *most recent calendar year for which such*  
9                   *data is available, have been reported to and*  
10                   *confirmed by the Director of the Centers for*  
11                   *Disease Control and Prevention.*

12                   “(ii) *TRANSITION PERIOD; EXEMPTION*  
13                   *REGARDING NON-AIDS CASES.—For each of*  
14                   *the fiscal years 2007 through 2009, an eligi-*  
15                   *ble area is, subject to clauses (iii) through*  
16                   *(v), exempt from the requirement under*  
17                   *clause (i) that living names-based non-*  
18                   *AIDS cases of HIV be reported unless—*

19                   “(I) *a system was in operation as*  
20                   *of December 31, 2005, that provides*  
21                   *sufficiently accurate and reliable*  
22                   *names-based reporting of such cases*  
23                   *throughout the State in which the area*  
24                   *is located, subject to clause (viii); or*

“(II) no later than the beginning of fiscal year 2008 or 2009, 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.

“(iii) *REQUIREMENTS FOR EXEMPTION FOR FISCAL YEAR 2007.*—For fiscal year 2007, an exemption under clause (ii) for an eligible area applies only if, by October 1, 2006—

“(I)(aa) the State in which the area is located had submitted to the Secretary a plan for making the transition to sufficiently accurate and reliable names-based reporting of living non-AIDS cases of HIV; or

“(bb) all statutory changes necessary to provide for sufficiently accurate and reliable reporting of such cases had been made; and

1                   “(II) the State had agreed that,  
 2                   by April 1, 2008, the State will begin  
 3                   accurate and reliable names-based re-  
 4                   porting of such cases, except that such  
 5                   agreement is not required to provide  
 6                   that, as of such date, the system for  
 7                   such reporting be fully sufficient with  
 8                   respect to accuracy and reliability  
 9                   throughout the area.

10                  “(iv) *REQUIREMENT FOR EXEMPTION*  
 11                  *AS OF FISCAL YEAR 2008.*—For each of the  
 12                  fiscal years 2008 through 2010, an exemp-  
 13                  tion under clause (ii) for an eligible area  
 14                  applies only if, as of April 1, 2008, the  
 15                  State in which the area is located is sub-  
 16                  stantially in compliance with the agreement  
 17                  under clause (iii)(II).

18                  “(v) *PROGRESS TOWARD NAMES-BASED*  
 19                  *REPORTING.*—For fiscal year 2009, the Sec-  
 20                  retary may terminate an exemption under  
 21                  clause (ii) for an eligible area if the State  
 22                  in which the area is located submitted a  
 23                  plan under clause (iii)(I)(aa) and the Sec-  
 24                  retary determines that the State is not sub-  
 25                  stantially following the plan.



1                   “(vi) *COUNTING OF CASES IN AREAS*  
2                   *WITH EXEMPTIONS.*—

3                   “(I) *IN GENERAL.*—*With respect*  
4                   *to an eligible area that is under a re-*  
5                   *porting system for living non-AIDS*  
6                   *cases of HIV that is not names-based*  
7                   *(referred to in this subparagraph as*  
8                   *‘code-based reporting’), the Secretary*  
9                   *shall, for purposes of this subpara-*  
10                   *graph, modify the number of such cases*  
11                   *reported for the eligible area in order*  
12                   *to adjust for duplicative reporting in*  
13                   *and among systems that use code-based*  
14                   *reporting.*

15                   “(II) *ADJUSTMENT RATE.*—*The*  
16                   *adjustment rate under subclause (I) for*  
17                   *an eligible area shall be a reduction of*  
18                   *5 percent in the number of living non-*  
19                   *AIDS cases of HIV reported for the*  
20                   *area.*

21                   “(vii) *MULTIPLE POLITICAL JURISDIC-*  
22                   *TIONS.*—*With respect to living non-AIDS*  
23                   *cases of HIV, if an eligible area is not en-*  
24                   *tirely within one political jurisdiction and*  
25                   *as a result is subject to more than one re-*

1        *porting system for purposes of this subpara-*  
2        *graph:*

3                *“(I) Names-based reporting under*  
4                *clause (i) applies in a jurisdictional*  
5                *portion of the area, or an exemption*  
6                *under clause (ii) applies in such por-*  
7                *tion (subject to applicable provisions of*  
8                *this subparagraph), according to*  
9                *whether names-based reporting or code-*  
10               *based reporting is used in such por-*  
11               *tion.*

12               *“(II) If under subclause (I) both*  
13               *names-based reporting and code-based*  
14               *reporting apply in the area, the num-*  
15               *ber of code-based cases shall be reduced*  
16               *under clause (vi).*

17               *“(viii) LIST OF ELIGIBLE AREAS*  
18               *MEETING STANDARD REGARDING DECEMBER*  
19               *31, 2005.—*

20               *“(I) IN GENERAL.—If an eligible*  
21               *area or portion thereof is in a State*  
22               *specified in subclause (II), the eligible*  
23               *area or portion shall be considered to*  
24               *meet the standard described in clause*  
25               *(ii)(I). No other eligible area or por-*

tion thereof may be considered to meet such standard.

“(II) *RELEVANT STATES.*—For purposes of subclause (I), the States specified in this subclause are the following: Alaska, Alabama, Arkansas, Arizona, Colorado, Florida, Indiana, Iowa, Idaho, Kansas, Louisiana, Michigan, Minnesota, Missouri, Mississippi, North Carolina, North Dakota, Nebraska, New Jersey, New Mexico, New York, Nevada, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Wisconsin, West Virginia, Wyoming, Guam, and the Virgin Islands.

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

“(I) *CASES OF AIDS.*—With respect to an eligible area that is subject to the requirement under clause (i) and is not in compliance with the requirement for names-based reporting of living non-AIDS cases of HIV, the Secretary shall, notwithstanding such

1                   *noncompliance, accept reports of living*  
2                   *cases of AIDS that are in accordance*  
3                   *with such clause.*

4                   “(II) *APPLICABILITY OF EXEMP-*  
5                   *TION REQUIREMENTS.—The provisions*  
6                   *of clauses (ii) through (viii) may not*  
7                   *be construed as having any legal effect*  
8                   *for fiscal year 2010 or any subsequent*  
9                   *fiscal year, and accordingly, the status*  
10                  *of a State for purposes of such clauses*  
11                  *may not be considered after fiscal year*  
12                  *2009.*

13                  “(x) *PROGRAM FOR DETECTING INAC-*  
14                  *CURATE OR FRAUDULENT COUNTING.—The*  
15                  *Secretary shall carry out a program to*  
16                  *monitor the reporting of names-based cases*  
17                  *for purposes of this subparagraph and to*  
18                  *detect instances of inaccurate reporting, in-*  
19                  *cluding fraudulent reporting.”.*

20                  (c) *CODE-BASED AREAS; LIMITATION ON INCREASE IN*  
21                  *GRANT.—Section 2603(a)(3) of the Public Health Service*  
22                  *Act (42 U.S.C. 300ff–13(a)), as amended by subsection*  
23                  *(b)(2) of this section, is amended by adding at the end the*  
24                  *following subparagraph:*

1           “(D) *CODE-BASED AREAS; LIMITATION ON*  
2           *INCREASE IN GRANT .—*

3           “(i) *IN GENERAL.—For each of the fis-*  
4           *cal years 2007 through 2009, if code-based*  
5           *reporting (within the meaning of subpara-*  
6           *graph (C)(vi)) applies in an eligible area or*  
7           *any portion thereof as of the beginning of*  
8           *the fiscal year involved, then notwith-*  
9           *standing any other provision of this para-*  
10          *graph, the amount of the grant pursuant to*  
11          *this paragraph for such area for such fiscal*  
12          *year may not—*

13           “(I) *for fiscal year 2007, exceed*  
14           *by more than 5 percent the amount of*  
15           *the grant for the area that would have*  
16           *been made pursuant to this paragraph*  
17           *and paragraph (4) for fiscal year 2006*  
18           *(as such paragraphs were in effect for*  
19           *such fiscal year) if paragraph (2) (as*  
20           *so in effect) had been applied by sub-*  
21           *stituting ‘66<sup>2</sup>/<sub>3</sub> percent’ for ‘50 per-*  
22           *cent’; and*

23           “(II) *for each of the fiscal years*  
24           *2008 and 2009, exceed by more than 5*  
25           *percent the amount of the grant pursu-*

1                    *ant to this paragraph and paragraph*  
 2                    *(4) for the area for the preceding fiscal*  
 3                    *year.*

4                    “(ii) *USE OF AMOUNTS INVOLVED.—*  
 5                    *For each of the fiscal years 2007 through*  
 6                    *2009, amounts available as a result of the*  
 7                    *limitation under clause (i) shall be made*  
 8                    *available by the Secretary as additional*  
 9                    *amounts for grants pursuant to subsection*  
 10                    *(b) for the fiscal year involved, subject to*  
 11                    *paragraph (4) and section 2610(d)(2).”.*

12                    (d) *HOLD HARMLESS.—Section 2603(a) of the Public*  
 13                    *Health Service Act (42 U.S.C. 300ff-13(a)) is amended—*

14                    (1) *in paragraph (3)(A)—*

15                    (A) *in clause (ii), by striking the period at*  
 16                    *the end and inserting a semicolon; and*

17                    (B) *by inserting after and below clause (ii)*  
 18                    *the following:*

19                    “*which product shall then, as applicable, be in-*  
 20                    *creased under paragraph (4).”.*

21                    (2) *by amending paragraph (4) to read as fol-*  
 22                    *lows:*

23                    “(4) *INCREASES IN GRANT.—*

24                    “(A) *IN GENERAL.—For each eligible area*  
 25                    *that received a grant pursuant to this subsection*

1       *for fiscal year 2006, the Secretary shall, for each*  
2       *of the fiscal years 2007 through 2009, increase*  
3       *the amount of the grant made pursuant to para-*  
4       *graph (3) for the area to ensure that the amount*  
5       *of the grant for the fiscal year involved is not*  
6       *less than the following amount, as applicable to*  
7       *such fiscal year:*

8               “(i) *For fiscal year 2007, an amount*  
9               *equal to 95 percent of the amount of the*  
10              *grant that would have been made pursuant*  
11              *to paragraph (3) and this paragraph for*  
12              *fiscal year 2006 (as such paragraphs were*  
13              *in effect for such fiscal year) if paragraph*  
14              *(2) (as so in effect) had been applied by*  
15              *substituting ‘66<sup>2</sup>/<sub>3</sub> percent’ for ‘50 percent’.*

16              “(ii) *For each of the fiscal years 2008*  
17              *and 2009, an amount equal to 100 percent*  
18              *of the amount of the grant made pursuant*  
19              *to paragraph (3) and this paragraph for*  
20              *fiscal year 2007.*

21              “(B) *SOURCE OF FUNDS FOR INCREASE.—*

22                      “(i) *IN GENERAL.—From the amounts*  
23                      *available for carrying out the single pro-*  
24                      *gram referred to in section 2609(d)(2)(C)*  
25                      *for a fiscal year (relating to supplemental*

1        *grants), the Secretary shall make available*  
2        *such amounts as may be necessary to com-*  
3        *ply with subparagraph (A), subject to sec-*  
4        *tion 2610(d)(2).*

5                *“(ii) PRO RATA REDUCTION.—If the*  
6        *amounts referred to in clause (i) for a fiscal*  
7        *year are insufficient to fully comply with*  
8        *subparagraph (A) for the year, the Sec-*  
9        *retary, in order to provide the additional*  
10       *funds necessary for such compliance, shall*  
11       *reduce on a pro rata basis the amount of*  
12       *each grant pursuant to this subsection for*  
13       *the fiscal year, other than grants for eligible*  
14       *areas for which increases under subpara-*  
15       *graph (A) apply. A reduction under the*  
16       *preceding sentence may not be made in an*  
17       *amount that would result in the eligible*  
18       *area involved becoming eligible for such an*  
19       *increase.*

20                *“(C) LIMITATION.—This paragraph may*  
21       *not be construed as having any applicability*  
22       *after fiscal year 2009.”.*



1 **SEC. 103. TYPE AND DISTRIBUTION OF GRANTS; SUPPLE-**  
 2 **MENTAL GRANTS.**

3 *Section 2603(b) of the Public Health Service Act (42*  
 4 *U.S.C. 300ff-13(b)) is amended—*

5 *(1) in paragraph (1)—*

6 *(A) in the matter preceding subparagraph*  
 7 *(A), by striking “Not later than” and all that*  
 8 *follows through “the Secretary shall” and insert-*  
 9 *ing the following: “Subject to subsection*  
 10 *(a)(4)(B)(i) and section 2610(d), the Secretary*  
 11 *shall”;*

12 *(B) in subparagraph (B), by striking “dem-*  
 13 *onstrates the severe need in such area” and in-*  
 14 *serting “demonstrates the need in such area, on*  
 15 *an objective and quantified basis,”;*

16 *(C) by striking subparagraph (F) and in-*  
 17 *serting the following:*

18 *“(F) demonstrates the inclusiveness of af-*  
 19 *ected communities and individuals with HIV/*  
 20 *AIDS;”;*

21 *(D) in subparagraph (G), by striking the*  
 22 *period and inserting “; and”; and*

23 *(E) by adding at the end the following:*

24 *“(H) demonstrates the ability of the appli-*  
 25 *cant to expend funds efficiently by not having*  
 26 *had, for the most recent grant year under sub-*

1        *section (a) for which data is available, more*  
 2        *than 2 percent of grant funds under such sub-*  
 3        *section canceled or covered by any waivers under*  
 4        *subsection (c)(3).”; and*

5        *(2) in paragraph (2)—*

6                *(A) in subparagraph (A), by striking “se-*  
 7                *vere need” and inserting “demonstrated need”;*

8                *(B) by striking subparagraph (B) and in-*  
 9                *serting the following:*

10                *“(B) DEMONSTRATED NEED.—The factors*  
 11                *considered by the Secretary in determining*  
 12                *whether an eligible area has a demonstrated need*  
 13                *for purposes of paragraph (1)(B) may include*  
 14                *any or all of the following:*

15                        *“(i) The unmet need for such services,*  
 16                        *as determined under section 2602(b)(4) or*  
 17                        *other community input process as defined*  
 18                        *under section 2609(d)(1)(A).*

19                        *“(ii) An increasing need for HIV/*  
 20                        *AIDS-related services, including relative*  
 21                        *rates of increase in the number of cases of*  
 22                        *HIV/AIDS.*

23                        *“(iii) The relative rates of increase in*  
 24                        *the number of cases of HIV/AIDS within*  
 25                        *new or emerging subpopulations.*

1                   “(iv) *The current prevalence of HIV/*  
2                   *AIDS.*

3                   “(v) *Relevant factors related to the cost*  
4                   *and complexity of delivering health care to*  
5                   *individuals with HIV/AIDS in the eligible*  
6                   *area.*

7                   “(vi) *The impact of co-morbid factors,*  
8                   *including co-occurring conditions, deter-*  
9                   *mined relevant by the Secretary.*

10                  “(vii) *The prevalence of homelessness.*

11                  “(viii) *The prevalence of individuals*  
12                  *described under section 2602(b)(2)(M).*

13                  “(ix) *The relevant factors that limit*  
14                  *access to health care, including geographic*  
15                  *variation, adequacy of health insurance cov-*  
16                  *erage, and language barriers.*

17                  “(x) *The impact of a decline in the*  
18                  *amount received pursuant to subsection (a)*  
19                  *on services available to all individuals with*  
20                  *HIV/AIDS identified and eligible under this*  
21                  *title.”; and*

22                  *(C) by striking subparagraphs (C) and (D)*  
23                  *and inserting the following:*

24                  “(C) *PRIORITY IN MAKING GRANTS.—The*  
25                  *Secretary shall provide funds under this sub-*

1        *section to an eligible area to address the decline*  
 2        *or disruption of all EMA-provided services re-*  
 3        *lated to the decline in the amounts received pur-*  
 4        *suant to subsection (a) consistent with the grant*  
 5        *award for the eligible area for fiscal year 2006,*  
 6        *to the extent that the factor under subparagraph*  
 7        *(B)(x) (relating to a decline in funding) applies*  
 8        *to the eligible area.”.*

9    **SEC. 104. TIMEFRAME FOR OBLIGATION AND EXPENDITURE**  
 10        **OF GRANT FUNDS.**

11        *Section 2603 of the Public Health Service Act (42*  
 12        *U.S.C. 300ff-13) is amended—*

13            *(1) by redesignating subsection (c) as subsection*  
 14            *(d);*

15            *(2) by inserting after subsection (b) the fol-*  
 16            *lowing:*

17        *“(c) TIMEFRAME FOR OBLIGATION AND EXPENDITURE*  
 18        *OF GRANT FUNDS.—*

19            *“(1) OBLIGATION BY END OF GRANT YEAR.—Ef-*  
 20        *fective for fiscal year 2007 and subsequent fiscal*  
 21        *years, funds from a grant award made pursuant to*  
 22        *subsection (a) or (b) for a fiscal year are available for*  
 23        *obligation by the eligible area involved through the*  
 24        *end of the one-year period beginning on the date in*  
 25        *such fiscal year on which funds from the award first*

1     *become available to the area (referred to in this sub-*  
2     *section as the ‘grant year for the award’), except as*  
3     *provided in paragraph (3)(A).*

4             “(2) *SUPPLEMENTAL GRANTS; CANCELLATION OF*  
5     *UNOBLIGATED BALANCE OF GRANT AWARD.—Effective*  
6     *for fiscal year 2007 and subsequent fiscal years, if a*  
7     *grant award made pursuant to subsection (b) for an*  
8     *eligible area for a fiscal year has an unobligated bal-*  
9     *ance as of the end of the grant year for the award—*

10            “(A) *the Secretary shall cancel that unobli-*  
11     *gated balance of the award, and shall require the*  
12     *eligible area to return any amounts from such*  
13     *balance that have been disbursed to the area; and*

14            “(B) *the funds involved shall be made avail-*  
15     *able by the Secretary as additional amounts for*  
16     *grants pursuant to subsection (b) for the first fis-*  
17     *cal year beginning after the fiscal year in which*  
18     *the Secretary obtains the information necessary*  
19     *for determining that the balance is required*  
20     *under subparagraph (A) to be canceled, except*  
21     *that the availability of the funds for such grants*  
22     *is subject to subsection (a)(4) and section*  
23     *2610(d)(2) as applied for such year.*

1           “(3) *FORMULA GRANTS; CANCELLATION OF UN-*  
 2           *OBLIGATED BALANCE OF GRANT AWARD; WAIVER PER-*  
 3           *MITTING CARRYOVER.*—

4           “(A) *IN GENERAL.*—*Effective for fiscal year*  
 5           *2007 and subsequent fiscal years, if a grant*  
 6           *award made pursuant to subsection (a) for an*  
 7           *eligible area for a fiscal year has an unobligated*  
 8           *balance as of the end of the grant year for the*  
 9           *award, the Secretary shall cancel that unobli-*  
 10           *gated balance of the award, and shall require the*  
 11           *eligible area to return any amounts from such*  
 12           *balance that have been disbursed to the area,*  
 13           *unless—*

14           “(i) *before the end of the grant year,*  
 15           *the chief elected official of the area submits*  
 16           *to the Secretary a written application for a*  
 17           *waiver of the cancellation, which applica-*  
 18           *tion includes a description of the purposes*  
 19           *for which the area intends to expend the*  
 20           *funds involved; and*

21           “(ii) *the Secretary approves the waiv-*  
 22           *er.*

23           “(B) *EXPENDITURE BY END OF CARRYOVER*  
 24           *YEAR.*—*With respect to a waiver under subpara-*  
 25           *graph (A) that is approved for a balance that is*

1        *unobligated as of the end of a grant year for an*  
2        *award:*

3                “(i) *The unobligated funds are avail-*  
4                *able for expenditure by the eligible area in-*  
5                *volved for the one-year period beginning*  
6                *upon the expiration of the grant year (re-*  
7                *ferred to in this subsection as the ‘carryover*  
8                *year’).*

9                “(ii) *If the funds are not expended by*  
10                *the end of the carryover year, the Secretary*  
11                *shall cancel that unexpended balance of the*  
12                *award, and shall require the eligible area to*  
13                *return any amounts from such balance that*  
14                *have been disbursed to the area.*

15                “(C) *USE OF CANCELLED BALANCES.—In*  
16                *the case of any balance of a grant award that is*  
17                *cancelled under subparagraph (A) or (B)(ii), the*  
18                *grant funds involved shall be made available by*  
19                *the Secretary as additional amounts for grants*  
20                *pursuant to subsection (b) for the first fiscal year*  
21                *beginning after the fiscal year in which the Sec-*  
22                *retary obtains the information necessary for de-*  
23                *termining that the balance is required under*  
24                *such subparagraph to be canceled, except that the*  
25                *availability of the funds for such grants is sub-*

ject to subsection (a)(4) and section 2610(d)(2)  
as applied for such year.

“(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, 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

“(II) the grant funds involved in such reduction shall be made available by the Secretary as additional funds



1                   *for grants pursuant to subsection (b)*  
 2                   *for such first fiscal year, subject to sub-*  
 3                   *section (a)(4) and section 2610(d)(2);*  
 4                   *except that this clause does not apply to the*  
 5                   *eligible area if the amount of the unobli-*  
 6                   *gated balance was 2 percent or less.*

7                   “(ii) *RELATION TO INCREASES IN*  
 8                   *GRANT.—A reduction under clause (i) for*  
 9                   *an eligible area for a fiscal year may not*  
 10                  *be taken into account in applying sub-*  
 11                  *section (a)(4) with respect to the area for*  
 12                  *the subsequent fiscal year.”; and*

13                  (3) *by adding at the end the following:*

14                  “(e) *REPORT ON THE AWARDING OF SUPPLEMENTAL*  
 15                  *FUNDS.—Not later than 45 days after the awarding of sup-*  
 16                  *plemental funds under this section, the Secretary shall sub-*  
 17                  *mit to Congress a report concerning such funds. Such report*  
 18                  *shall include information detailing—*

19                         “(1) *the total amount of supplemental funds*  
 20                         *available under this section for the year involved;*

21                         “(2) *the amount of supplemental funds used in*  
 22                         *accordance with the hold harmless provisions of sub-*  
 23                         *section (a)(4);*

24                         “(3) *the amount of supplemental funds disbursed*  
 25                         *pursuant to subsection (b)(2)(C);*

1           “(4) the disbursement of the remainder of the  
2           supplemental funds after taking into account the uses  
3           described in paragraphs (2) and (3); and

4           “(5) the rationale used for the amount of funds  
5           disbursed as described under paragraphs (2), (3), and  
6           (4).”.

7   **SEC. 105. USE OF AMOUNTS.**

8           Section 2604 of the Public Health Service Act (42  
9   U.S.C. 300ff-14) is amended to read as follows:

10   **“SEC. 2604. USE OF AMOUNTS.**

11           “(a) *REQUIREMENTS.*—The Secretary may not make  
12           a grant under section 2601(a) to the chief elected official  
13           of an eligible area unless such political subdivision agrees  
14           that—

15                   “(1) subject to paragraph (2), the allocation of  
16           funds and services within the eligible area will be  
17           made in accordance with the priorities established,  
18           pursuant to section 2602(b)(4)(C), by the HIV health  
19           services planning council that serves such eligible  
20           area;

21                   “(2) funds provided under section 2601 will be  
22           expended only for—

23                           “(A) core medical services described in sub-  
24           section (c);

1                   “(B) support services described in sub-  
2                   section (d); and

3                   “(C) administrative expenses described in  
4                   subsection (h); and

5                   “(3) the use of such funds will comply with the  
6                   requirements of this section.

7                   “(b) *DIRECT FINANCIAL ASSISTANCE TO APPROPRIATE*  
8                   *ENTITIES.*—

9                   “(1) *IN GENERAL.*—The chief elected official of  
10                  an eligible area shall use amounts from a grant under  
11                  section 2601 to provide direct financial assistance to  
12                  entities described in paragraph (2) for the purpose of  
13                  providing core medical services and support services.

14                  “(2) *APPROPRIATE ENTITIES.*—Direct financial  
15                  assistance may be provided under paragraph (1) to  
16                  public or nonprofit private entities, or private for-  
17                  profit entities if such entities are the only available  
18                  provider of quality HIV care in the area.

19                  “(c) *REQUIRED FUNDING FOR CORE MEDICAL SERV-*  
20                  *ICES.*—

21                  “(1) *IN GENERAL.*—With respect to a grant  
22                  under section 2601 for an eligible area for a grant  
23                  year, the chief elected official of the area shall, of the  
24                  portion of the grant remaining after reserving  
25                  amounts for purposes of paragraphs (1) and (5)(B)(i)

1     *of subsection (h), use not less than 75 percent to pro-*  
 2     *vide core medical services that are needed in the eligi-*  
 3     *ble area for individuals with HIV/AIDS who are*  
 4     *identified and eligible under this title (including serv-*  
 5     *ices regarding the co-occurring conditions of the indi-*  
 6     *viduals).*

7             “(2) *WAIVER.—*

8                 “(A) *IN GENERAL.—The Secretary shall*  
 9     *waive the application of paragraph (1) with re-*  
 10    *spect to a chief elected official for a grant year*  
 11    *if the Secretary determines that, within the eligi-*  
 12    *ble area involved—*

13                 “(i) *there are no waiting lists for*  
 14     *AIDS Drug Assistance Program services*  
 15     *under section 2616; and*

16                 “(ii) *core medical services are available*  
 17     *to all individuals with HIV/AIDS identi-*  
 18     *fied and eligible under this title.*

19             “(B) *NOTIFICATION OF WAIVER STATUS.—*

20    *When informing the chief elected official of an el-*  
 21    *igible area that a grant under section 2601 is*  
 22    *being made for the area for a grant year, the*  
 23    *Secretary shall inform the official whether a*  
 24    *waiver under subparagraph (A) is in effect for*  
 25    *such year.*

1           “(3) *CORE MEDICAL SERVICES.*—For purposes of  
2           *this subsection, the term ‘core medical services’, with*  
3           *respect to an individual with HIV/AIDS (including*  
4           *the co-occurring conditions of the individual), means*  
5           *the following services:*

6                     “(A) *Outpatient and ambulatory health*  
7                     *services.*

8                     “(B) *AIDS Drug Assistance Program treat-*  
9                     *ments in accordance with section 2616.*

10                    “(C) *AIDS pharmaceutical assistance.*

11                    “(D) *Oral health care.*

12                    “(E) *Early intervention services described*  
13                    *in subsection (e).*

14                    “(F) *Health insurance premium and cost*  
15                    *sharing assistance for low-income individuals in*  
16                    *accordance with section 2615.*

17                    “(G) *Home health care.*

18                    “(H) *Medical nutrition therapy.*

19                    “(I) *Hospice services.*

20                    “(J) *Home and community-based health*  
21                    *services as defined under section 2614(c).*

22                    “(K) *Mental health services.*

23                    “(L) *Substance abuse outpatient care.*

24                    “(M) *Medical case management, including*  
25                    *treatment adherence services.*

1 “(d) *SUPPORT SERVICES*.—

2 “(1) *IN GENERAL*.—For purposes of this section,  
3 the term ‘support services’ means services, subject to  
4 the approval of the Secretary, that are needed for in-  
5 dividuals with HIV/AIDS to achieve their medical  
6 outcomes (such as respite care for persons caring for  
7 individuals with HIV/AIDS, outreach services, med-  
8 ical transportation, linguistic services, and referrals  
9 for health care and support services).

10 “(2) *MEDICAL OUTCOMES*.—In this subsection,  
11 the term ‘medical outcomes’ means those outcomes af-  
12 fecting the HIV-related clinical status of an indi-  
13 vidual with HIV/AIDS.

14 “(e) *EARLY INTERVENTION SERVICES*.—

15 “(1) *IN GENERAL*.—For purposes of this section,  
16 the term ‘early intervention services’ means HIV/  
17 AIDS early intervention services described in section  
18 2651(e), with follow-up referral provided for the pur-  
19 pose of facilitating the access of individuals receiving  
20 the services to HIV-related health services. The enti-  
21 ties through which such services may be provided  
22 under the grant include public health departments,  
23 emergency rooms, substance abuse and mental health  
24 treatment programs, detoxification centers, detention  
25 facilities, clinics regarding sexually transmitted dis-

1 *eases, homeless shelters, HIV/AIDS counseling and*  
 2 *testing sites, health care points of entry specified by*  
 3 *eligible areas, federally qualified health centers, and*  
 4 *entities described in section 2652(a) that constitute a*  
 5 *point of access to services by maintaining referral re-*  
 6 *lationships.*

7 “(2) *CONDITIONS.—With respect to an entity*  
 8 *that proposes to provide early intervention services*  
 9 *under paragraph (1), such paragraph shall apply*  
 10 *only if the entity demonstrates to the satisfaction of*  
 11 *the chief elected official for the eligible area involved*  
 12 *that—*

13 “(A) *Federal, State, or local funds are oth-*  
 14 *erwise inadequate for the early intervention serv-*  
 15 *ices the entity proposes to provide; and*

16 “(B) *the entity will expend funds pursuant*  
 17 *to such paragraph to supplement and not sup-*  
 18 *plant other funds available to the entity for the*  
 19 *provision of early intervention services for the*  
 20 *fiscal year involved.*

21 “(f) *PRIORITY FOR WOMEN, INFANTS, CHILDREN, AND*  
 22 *YOUTH.—*

23 “(1) *IN GENERAL.—For the purpose of providing*  
 24 *health and support services to infants, children,*  
 25 *youth, and women with HIV/AIDS, including treat-*

1     *ment measures to prevent the perinatal transmission*  
 2     *of HIV, the chief elected official of an eligible area,*  
 3     *in accordance with the established priorities of the*  
 4     *planning council, shall for each of such populations*  
 5     *in the eligible area use, from the grants made for the*  
 6     *area under section 2601(a) for a fiscal year, not less*  
 7     *than the percentage constituted by the ratio of the*  
 8     *population involved (infants, children, youth, or*  
 9     *women in such area) with HIV/AIDS to the general*  
 10    *population in such area of individuals with HIV/*  
 11    *AIDS.*

12           “(2) *WAIVER.*—*With respect to the population*  
 13    *involved, the Secretary may provide to the chief elect-*  
 14    *ed official of an eligible area a waiver of the require-*  
 15    *ment of paragraph (1) if such official demonstrates to*  
 16    *the satisfaction of the Secretary that the population*  
 17    *is receiving HIV-related health services through the*  
 18    *State medicaid program under title XIX of the Social*  
 19    *Security Act, the State children’s health insurance*  
 20    *program under title XXI of such Act, or other Federal*  
 21    *or State programs.*

22           “(g) *REQUIREMENT OF STATUS AS MEDICAID PRO-*  
 23    *VIDER.*—

24           “(1) *PROVISION OF SERVICE.*—*Subject to para-*  
 25    *graph (2), the Secretary may not make a grant under*



1     *section 2601(a) for the provision of services under this*  
2     *section in a State unless, in the case of any such serv-*  
3     *ice that is available pursuant to the State plan ap-*  
4     *proved under title XIX of the Social Security Act for*  
5     *the State—*

6             *“(A) the political subdivision involved will*  
7             *provide the service directly, and the political*  
8             *subdivision has entered into a participation*  
9             *agreement under the State plan and is qualified*  
10            *to receive payments under such plan; or*

11            *“(B) the political subdivision will enter into*  
12            *an agreement with a public or nonprofit private*  
13            *entity under which the entity will provide the*  
14            *service, and the entity has entered into such a*  
15            *participation agreement and is qualified to re-*  
16            *ceive such payments.*

17            *“(2) WAIVER.—*

18            *“(A) IN GENERAL.—In the case of an entity*  
19            *making an agreement pursuant to paragraph*  
20            *(1)(B) regarding the provision of services, the re-*  
21            *quirement established in such paragraph shall be*  
22            *waived by the HIV health services planning*  
23            *council for the eligible area if the entity does not,*  
24            *in providing health care services, impose a*  
25            *charge or accept reimbursement available from*

1           *any third-party payor, including reimbursement*  
 2           *under any insurance policy or under any Fed-*  
 3           *eral or State health benefits program.*

4           “(B) *DETERMINATION.*—*A determination*  
 5           *by the HIV health services planning council of*  
 6           *whether an entity referred to in subparagraph*  
 7           *(A) meets the criteria for a waiver under such*  
 8           *subparagraph shall be made without regard to*  
 9           *whether the entity accepts voluntary donations*  
 10           *for the purpose of providing services to the pub-*  
 11           *lic.*

12          “(h) *ADMINISTRATION.*—

13           “(1) *LIMITATION.*—*The chief elected official of*  
 14           *an eligible area shall not use in excess of 10 percent*  
 15           *of amounts received under a grant under this part for*  
 16           *administrative expenses.*

17           “(2) *ALLOCATIONS BY CHIEF ELECTED OFFI-*  
 18           *CIAL.*—*In the case of entities and subcontractors to*  
 19           *which the chief elected official of an eligible area allo-*  
 20           *cates amounts received by the official under a grant*  
 21           *under this part, the official shall ensure that, of the*  
 22           *aggregate amount so allocated, the total of the expend-*  
 23           *itures by such entities for administrative expenses*  
 24           *does not exceed 10 percent (without regard to whether*

1     *particular entities expend more than 10 percent for*  
2     *such expenses).*

3             “(3) *ADMINISTRATIVE ACTIVITIES.—For pur-*  
4     *poses of paragraph (1), amounts may be used for ad-*  
5     *ministrative activities that include—*

6             “(A) *routine grant administration and*  
7     *monitoring activities, including the development*  
8     *of applications for part A funds, the receipt and*  
9     *disbursal of program funds, the development and*  
10    *establishment of reimbursement and accounting*  
11    *systems, the development of a clinical quality*  
12    *management program as described in paragraph*  
13    *(5), the preparation of routine programmatic*  
14    *and financial reports, and compliance with*  
15    *grant conditions and audit requirements; and*

16            “(B) *all activities associated with the grant-*  
17    *ee’s contract award procedures, including the ac-*  
18    *tivities carried out by the HIV health services*  
19    *planning council as established under section*  
20    *2602(b), the development of requests for pro-*  
21    *posals, contract proposal review activities, nego-*  
22    *tiation and awarding of contracts, monitoring of*  
23    *contracts through telephone consultation, written*  
24    *documentation or onsite visits, reporting on con-*  
25    *tracts, and funding reallocation activities.*

1           “(4) *SUBCONTRACTOR ADMINISTRATIVE ACTIVITIES.*—*For the purposes of this subsection, subcontractor administrative activities include—*

4                   “(A) *usual and recognized overhead activities, including established indirect rates for agencies;*

7                   “(B) *management oversight of specific programs funded under this title; and*

9                   “(C) *other types of program support such as quality assurance, quality control, and related activities.*

12           “(5) *CLINICAL QUALITY MANAGEMENT.*—

13                   “(A) *REQUIREMENT.*—*The chief elected official of an eligible area that receives a grant under this part shall provide for the establishment of a clinical quality management program to assess the extent to which HIV health services provided to patients under the grant are consistent with the most recent Public Health Service guidelines for the treatment of HIV/AIDS and related opportunistic infection, and as applicable, to develop strategies for ensuring that such services are consistent with the guidelines for improvement in the access to and quality of HIV health services.*

1 “(B) *USE OF FUNDS.*—

2 “(i) *IN GENERAL.*—*From amounts re-*  
 3 *ceived under a grant awarded under this*  
 4 *subpart for a fiscal year, the chief elected of-*  
 5 *ficial of an eligible area may use for activi-*  
 6 *ties associated with the clinical quality*  
 7 *management program required in subpara-*  
 8 *graph (A) not to exceed the lesser of—*

9 “(I) *5 percent of amounts received*  
 10 *under the grant; or*

11 “(II) *\$3,000,000.*

12 “(ii) *RELATION TO LIMITATION ON AD-*  
 13 *MINISTRATIVE EXPENSES.*—*The costs of a*  
 14 *clinical quality management program*  
 15 *under subparagraph (A) may not be consid-*  
 16 *ered administrative expenses for purposes of*  
 17 *the limitation established in paragraph (1).*

18 “(i) *CONSTRUCTION.*—*A chief elected official may not*  
 19 *use amounts received under a grant awarded under this*  
 20 *part to purchase or improve land, or to purchase, construct,*  
 21 *or permanently improve (other than minor remodeling) any*  
 22 *building or other facility, or to make cash payments to in-*  
 23 *tended recipients of services.”.*

1 **SEC. 106. ADDITIONAL AMENDMENTS TO PART A.**

2 (a) *REPORTING OF CASES.*—Section 2601(a) of the  
3 *Public Health Service Act* (42 U.S.C. 300ff–11(a)) is  
4 amended by striking “for the most recent period” and in-  
5 serting “during the most recent period”.

6 (b) *PLANNING COUNCIL REPRESENTATION.*—Section  
7 2602(b)(2)(G) of the *Public Health Service Act* (42 U.S.C.  
8 300ff–12(b)(2)(G)) is amended by inserting “, members of  
9 a Federally recognized Indian tribe as represented in the  
10 population, individuals co-infected with hepatitis B or C”  
11 after “disease”.

12 (c) *APPLICATION FOR GRANT.*—

13 (1) *PAYER OF LAST RESORT.*—Section  
14 2605(a)(6)(A) of the *Public Health Service Act* (42  
15 U.S.C. 300ff–15(a)(6)(A)) is amended by inserting  
16 “(except for a program administered by or providing  
17 the services of the Indian Health Service)” before the  
18 semicolon.

19 (2) *AUDITS.*—Section 2605(a) of the *Public*  
20 *Health Service Act* (42 U.S.C. 300ff–15(a)) is  
21 amended—

22 (A) in paragraph (8), by striking “and” at  
23 the end;

24 (B) in paragraph (9), by striking the period  
25 and inserting “; and”; and

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

1           “(10) that the chief elected official will submit to  
 2           the lead State agency under section 2617(b)(4), au-  
 3           dits, consistent with Office of Management and Budg-  
 4           et circular A133, regarding funds expended in accord-  
 5           ance with this part every 2 years and shall include  
 6           necessary client-based data to compile unmet need  
 7           calculations and Statewide coordinated statements of  
 8           need process.”.

9           (3) COORDINATION.—Section 2605(b) of the Pub-  
 10          lic Health Service Act (42 U.S.C. 300ff–15(b)) is  
 11          amended—

12                   (A) in paragraph (3), by striking “and” at  
 13                   the end;

14                   (B) in paragraph (4), by striking the period  
 15                   and inserting a semicolon; and

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

17           “(5) the manner in which the expected expendi-  
 18           tures are related to the planning process for States  
 19           that receive funding under part B (including the  
 20           planning process described in section 2617(b)); and

21           “(6) the expected expenditures and how those ex-  
 22           penditures will improve overall client outcomes, as de-  
 23           scribed under the State plan under section 2617(b),  
 24           and through additional outcomes measures as identi-

1        *fied by the HIV health services planning council*  
 2        *under section 2602(b).”.*

3    **SEC. 107. NEW PROGRAM IN PART A; TRANSITIONAL**  
 4                    **GRANTS FOR CERTAIN AREAS INELIGIBLE**  
 5                    **UNDER SECTION 2601.**

6        *(a) IN GENERAL.—Part A of title XXVI of the Public*  
 7        *Health Service Act (42 U.S.C. 300ff–11) is amended—*

8                *(1) by inserting after the part heading the fol-*  
 9        *lowing:*

10        **“Subpart I—General Grant Provisions”; and**

11                *(2) by adding at the end the following:*

12                **“Subpart II—Transitional Grants**

13        **“SEC. 2609. ESTABLISHMENT OF PROGRAM.**

14        *“(a) IN GENERAL.—The Secretary, acting through the*  
 15        *Administrator of the Health Resources and Services Admin-*  
 16        *istration, shall make grants for the purpose of providing*  
 17        *services described in section 2604 in transitional areas, sub-*  
 18        *ject to the same provisions regarding the allocation of grant*  
 19        *funds as apply under subsection (c) of such section.*

20        *“(b) TRANSITIONAL AREAS.—For purposes of this sec-*  
 21        *tion, the term ‘transitional area’ means, subject to sub-*  
 22        *section (c), a metropolitan area for which there has been*  
 23        *reported to and confirmed by the Director of the Centers*  
 24        *for Disease Control and Prevention a cumulative total of*  
 25        *at least 1,000, but fewer than 2,000, cases of AIDS during*



1 *the most recent period of 5 calendar years for which such*  
 2 *data are available.*

3 “(c) *CERTAIN ELIGIBILITY RULES.*—

4 “(1) *FISCAL YEAR 2007.*—*With respect to grants*  
 5 *under subsection (a) for fiscal year 2007, a metropoli-*  
 6 *tan area that received funding under subpart I for*  
 7 *fiscal year 2006 but does not for fiscal year 2007*  
 8 *qualify under such subpart as an eligible area and*  
 9 *does not qualify under subsection (b) as a transitional*  
 10 *area shall, notwithstanding subsection (b), be consid-*  
 11 *ered a transitional area.*

12 “(2) *CONTINUED STATUS AS TRANSITIONAL*  
 13 *AREA.*—

14 “(A) *IN GENERAL.*—*Notwithstanding sub-*  
 15 *section (b), a metropolitan area that is a transi-*  
 16 *tional area for a fiscal year continues, except as*  
 17 *provided in subparagraph (B), to be a transi-*  
 18 *tional area until the metropolitan area fails, for*  
 19 *three consecutive fiscal years—*

20 “(i) *to qualify under such subsection as*  
 21 *a transitional area; and*

22 “(ii) *to have a cumulative total of*  
 23 *1,500 or more living cases of AIDS (re-*  
 24 *ported to and confirmed by the Director of*  
 25 *the Centers for Disease Control and Preven-*

1            *tion) as of December 31 of the most recent*  
 2            *calendar year for which such data is avail-*  
 3            *able.*

4            “(B) *EXCEPTION REGARDING STATUS AS*  
 5            *ELIGIBLE AREA.*—*Subparagraph (A) does not*  
 6            *apply for a fiscal year if the metropolitan area*  
 7            *involved qualifies under subpart I as an eligible*  
 8            *area.*

9            “(d) *APPLICATION OF CERTAIN PROVISIONS OF SUB-*  
 10          *PART I.*—

11            “(1) *ADMINISTRATION; PLANNING COUNCIL.*—

12            “(A) *IN GENERAL.*—*The provisions of sec-*  
 13            *tion 2602 apply with respect to a grant under*  
 14            *subsection (a) for a transitional area to the same*  
 15            *extent and in the same manner as such provi-*  
 16            *sions apply with respect to a grant under sub-*  
 17            *part I for an eligible area, except that, subject to*  
 18            *subparagraph (B), the chief elected official of the*  
 19            *transitional area may elect not to comply with*  
 20            *the provisions of section 2602(b) if the official*  
 21            *provides documentation to the Secretary that de-*  
 22            *tails the process used to obtain community input*  
 23            *(particularly from those with HIV) in the tran-*  
 24            *sitional area for formulating the overall plan for*

1        *priority setting and allocating funds from the*  
 2        *grant under subsection (a).*

3                “(B) *EXCEPTION.*—*For each of the fiscal*  
 4        *years 2007 through 2009, the exception described*  
 5        *in subparagraph (A) does not apply if the tran-*  
 6        *sitional area involved received funding under*  
 7        *subpart I for fiscal year 2006.*

8                “(2) *TYPE AND DISTRIBUTION OF GRANTS; TIME-*  
 9        *FRAME FOR OBLIGATION AND EXPENDITURE OF*  
 10        *GRANT FUNDS.*—

11                “(A) *FORMULA GRANTS; SUPPLEMENTAL*  
 12        *GRANTS.*—*The provisions of section 2603 apply*  
 13        *with respect to grants under subsection (a) to the*  
 14        *same extent and in the same manner as such*  
 15        *provisions apply with respect to grants under*  
 16        *subpart I, subject to subparagraphs (B) and (C).*

17                “(B) *FORMULA GRANTS; INCREASE IN*  
 18        *GRANT.*—*For purposes of subparagraph (A), sec-*  
 19        *tion 2603(a)(4) does not apply.*

20                “(C) *SUPPLEMENTAL GRANTS; SINGLE PRO-*  
 21        *GRAM WITH SUBPART I PROGRAM.*—*With respect*  
 22        *to section 2603(b) as applied for purposes of sub-*  
 23        *paragraph (A):*

24                “(i) *The Secretary shall combine*  
 25        *amounts available pursuant to such sub-*

1           *paragraph with amounts available for car-*  
 2           *rying out section 2603(b) and shall admin-*  
 3           *ister the two programs as a single program.*

4           “(ii) *In the single program, the Sec-*  
 5           *retary has discretion in allocating amounts*  
 6           *between eligible areas under subpart I and*  
 7           *transitional areas under this section, subject*  
 8           *to the eligibility criteria that apply under*  
 9           *such section, and subject to section*  
 10           *2603(b)(2)(C) (relating to priority in mak-*  
 11           *ing grants).*

12           “(iii) *Pursuant to section 2603(b)(1),*  
 13           *amounts for the single program are subject*  
 14           *to use under sections 2603(a)(4) and*  
 15           *2610(d)(1).*

16           “(3) *APPLICATION; TECHNICAL ASSISTANCE;*  
 17           *DEFINITIONS.—The provisions of sections 2605, 2606,*  
 18           *and 2607 apply with respect to grants under sub-*  
 19           *section (a) to the same extent and in the same man-*  
 20           *ner as such provisions apply with respect to grants*  
 21           *under subpart I.”.*

22           “(b) *CONFORMING AMENDMENTS.—Subpart I of part A*  
 23           *of title XXVI of the Public Health Service Act, as designated*  
 24           *by subsection (a)(1) of this section, is amended by striking*

1 “this part” each place such term appears and inserting  
 2 “this subpart”.

3 **SEC. 108. AUTHORIZATION OF APPROPRIATIONS FOR PART**

4 **A.**

5 *Part A of title XXVI of the Public Health Service Act,*  
 6 *as amended by section 106(a), is amended by adding at*  
 7 *the end the following:*

8 **“Subpart III—General Provisions**

9 **“SEC. 2610. AUTHORIZATION OF APPROPRIATIONS.**

10 *“(a) IN GENERAL.—For the purpose of carrying out*  
 11 *this part, there are authorized to be appropriated*  
 12 *\$604,000,000 for fiscal year 2007, \$626,300,000 for fiscal*  
 13 *year 2008, and \$649,500,000 for fiscal year 2009. Amounts*  
 14 *appropriated under the preceding sentence for a fiscal year*  
 15 *are available for obligation by the Secretary until the end*  
 16 *of the second succeeding fiscal year.*

17 *“(b) RESERVATION OF AMOUNTS.—*

18 *“(1) FISCAL YEAR 2007.—Of the amount appro-*  
 19 *priated under subsection (a) for fiscal year 2007, the*  
 20 *Secretary shall reserve—*

21 *“(A) \$458,310,000 for grants under subpart*  
 22 *I; and*

23 *“(B) \$145,690,000 for grants under section*  
 24 *2609.*

1           “(2) *SUBSEQUENT FISCAL YEARS.*—Of the  
2           *amount appropriated under subsection (a) for fiscal*  
3           *year 2008 and each subsequent fiscal year—*

4                     “(A) *the Secretary shall reserve an amount*  
5                     *for grants under subpart I; and*

6                     “(B) *the Secretary shall reserve an amount*  
7                     *for grants under section 2609.*

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

11                   “(1) *If a metropolitan area is an eligible area*  
12                   *under subpart I for a fiscal year, but for a subsequent*  
13                   *fiscal year ceases to be an eligible area by reason of*  
14                   *section 2601(b)—*

15                             “(A)(i) *the amount reserved under para-*  
16                             *graph (1)(A) or (2)(A) of subsection (b) of this*  
17                             *section for the first such subsequent year of not*  
18                             *being an eligible area is deemed to be reduced by*  
19                             *an amount equal to the amount of the grant*  
20                             *made pursuant to section 2603(a) for the metro-*  
21                             *politan area for the preceding fiscal year; and*

22                             “(ii)(I) *if the metropolitan area qualifies*  
23                             *for such first subsequent fiscal year as a transi-*  
24                             *tional area under 2609, the amount reserved*  
25                             *under paragraph (1)(B) or (2)(B) of subsection*

1       (b) for such fiscal year is deemed to be increased  
2       by an amount equal to the amount of the reduc-  
3       tion under subparagraph (A) for such year; or

4               “(II) if the metropolitan area does not qual-  
5       ify for such first subsequent fiscal year as a  
6       transitional area under 2609, an amount equal  
7       to the amount of such reduction is, notwith-  
8       standing subsection (a), transferred and made  
9       available for grants pursuant to section  
10      2618(a)(1), in addition to amounts available for  
11      such grants under section 2623; and

12              “(B) if a transfer under subparagraph  
13      (A)(ii)(II) is made with respect to the metropoli-  
14      tan area for such first subsequent fiscal year,  
15      then—

16                      “(i) the amount reserved under para-  
17                      graph (1)(A) or (2)(A) of subsection (b) of  
18                      this section for such year is deemed to be re-  
19                      duced by an additional \$500,000; and

20                      “(ii) an amount equal to the amount  
21                      of such additional reduction is, notwith-  
22                      standing subsection (a), transferred and  
23                      made available for grants pursuant to sec-  
24                      tion 2618(a)(1), in addition to amounts

1           *available for such grants under section*  
2           *2623.*

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

9           “(A) *the amount reserved under subsection*  
10          *(b)(2)(B) of this section for the first such subse-*  
11          *quent fiscal year of not being a transitional area*  
12          *is deemed to be reduced by an amount equal to*  
13          *the total of—*

14               “(i) *the amount of the grant that, pur-*  
15               *suant to section 2603(a), was made under*  
16               *section 2609(d)(2)(A) for the metropolitan*  
17               *area for the preceding fiscal year; and*

18               “(ii) *\$500,000; and*

19               “(B) *an amount equal to the amount of the*  
20               *reduction under subparagraph (A) for such year*  
21               *is, notwithstanding subsection (a), transferred*  
22               *and made available for grants pursuant to sec-*  
23               *tion 2618(a)(1), in addition to amounts avail-*  
24               *able for such grants under section 2623.*



1           “(3) *If a metropolitan area is a transitional*  
 2           *area under section 2609 for a fiscal year, but for a*  
 3           *subsequent fiscal year qualifies as an eligible area*  
 4           *under subpart I—*

5                     “(A) *the amount reserved under subsection*  
 6                     *(b)(2)(B) of this section for the first such subse-*  
 7                     *quent fiscal year of becoming an eligible area is*  
 8                     *deemed to be reduced by an amount equal to the*  
 9                     *amount of the grant that, pursuant to section*  
 10                    *2603(a), was made under section 2609(d)(2)(A)*  
 11                    *for the metropolitan area for the preceding fiscal*  
 12                    *year; and*

13                   “(B) *the amount reserved under subsection*  
 14                    *(b)(2)(A) for such fiscal year is deemed to be in-*  
 15                    *creased by an amount equal to the amount of the*  
 16                    *reduction under subparagraph (A) for such year.*

17           “(d) *CERTAIN TRANSFERS; ALLOCATIONS BETWEEN*  
 18           *PROGRAMS UNDER SUBPART I.—With respect to para-*  
 19           *graphs (1)(B)(i) and (2)(A)(ii) of subsection (c), the Sec-*  
 20           *retary shall administer any reductions under such para-*  
 21           *graphs for a fiscal year in accordance with the following:*

22                   “(1) *The reductions shall be made from amounts*  
 23                    *available for the single program referred to in section*  
 24                    *2609(d)(2)(C) (relating to supplemental grants).*

1           “(2) *The reductions shall be made before the*  
2           *amounts referred to in paragraph (1) are used for*  
3           *purposes of section 2603(a)(4).*

4           “(3) *If the amounts referred to in paragraph (1)*  
5           *are not sufficient for making all the reductions, the*  
6           *reductions shall be reduced until the total amount of*  
7           *the reductions equals the total of the amounts referred*  
8           *to in such paragraph.*

9           “(e) *RULES OF CONSTRUCTION REGARDING FIRST*  
10          *SUBSEQUENT FISCAL YEAR.—Paragraphs (1) and (2) of*  
11          *subsection (c) apply with respect to each series of fiscal*  
12          *years during which a metropolitan area is an eligible area*  
13          *under subpart I or a transitional area under section 2609*  
14          *for a fiscal year and then for a subsequent fiscal year ceases*  
15          *to be such an area by reason of section 2601(b) or*  
16          *2609(c)(2), respectively, rather than applying to a single*  
17          *such series. Paragraph (3) of subsection (c) applies with*  
18          *respect to each series of fiscal years during which a metro-*  
19          *politan area is a transitional area under section 2609 for*  
20          *a fiscal year and then for a subsequent fiscal year becomes*  
21          *an eligible area under subpart I, rather than applying to*  
22          *a single such series.”.*

# 1           ***TITLE II—CARE GRANTS***

## 2   ***SEC. 201. GENERAL USE OF GRANTS.***

3           (a) *IN GENERAL.*—Section 2612 of the Public Health  
4   Service Act (42 U.S.C. 300ff–22) is amended to read as fol-  
5   lows:

## 6   ***“SEC. 2612. GENERAL USE OF GRANTS.***

7           “(a) *IN GENERAL.*—A State may use amounts pro-  
8   vided under grants made under section 2611 for—

9                   “(1) core medical services described in subsection  
10   (b);

11                   “(2) support services described in subsection (c);  
12   and

13                   “(3) administrative expenses described in section  
14   2618(b)(3).

15           “(b) *REQUIRED FUNDING FOR CORE MEDICAL SERV-*  
16   *ICES.*—

17                   “(1) *IN GENERAL.*—With respect to a grant  
18   under section 2611 for a State for a grant year, the  
19   State shall, of the portion of the grant remaining  
20   after reserving amounts for purposes of subpara-  
21   graphs (A) and (E)(ii)(I) of section 2618(b)(3), use  
22   not less than 75 percent to provide core medical serv-  
23   ices that are needed in the State for individuals with  
24   HIV/AIDS who are identified and eligible under this

1 *title (including services regarding the co-occurring*  
 2 *conditions of the individuals).*

3 “(2) *WAIVER.*—

4 “(A) *IN GENERAL.*—*The Secretary shall*  
 5 *waive the application of paragraph (1) with re-*  
 6 *spect to a State for a grant year if the Secretary*  
 7 *determines that, within the State—*

8 “(i) *there are no waiting lists for*  
 9 *AIDS Drug Assistance Program services*  
 10 *under section 2616; and*

11 “(ii) *core medical services are available*  
 12 *to all individuals with HIV/AIDS identi-*  
 13 *fied and eligible under this title.*

14 “(B) *NOTIFICATION OF WAIVER STATUS.*—

15 *When informing a State that a grant under sec-*  
 16 *tion 2611 is being made to the State for a fiscal*  
 17 *year, the Secretary shall inform the State wheth-*  
 18 *er a waiver under subparagraph (A) is in effect*  
 19 *for the fiscal year.*

20 “(3) *CORE MEDICAL SERVICES.*—*For purposes of*  
 21 *this subsection, the term ‘core medical services’, with*  
 22 *respect to an individual infected with HIV/AIDS (in-*  
 23 *cluding the co-occurring conditions of the individual)*  
 24 *means the following services:*

1           “(A) *Outpatient and ambulatory health*  
2           *services.*

3           “(B) *AIDS Drug Assistance Program treat-*  
4           *ments in accordance with section 2616.*

5           “(C) *AIDS pharmaceutical assistance.*

6           “(D) *Oral health care.*

7           “(E) *Early intervention services described*  
8           *in subsection (d).*

9           “(F) *Health insurance premium and cost*  
10          *sharing assistance for low-income individuals in*  
11          *accordance with section 2615.*

12          “(G) *Home health care.*

13          “(H) *Medical nutrition therapy.*

14          “(I) *Hospice services.*

15          “(J) *Home and community-based health*  
16          *services as defined under section 2614(c).*

17          “(K) *Mental health services.*

18          “(L) *Substance abuse outpatient care.*

19          “(M) *Medical case management, including*  
20          *treatment adherence services.*

21          “(c) *SUPPORT SERVICES.—*

22               “(1) *IN GENERAL.—For purposes of this sub-*  
23               *section, the term ‘support services’ means services,*  
24               *subject to the approval of the Secretary, that are need-*  
25               *ed for individuals with HIV/AIDS to achieve their*

1     *medical outcomes (such as respite care for persons*  
 2     *caring for individuals with HIV/AIDS, outreach serv-*  
 3     *ices, medical transportation, linguistic services, and*  
 4     *referrals for health care and support services).*

5             “(2) *DEFINITION OF MEDICAL OUTCOMES.*—*In*  
 6     *this subsection, the term ‘medical outcomes’ means*  
 7     *those outcomes affecting the HIV-related clinical sta-*  
 8     *tus of an individual with HIV/AIDS.*

9             “(d) *EARLY INTERVENTION SERVICES.*—

10            “(1) *IN GENERAL.*—*For purposes of this section,*  
 11     *the term ‘early intervention services’ means HIV/*  
 12     *AIDS early intervention services described in section*  
 13     *2651(e), with follow-up referral provided for the pur-*  
 14     *pose of facilitating the access of individuals receiving*  
 15     *the services to HIV-related health services. The enti-*  
 16     *ties through which such services may be provided*  
 17     *under the grant include public health departments,*  
 18     *emergency rooms, substance abuse and mental health*  
 19     *treatment programs, detoxification centers, detention*  
 20     *facilities, clinics regarding sexually transmitted dis-*  
 21     *eases, homeless shelters, HIV/AIDS counseling and*  
 22     *testing sites, health care points of entry specified by*  
 23     *States, federally qualified health centers, and entities*  
 24     *described in section 2652(a) that constitute a point of*

1     *access to services by maintaining referral relation-*  
 2     *ships.*

3             “(2) *CONDITIONS.—With respect to an entity*  
 4     *that proposes to provide early intervention services*  
 5     *under paragraph (1), such paragraph shall apply*  
 6     *only if the entity demonstrates to the satisfaction of*  
 7     *the chief elected official for the State involved that—*

8                 “(A) *Federal, State, or local funds are oth-*  
 9     *erwise inadequate for the early intervention serv-*  
 10    *ices the entity proposes to provide; and*

11                “(B) *the entity will expend funds pursuant*  
 12    *to such subparagraph to supplement and not*  
 13    *supplant other funds available to the entity for*  
 14    *the provision of early intervention services for*  
 15    *the fiscal year involved.*

16           “(e) *PRIORITY FOR WOMEN, INFANTS, CHILDREN, AND*  
 17    *YOUTH.—*

18                “(1) *IN GENERAL.—For the purpose of providing*  
 19    *health and support services to infants, children,*  
 20    *youth, and women with HIV/AIDS, including treat-*  
 21    *ment measures to prevent the perinatal transmission*  
 22    *of HIV, a State shall for each of such populations in*  
 23    *the eligible area use, from the grants made for the*  
 24    *area under section 2601(a) for a fiscal year, not less*  
 25    *than the percentage constituted by the ratio of the*

1      *population involved (infants, children, youth, or*  
 2      *women in such area) with HIV/AIDS to the general*  
 3      *population in such area of individuals with HIV/*  
 4      *AIDS.*

5           “(2) *WAIVER.—With respect to the population*  
 6      *involved, the Secretary may provide to a State a*  
 7      *waiver of the requirement of paragraph (1) if such*  
 8      *State demonstrates to the satisfaction of the Secretary*  
 9      *that the population is receiving HIV-related health*  
 10     *services through the State medicaid program under*  
 11     *title XIX of the Social Security Act, the State chil-*  
 12     *dren’s health insurance program under title XXI of*  
 13     *such Act, or other Federal or State programs.*

14          “(f) *CONSTRUCTION.—A State may not use amounts*  
 15     *received under a grant awarded under section 2611 to pur-*  
 16     *chase or improve land, or to purchase, construct, or perma-*  
 17     *nently improve (other than minor remodeling) any building*  
 18     *or other facility, or to make cash payments to intended re-*  
 19     *cipients of services.”.*

20          “(b) *HIV CARE CONSORTIA.—Section 2613 of the Pub-*  
 21     *lic Health Service Act (42 U.S.C. 300ff–23) is amended—*

22           (1) *in subsection (a), in the matter preceding*  
 23     *paragraph (1)—*

24           (A) *by striking “may use” and inserting*  
 25     *“may, subject to subsection (f), use”; and*



1                   (B) by striking “section 2612(a)(1)” and  
 2                   inserting “section 2612(a)”; and

3                   (2) by adding at the end the following subsection:

4           “(f) *ALLOCATION OF FUNDS; TREATMENT AS SUPPORT*  
 5 *SERVICES.*—For purposes of the requirement of section  
 6 2612(b)(1), expenditures of grants under section 2611 for  
 7 or through consortia under this section are deemed to be  
 8 support services, not core medical services. The preceding  
 9 sentence may not be construed as having any legal effect  
 10 on the provisions of subsection (a) that relate to authorized  
 11 expenditures of the grant.”.

12           (c) *TECHNICAL AMENDMENTS.*—Part B of title XXVI  
 13 of the Public Health Service Act (42 U.S.C. 300ff–21 et seq.)  
 14 is amended—

15                   (1) in section 2611—

16                           (A) in subsection (a), by striking the sub-  
 17                           section designation and heading; and

18                           (B) by striking subsection (b);

19                   (2) in section 2614—

20                           (A) in subsection (a), in the matter pre-  
 21                           ceding paragraph (1), by striking “section  
 22                           2612(a)(2)” and inserting “section  
 23                           2612(b)(3)(J)”; and

24                           (B) in subsection (c)(2)(B), by striking  
 25                           “homemaker or”;

1           (3) in section 2615(a) by striking “section  
2           2612(a)(3)” and inserting “section 2612(b)(3)(F)”;  
3           and

4           (4) in section 2616(a) by striking “section  
5           2612(a)(5)” and inserting “section 2612(b)(3)(B)”.

6 **SEC. 202. AIDS DRUG ASSISTANCE PROGRAM.**

7           (a) *REQUIREMENT OF MINIMUM DRUG LIST.*—Section  
8           2616 of the Public Health Service Act (42 U.S.C. 300ff–  
9           26) is amended—

10           (1) in subsection (c), by striking paragraph (1)  
11           and inserting the following:

12           “(1) ensure that the therapeutics included on the  
13           list of classes of core antiretroviral therapeutics estab-  
14           lished by the Secretary under subsection (e) are, at a  
15           minimum, the treatments provided by the State pur-  
16           suant to this section;”;

17           (2) by redesignating subsection (e) as subsection  
18           (f); and

19           (3) by inserting after subsection (d) the fol-  
20           lowing:

21           “(e) *LIST OF CLASSES OF CORE ANTIRETROVIRAL*  
22           *THERAPEUTICS.*—For purposes of subsection (c)(1), the  
23           Secretary shall develop and maintain a list of classes of  
24           core antiretroviral therapeutics, which list shall be based  
25           on the therapeutics included in the guidelines of the Sec-

1 *retary known as the Clinical Practice Guidelines for Use*  
 2 *of HIV/AIDS Drugs, relating to drugs needed to manage*  
 3 *symptoms associated with HIV. The preceding sentence does*  
 4 *not affect the authority of the Secretary to modify such*  
 5 *Guidelines.”.*

6 (b) *DRUG REBATE PROGRAM.—Section 2616 of the*  
 7 *Public Health Service Act, as amended by subsection (a)(2)*  
 8 *of this section, is amended by adding at the end the fol-*  
 9 *lowing:*

10 “(g) *DRUG REBATE PROGRAM.—A State shall ensure*  
 11 *that any drug rebates received on drugs purchased from*  
 12 *funds provided pursuant to this section are applied to ac-*  
 13 *tivities supported under this subpart, with priority given*  
 14 *to activities described under this section.”.*

15 **SEC. 203. DISTRIBUTION OF FUNDS.**

16 (a) *DISTRIBUTION BASED ON LIVING CASES OF HIV/*  
 17 *AIDS.—*

18 (1) *STATE DISTRIBUTION FACTOR.—Section*  
 19 *2618(a)(2) of the Public Health Service Act (42*  
 20 *U.S.C. 300ff-28(a)(2)) is amended—*

21 (A) *in subparagraph (B), by striking “esti-*  
 22 *mated number of living cases of acquired im-*  
 23 *mune deficiency syndrome in the eligible area*  
 24 *involved” and inserting “number of living cases*  
 25 *of HIV/AIDS in the State involved”; and*

1           *(B) by amending subparagraph (D) to read*  
 2           *as follows:*

3           “(D) *LIVING CASES OF HIV/AIDS.—*

4                 “(i) *REQUIREMENT OF NAMES-BASED*  
 5                 *REPORTING.—Except as provided in clause*  
 6                 *(ii), the number determined under this sub-*  
 7                 *paragraph for a State for a fiscal year for*  
 8                 *purposes of subparagraph (B) is the number*  
 9                 *of living names-based cases of HIV/AIDS in*  
 10                 *the State that, as of December 31 of the*  
 11                 *most recent calendar year for which such*  
 12                 *data is available, have been reported to and*  
 13                 *confirmed by the Director of the Centers for*  
 14                 *Disease Control and Prevention.*

15                 “(ii) *TRANSITION PERIOD; EXEMPTION*  
 16                 *REGARDING NON-AIDS CASES.—For each of*  
 17                 *the fiscal years 2007 through 2009, a State*  
 18                 *is, subject to clauses (iii) through (v), ex-*  
 19                 *empt from the requirement under clause (i)*  
 20                 *that living non-AIDS names-based cases of*  
 21                 *HIV be reported unless—*

22                         “(I) *a system was in operation as*  
 23                         *of December 31, 2005, that provides*  
 24                         *sufficiently accurate and reliable*  
 25                         *names-based reporting of such cases*

1           *throughout the State, subject to clause*  
2           *(vii); or*

3           *“(II) no later than the beginning*  
4           *of fiscal year 2008 or 2009, the Sec-*  
5           *retary, after consultation with the chief*  
6           *executive of the State, determines that*  
7           *a system has become operational in the*  
8           *State that provides sufficiently accu-*  
9           *rate and reliable names-based report-*  
10          *ing of such cases throughout the State.*

11          *“(iii) REQUIREMENTS FOR EXEMPTION*  
12          *FOR FISCAL YEAR 2007.—For fiscal year*  
13          *2007, an exemption under clause (ii) for a*  
14          *State applies only if, by October 1, 2006—*

15               *“(I)(aa) the State had submitted*  
16               *to the Secretary a plan for making the*  
17               *transition to sufficiently accurate and*  
18               *reliable names-based reporting of living*  
19               *non-AIDS cases of HIV; or*

20               *“(bb) all statutory changes nec-*  
21               *essary to provide for sufficiently accu-*  
22               *rate and reliable reporting of such*  
23               *cases had been made; and*

24               *“(II) the State had agreed that,*  
25               *by April 1, 2008, the State will begin*

1           *accurate and reliable names-based re-*  
 2           *porting of such cases, except that such*  
 3           *agreement is not required to provide*  
 4           *that, as of such date, the system for*  
 5           *such reporting be fully sufficient with*  
 6           *respect to accuracy and reliability*  
 7           *throughout the area.*

8           “(iv) *REQUIREMENT FOR EXEMPTION*  
 9           *AS OF FISCAL YEAR 2008.—For each of the*  
 10          *fiscal years 2008 through 2010, an exemp-*  
 11          *tion under clause (ii) for a State applies*  
 12          *only if, as of April 1, 2008, the State is sub-*  
 13          *stantially in compliance with the agreement*  
 14          *under clause (iii)(II).*

15          “(v) *PROGRESS TOWARD NAMES-BASED*  
 16          *REPORTING.—For fiscal year 2009, the Sec-*  
 17          *retary may terminate an exemption under*  
 18          *clause (ii) for a State if the State submitted*  
 19          *a plan under clause (iii)(I)(aa) and the*  
 20          *Secretary determines that the State is not*  
 21          *substantially following the plan.*

22          “(vi) *COUNTING OF CASES IN AREAS*  
 23          *WITH EXEMPTIONS.—*

24          “(I) *IN GENERAL.—With respect*  
 25          *to a State that is under a reporting*

1            *system for living non-AIDS cases of*  
 2            *HIV that is not names-based (referred*  
 3            *to in this subparagraph as ‘code-based*  
 4            *reporting’), the Secretary shall, for*  
 5            *purposes of this subparagraph, modify*  
 6            *the number of such cases reported for*  
 7            *the State in order to adjust for dupli-*  
 8            *cative reporting in and among systems*  
 9            *that use code-based reporting.*

10            “(II) *ADJUSTMENT RATE.*—*The*  
 11            *adjustment rate under subclause (I) for*  
 12            *a State shall be a reduction of 5 per-*  
 13            *cent in the number of living non-AIDS*  
 14            *cases of HIV reported for the State.*

15            “(vii) *LIST OF STATES MEETING*  
 16            *STANDARD REGARDING DECEMBER 31,*  
 17            *2005.*—

18            “(I) *IN GENERAL.*—*If a State is*  
 19            *specified in subclause (II), the State*  
 20            *shall be considered to meet the stand-*  
 21            *ard described in clause (ii)(I). No other*  
 22            *State may be considered to meet such*  
 23            *standard.*

24            “(II) *RELEVANT STATES.*—*For*  
 25            *purposes of subclause (I), the States*

1 *specified in this subclause are the fol-*  
2 *lowing: Alaska, Alabama, Arkansas,*  
3 *Arizona, Colorado, Florida, Indiana,*  
4 *Iowa, Idaho, Kansas, Louisiana,*  
5 *Michigan, Minnesota, Missouri, Mis-*  
6 *issippi, North Carolina, North Da-*  
7 *kota, Nebraska, New Jersey, New Mex-*  
8 *ico, New York, Nevada, Ohio, Okla-*  
9 *homa, South Carolina, South Dakota,*  
10 *Tennessee, Texas, Utah, Virginia, Wis-*  
11 *consin, West Virginia, Wyoming,*  
12 *Guam, and the Virgin Islands.*

13 *“(viii) RULES OF CONSTRUCTION RE-*  
14 *GARDING ACCEPTANCE OF REPORTS.—*

15 *“(I) CASES OF AIDS.—With re-*  
16 *spect to a State that is subject to the*  
17 *requirement under clause (i) and is*  
18 *not in compliance with the require-*  
19 *ment for names-based reporting of liv-*  
20 *ing non-AIDS cases of HIV, the Sec-*  
21 *retary shall, notwithstanding such*  
22 *noncompliance, accept reports of living*  
23 *cases of AIDS that are in accordance*  
24 *with such clause.*



1 “(II) *APPLICABILITY OF EXEMP-*  
 2 *TION REQUIREMENTS.*—*The provisions*  
 3 *of clauses (ii) through (vii) may not be*  
 4 *construed as having any legal effect for*  
 5 *fiscal year 2010 or any subsequent fis-*  
 6 *cal year, and accordingly, the status of*  
 7 *a State for purposes of such clauses*  
 8 *may not be considered after fiscal year*  
 9 *2009.*

10 “(ix) *PROGRAM FOR DETECTING INAC-*  
 11 *CURATE OR FRAUDULENT COUNTING.*—*The*  
 12 *Secretary shall carry out a program to*  
 13 *monitor the reporting of names-based cases*  
 14 *for purposes of this subparagraph and to*  
 15 *detect instances of inaccurate reporting, in-*  
 16 *cluding fraudulent reporting.”.*

17 (2) *NON-EMA DISTRIBUTION FACTOR.*—*Section*  
 18 *2618(a)(2)(C) of the Public Health Service Act (42*  
 19 *U.S.C. 300ff-28(a)(2)(C)) is amended—*

20 (A) *in clause (i), by striking “estimated*  
 21 *number of living cases of acquired immune defi-*  
 22 *ciency syndrome” each place such term appears*  
 23 *and inserting “number of living cases of HIV/*  
 24 *AIDS”; and*

(B) in clause (ii), by amending such clause to read as follows:

“(ii) a number equal to the sum of—

“(I) the total number of living cases of HIV/AIDS that are within areas in such State that are eligible areas under subpart I of part A for the fiscal year involved, which individual number for an area is the number that applies under section 2601 for the area for such fiscal year; and

“(II) the total number of such cases that are within areas in such State that are transitional areas under section 2609 for such fiscal year, which individual number for an area is the number that applies under such section for the fiscal year.”.

(b) *FORMULA AMENDMENTS GENERALLY.*—Section 2618(a)(2) of the Public Health Service Act (42 U.S.C. 300ff-28(a)(2)) is amended—

(1) in subparagraph (A)—

(A) by striking “The amount referred to” in the matter preceding clause (i) and all that follows through the end of clause (i) and inserting

the following: “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); and”; and

(B) in clause (ii)—

(i) in subclause (I)—

(I) by striking “.80” and inserting “0.75”; and

(II) by striking “and” at the end;

(ii) in subclause (II)—

(I) by inserting “non-EMA” after “respective”; and

(II) by striking the period and inserting “; and”; and

(iii) by adding at the end the following:

“(III) if the State does not for such fiscal year contain any area that is an eligible area under subpart I of part A or any area that is a transi-

1            *tional area under section 2609 (re-*  
 2            *ferred to in this subclause as a ‘no-*  
 3            *EMA State’), the product of 0.05 and*  
 4            *the ratio of the number of cases that*  
 5            *applies for the State under subpara-*  
 6            *graph (D) to the sum of the respective*  
 7            *numbers of cases that so apply for all*  
 8            *no-EMA States.”;*

9            *(2) by striking subparagraphs (E) through (H);*

10          *(3) by inserting after subparagraph (D) the fol-*  
 11          *lowing subparagraphs:*

12            *“(E) CODE-BASED STATES; LIMITATION ON*  
 13            *INCREASE IN GRANT.—*

14            *“(i) IN GENERAL.—For each of the fis-*  
 15            *cal years 2007 through 2009, if code-based*  
 16            *reporting (within the meaning of subpara-*  
 17            *graph (D)(vi)) applies in a State as of the*  
 18            *beginning of the fiscal year involved, then*  
 19            *notwithstanding any other provision of this*  
 20            *paragraph, the amount of the grant pursu-*  
 21            *ant to paragraph (1) for the State may not*  
 22            *for the fiscal year involved exceed by more*  
 23            *than 5 percent the amount of the grant pur-*  
 24            *suant to this paragraph for the State for the*  
 25            *preceding fiscal year, except that the limita-*

tion 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, 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).”; and

(4) by redesignating subparagraph (I) as subparagraph (F).

(c) *SEPARATE ADAP GRANTS.*—Section 2618(a)(2)(G) of the Public Health Service Act (42 U.S.C. 300ff–28(a)(2)(G)), as redesignated by subsection (b)(4) of this section, is amended—

(1) in clause (i)—

(A) in the matter preceding subclause (I), by striking “section 2677” and inserting “section 2623”;

(B) in subclause (II), by striking the period at the end and inserting a semicolon; and

1           (C) by adding after and below subclause  
2           (II) the following:

3           “which product shall then, as applicable, be  
4           increased under subparagraph (H).”;

5           (2) in clause (ii)—

6           (A) by striking subclauses (I) through (III)  
7           and inserting the following:

8                       “(I)       IN       GENERAL.—From  
9                       amounts made available under sub-  
10                      clause (V), the Secretary shall award  
11                      supplemental grants to States described  
12                      in subclause (II) to enable such States  
13                      to purchase and distribute to eligible  
14                      individuals under section 2616(b)  
15                      pharmaceutical therapeutics described  
16                      under subsections (c)(2) and (e) of such  
17                      section.

18                     “(II)   ELIGIBLE   STATES.—For  
19                     purposes of subclause (I), a State shall  
20                     be an eligible State if the State did not  
21                     have unobligated funds subject to re-  
22                     allocation under section 2618(d) in the  
23                     previous fiscal year and, in accordance  
24                     with criteria established by the Sec-  
25                     retary, demonstrates a severe need for

1           *a grant under this clause. For purposes*  
2           *of determining severe need, the Sec-*  
3           *retary shall consider eligibility stand-*  
4           *ards, formulary composition, the num-*  
5           *ber of eligible individuals to whom a*  
6           *State is unable to provide therapeutics*  
7           *described in section 2616(a), and an*  
8           *unanticipated increase of eligible indi-*  
9           *viduals with HIV/AIDS.*

10           “(III) *STATE REQUIREMENTS.—*

11           *The Secretary may not make a grant*  
12           *to a State under this clause unless the*  
13           *State agrees that the State will make*  
14           *available (directly or through dona-*  
15           *tions of public or private entities) non-*  
16           *Federal contributions toward the ac-*  
17           *tivities to be carried out under the*  
18           *grant in an amount equal to \$1 for*  
19           *each \$4 of Federal funds provided in*  
20           *the grant, except that the Secretary*  
21           *may waive this subclause if the State*  
22           *has otherwise fully complied with sec-*  
23           *tion 2617(d) with respect to the grant*  
24           *year involved. The provisions of this*  
25           *subclause shall apply to States that are*

1                   not required to comply with such sec-  
2                   tion 2617(d).”.

3                   (B) in subclause (IV), by moving the sub-  
4                   clause two ems to the left;

5                   (C) in subclause (V), by striking “3 per-  
6                   cent” and inserting “5 percent”; and

7                   (D) by striking subclause (VI); and

8                   (3) by adding at the end the following clause:

9                   “(iii) CODE-BASED STATES; LIMITA-  
10                  TION ON INCREASE IN FORMULA GRANT.—  
11                  The limitation under subparagraph (E)(i)  
12                  applies to grants pursuant to clause (i) of  
13                  this subparagraph to the same extent and in  
14                  the same manner as such limitation applies  
15                  to grants pursuant to paragraph (1), except  
16                  that the reference to minimum grants does  
17                  not apply for purposes of this clause.  
18                  Amounts available as a result of the limita-  
19                  tion under the preceding sentence shall be  
20                  made available by the Secretary as addi-  
21                  tional amounts for grants under clause (ii)  
22                  of this subparagraph.”.

23                  (d) *HOLD HARMLESS*.—Section 2618(a)(2) of the Pub-  
24                  lic Health Service Act (42 U.S.C. 300ff–28(a)(2)), as



1 *amended by subsection (b)(4) of this section, is amended*  
 2 *by adding at the end the following subparagraph:*

3 “(H) *INCREASE IN FORMULA GRANTS.*—

4 “(i) *ASSURANCE OF AMOUNT.*—

5 “(I) *GENERAL RULE.*—*For fiscal*  
 6 *year 2007, the Secretary shall ensure,*  
 7 *subject to clauses (ii) through (iv), that*  
 8 *the total for a State of the grant pursu-*  
 9 *ant to paragraph (1) and the grant*  
 10 *pursuant to subparagraph (G) is not*  
 11 *less than 95 percent of such total for*  
 12 *the State for fiscal year 2006.*

13 “(II) *RULE OF CONSTRUCTION.*—

14 *With respect to the application of sub-*  
 15 *clause (I), the 95 percent requirement*  
 16 *under such subclause shall apply with*  
 17 *respect to each grant awarded under*  
 18 *paragraph (1) and with respect to each*  
 19 *grant awarded under subparagraph*  
 20 *(G).*

21 “(ii) *FISCAL YEAR 2007.*—*For pur-*  
 22 *poses of clause (i) as applied for fiscal year*  
 23 *2007, the references in such clause to sub-*  
 24 *paragraph (G) are deemed to be references*

1           to subparagraph (I) as such subparagraph  
2           was in effect for fiscal year 2006.

3           “(iii) *FISCAL YEARS 2008 AND 2009.*—  
4           For each of the fiscal years 2008 and 2009,  
5           the Secretary shall ensure that the total for  
6           a State of the grant pursuant to paragraph  
7           (1) and the grant pursuant to subpara-  
8           graph (G) is not less than 100 percent of  
9           such total for the State for fiscal year 2007.

10          “(iv) *SOURCE OF FUNDS FOR IN-*  
11          *CREASE.*—

12               “(I) *IN GENERAL.*—From the  
13               amount reserved under section  
14               2623(b)(2) for a fiscal year, and from  
15               amounts available for such section pur-  
16               suant to subsection (d) of this section,  
17               the Secretary shall make available such  
18               amounts as may be necessary to com-  
19               ply with clause (i).

20               “(II) *PRO RATA REDUCTION.*—If  
21               the amounts referred to in subclause  
22               (I) for a fiscal year are insufficient to  
23               fully comply with clause (i) for the  
24               year, the Secretary, in order to provide  
25               the additional funds necessary for such

1                    *compliance, shall reduce on a pro rata*  
 2                    *basis the amount of each grant pursu-*  
 3                    *ant to paragraph (1) for the fiscal*  
 4                    *year, other than grants for States for*  
 5                    *which increases under clause (i) apply*  
 6                    *and other than States described in*  
 7                    *paragraph (1)(A)(i)(I). A reduction*  
 8                    *under the preceding sentence may not*  
 9                    *be made in an amount that would re-*  
 10                    *sult in the State involved becoming eli-*  
 11                    *gible for such an increase.*

12                    “(v) *APPLICABILITY.*—*This paragraph*  
 13                    *may not be construed as having any appli-*  
 14                    *cability after fiscal year 2009.”.*

15                    (e) *ADMINISTRATIVE EXPENSES; CLINICAL QUALITY*  
 16                    *MANAGEMENT.*—*Section 2618(b) of the Public Health Serv-*  
 17                    *ice Act (42 U.S.C. 300ff–28(b)) is amended—*

18                    (1) *by redesignating paragraphs (2) through (7)*  
 19                    *as paragraphs (1) through (6);*

20                    (2) *in paragraph (2) (as so redesignated)—*

21                    (A) *by striking “paragraph (5)” and insert-*  
 22                    *ing “paragraph (4)”;* and

23                    (B) *by striking “paragraph (6)” and insert-*  
 24                    *ing “paragraph (5)”;*

25                    (3) *in paragraph (3) (as so redesignated)—*

1           (A) by amending subparagraph (A) to read  
2           as follows:

3           “(A) *IN GENERAL*.—Subject to paragraph  
4           (4,) and except as provided in paragraph (5), a  
5           State may not use more than 10 percent of  
6           amounts received under a grant awarded under  
7           section 2611 for administration.”;

8           (B) by redesignating subparagraphs (B)  
9           and (C) as subparagraphs (C) and (D), respec-  
10          tively;

11          (C) by inserting after subparagraph (A) the  
12          following:

13          “(B) *ALLOCATIONS*.—In the case of entities  
14          and subcontractors to which a State allocates  
15          amounts received by the State under a grant  
16          under section 2611, the State shall ensure that,  
17          of the aggregate amount so allocated, the total of  
18          the expenditures by such entities for administra-  
19          tive expenses does not exceed 10 percent (without  
20          regard to whether particular entities expend  
21          more than 10 percent for such expenses).”;

22          (D) in subparagraph (C) (as so redesign-  
23          ated), by inserting before the period the fol-  
24          lowing: “, including a clinical quality manage-  
25          ment program under subparagraph (E)”; and

1           *(E) by adding at the end the following:*

2           *“(E) CLINICAL QUALITY MANAGEMENT.—*

3                     *“(i) REQUIREMENT.—Each State that*  
 4                     *receives a grant under section 2611 shall*  
 5                     *provide for the establishment of a clinical*  
 6                     *quality management program to assess the*  
 7                     *extent to which HIV health services pro-*  
 8                     *vided to patients under the grant are con-*  
 9                     *sistent with the most recent Public Health*  
 10                    *Service guidelines for the treatment of HIV/*  
 11                    *AIDS and related opportunistic infection,*  
 12                    *and as applicable, to develop strategies for*  
 13                    *ensuring that such services are consistent*  
 14                    *with the guidelines for improvement in the*  
 15                    *access to and quality of HIV health services.*

16                    *“(ii) USE OF FUNDS.—*

17                             *“(I)       IN       GENERAL.—From*  
 18                             *amounts received under a grant*  
 19                             *awarded under section 2611 for a fis-*  
 20                             *cal year, a State may use for activities*  
 21                             *associated with the clinical quality*  
 22                             *management program required in*  
 23                             *clause (i) not to exceed the lesser of—*

24                                     *“(aa) 5 percent of amounts*  
 25                                     *received under the grant; or*

1 “(bb) \$3,000,000.

2 “(II) *RELATION TO LIMITATION*  
 3 *ON ADMINISTRATIVE EXPENSES.*—*The*  
 4 *costs of a clinical quality management*  
 5 *program under clause (i) may not be*  
 6 *considered administrative expenses for*  
 7 *purposes of the limitation established*  
 8 *in subparagraph (A).”;*

9 (4) *in paragraph (4) (as so redesignated)—*

10 (A) *by striking “paragraph (6)” and insert-*  
 11 *ing “paragraph (5)”;* and

12 (B) *by striking “paragraphs (3) and (4)”*  
 13 *and inserting “paragraphs (2) and (3)”;* and

14 (5) *in paragraph (5) (as so redesignated), by*  
 15 *striking “paragraphs (3)” and all that follows*  
 16 *through “(5),” and inserting the following: “para-*  
 17 *graphs (2) and (3), may, notwithstanding paragraphs*  
 18 *(2) through (4).”.*

19 (f) *REALLOCATION FOR SUPPLEMENTAL GRANTS.*—  
 20 *Section 2618(d) of the Public Health Service Act (42 U.S.C.*  
 21 *300ff–28(d)) is amended to read as follows:*

22 “(d) *REALLOCATION.*—*Any portion of a grant made*  
 23 *to a State under section 2611 for a fiscal year that has*  
 24 *not been obligated as described in subsection (c) ceases to*  
 25 *be available to the State and shall be made available by*

1 *the Secretary for grants under section 2620, in addition*  
 2 *to amounts made available for such grants under section*  
 3 *2623(b)(2).”.*

4 (g) *DEFINITIONS; OTHER TECHNICAL AMEND-*  
 5 *MENTS.—Section 2618(a) of the Public Health Service Act*  
 6 *(42 U.S.C. 300ff–28(a)) is amended—*

7 (1) *in paragraph (1), in the matter preceding*  
 8 *subparagraph (A), by striking “section 2677” and in-*  
 9 *serting “section 2623”;*

10 (2) *in paragraph (1)(A)—*

11 (A) *in the matter preceding clause (i), by*  
 12 *striking “each of the several States and the Dis-*  
 13 *trict of Columbia” and inserting “each of the 50*  
 14 *States, the District of Columbia, Guam, and the*  
 15 *Virgin Islands (referred to in this paragraph as*  
 16 *a ‘covered State’); and*

17 (B) *in clause (i)—*

18 (i) *in subclause (I), by striking “State*  
 19 *or District” and inserting “covered State”;*  
 20 *and*

21 (ii) *in subclause (II)—*

22 (I) *by striking “State or District”*  
 23 *and inserting “covered State”; and*

24 (II) *by inserting “and” after the*  
 25 *semicolon; and*

(3) in paragraph (1)(B), by striking “each territory of the United States, as defined in paragraph (3),” and inserting “each territory other than Guam and the Virgin Islands”;

(4) in paragraph (2)(C)(i), by striking “or territory”; and

(5) by striking paragraph (3).

**SEC. 204. ADDITIONAL AMENDMENTS TO SUBPART I OF PART B.**

(a) *REFERENCES TO PART B.*—Subpart I of part B of title XXVI of the Public Health Service Act (42 U.S.C. 300ff–21 et seq.) is amended by striking “this part” each place such term appears and inserting “section 2611”.

(b) *HEPATITIS.*—Section 2614(a)(3) of the Public Health Service Act (42 U.S.C. 300ff–24(a)(3)) is amended by inserting “, including specialty care and vaccinations for hepatitis co-infection,” after “health services”.

(c) *APPLICATION FOR GRANT.*—

(1) *COORDINATION.*—Section 2617(b) of the Public Health Service Act (42 U.S.C. 300ff–27(b)) is amended—

(A) by redesignating paragraphs (4) through (6) as paragraphs (5) through (7), respectively;



1                   (B) by inserting after paragraph (3), the  
2                   *following:*

3                   “(4) the designation of a lead State agency that  
4                   shall—

5                   “(A) administer all assistance received  
6                   under this part;

7                   “(B) conduct the needs assessment and pre-  
8                   pare the State plan under paragraph (3);

9                   “(C) prepare all applications for assistance  
10                  under this part;

11                  “(D) receive notices with respect to pro-  
12                  grams under this title;

13                  “(E) every 2 years, collect and submit to the  
14                  Secretary all audits, consistent with Office of  
15                  Management and Budget circular A133, from  
16                  grantees within the State, including audits re-  
17                  garding funds expended in accordance with this  
18                  part; and

19                  “(F) carry out any other duties determined  
20                  appropriate by the Secretary to facilitate the co-  
21                  ordination of programs under this title.”;

22                  (C) in paragraph (5) (as so redesignated)—

23                         (i) in subparagraph (E), by striking

24                         “and” at the end; and

1                   (ii) by inserting after subparagraph  
2                   (F) the following:

3                   “(G) includes key outcomes to be measured  
4                   by all entities in the State receiving assistance  
5                   under this title; and”; and

6                   (D) in paragraph (7) (as so redesignated),  
7                   in subparagraph (A)—

8                   (i) by striking “paragraph (5)” and  
9                   inserting “paragraph (6)”; and

10                  (ii) by striking “paragraph (4)” and  
11                  inserting “paragraph (5)”.

12                  (2) *NATIVE AMERICAN REPRESENTATION.*—Sec-  
13                  tion 2617(b)(6) of the Public Health Service Act, as  
14                  redesignated by paragraph (1)(A) of this subsection,  
15                  is amended by inserting before “representatives of  
16                  grantees” the following: “members of a Federally rec-  
17                  ognized Indian tribe as represented in the State,”.

18                  (3) *PAYER OF LAST RESORT.*—Section  
19                  2617(b)(7)(F)(ii) of the Public Health Service Act, as  
20                  redesignated by paragraph (1)(A) of this subsection,  
21                  is amended by inserting before the semicolon the fol-  
22                  lowing: “(except for a program administered by or  
23                  providing the services of the Indian Health Service)”.

1       (d) *MATCHING FUNDS; APPLICABILITY OF REQUIRE-*  
 2 *MENT.*—Section 2617(d)(3) of the Public Health Service Act  
 3 (42 U.S.C. 300ff–27(d)(3)) is amended—

4           (1) in subparagraph (A), by striking “acquired  
 5       immune deficiency syndrome” and inserting “HIV/  
 6       AIDS”; and

7           (2) in subparagraph (C), by striking “acquired  
 8       immune deficiency syndrome” and inserting “HIV/  
 9       AIDS”.

10 **SEC. 205. SUPPLEMENTAL GRANTS ON BASIS OF DEM-**  
 11 **ONSTRATED NEED.**

12       Subpart I of part B of title XXVI of the Public Health  
 13 Service Act (42 U.S.C. 300ff–21 et seq.) is amended—

14           (1) by redesignating section 2620 as section  
 15       2621; and

16           (2) by inserting after section 2619 the following:

17 **“SEC. 2620. SUPPLEMENTAL GRANTS.**

18       “(a) *IN GENERAL.*—For the purpose of providing serv-  
 19 ices described in section 2612(a), the Secretary shall make  
 20 grants to States—

21           “(1) whose applications under section 2617 have  
 22 demonstrated the need in the State, on an objective  
 23 and quantified basis, for supplemental financial as-  
 24 sistance to provide such services; and

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

6           “(b) *DEMONSTRATED NEED.*—The factors considered  
7           by the Secretary in determining whether an eligible area  
8           has a demonstrated need for purposes of subsection (a)(1)  
9           may include any or all of the following:

10           “(1) The unmet need for such services, as deter-  
11           mined under section 2617(b).

12           “(2) An increasing need for HIV/AIDS-related  
13           services, including relative rates of increase in the  
14           number of cases of HIV/AIDS.

15           “(3) The relative rates of increase in the number  
16           of cases of HIV/AIDS within new or emerging sub-  
17           populations.

18           “(4) The current prevalence of HIV/AIDS.

19           “(5) Relevant factors related to the cost and com-  
20           plexity of delivering health care to individuals with  
21           HIV/AIDS in the eligible area.

22           “(6) The impact of co-morbid factors, including  
23           co-occurring conditions, determined relevant by the  
24           Secretary.

25           “(7) The prevalence of homelessness.

1           “(8) *The prevalence of individuals described*  
2           *under section 2602(b)(2)(M).*

3           “(9) *The relevant factors that limit access to*  
4           *health care, including geographic variation, adequacy*  
5           *of health insurance coverage, and language barriers.*

6           “(10) *The impact of a decline in the amount re-*  
7           *ceived pursuant to section 2618 on services available*  
8           *to all individuals with HIV/AIDS identified and eli-*  
9           *gible under this title.*

10          “(c) *PRIORITY IN MAKING GRANTS.—The Secretary*  
11          *shall provide funds under this section to a State to address*  
12          *the decline in services related to the decline in the amounts*  
13          *received pursuant to section 2618 consistent with the grant*  
14          *award to the State for fiscal year 2006, to the extent that*  
15          *the factor under subsection (b)(10) (relating to a decline*  
16          *in funding) applies to the State.*

17          “(d) *REPORT ON THE AWARDING OF SUPPLEMENTAL*  
18          *FUNDS.—Not later than 45 days after the awarding of sup-*  
19          *plemental funds under this section, the Secretary shall sub-*  
20          *mit to Congress a report concerning such funds. Such report*  
21          *shall include information detailing—*

22                 “(1) *the total amount of supplemental funds*  
23                 *available under this section for the year involved;*

1           “(2) the amount of supplemental funds used in  
2           accordance with the hold harmless provisions of sec-  
3           tion 2618(a)(2);

4           “(3) the amount of supplemental funds disbursed  
5           pursuant to subsection (c);

6           “(4) the disbursement of the remainder of the  
7           supplemental funds after taking into account the uses  
8           described in paragraphs (2) and (3); and

9           “(5) the rationale used for the amount of funds  
10          disbursed as described under paragraphs (2), (3), and  
11          (4).

12          “(e) *CORE MEDICAL SERVICES.*—The provisions of  
13          section 2612(b) apply with respect to a grant under this  
14          section to the same extent and in the same manner as such  
15          provisions apply with respect to a grant made pursuant  
16          to section 2618(a)(1).

17          “(f) *APPLICABILITY OF GRANT AUTHORITY.*—The au-  
18          thority to make grants under this section applies beginning  
19          with the first fiscal year for which amounts are made avail-  
20          able for such grants under section 2623(b)(1).”.

21          **SEC. 206. EMERGING COMMUNITIES.**

22          Section 2621 of the Public Health Service Act, as re-  
23          designated by section 205(1) of this Act, is amended—

1           (1) *in the heading for the section, by striking*  
 2           **“SUPPLEMENTAL GRANTS”** *and inserting*  
 3           **“EMERGING COMMUNITIES”**;

4           (2) *in subsection (b)—*

5                 (A) *in paragraph (2), by striking “and” at*  
 6           *the end;*

7                 (B) *by redesignating paragraph (3) as*  
 8           *paragraph (4); and*

9                 (C) *by inserting after paragraph (2) the fol-*  
 10          *lowing:*

11                 “(3) *agree that the grant will be used to provide*  
 12          *funds directly to emerging communities in the State,*  
 13          *separately from other funds under this title that are*  
 14          *provided by the State to such communities; and”.*

15                 (3) *by striking subsections (d) and (e) and in-*  
 16          *serting the following:*

17                 “(d) **DEFINITIONS OF EMERGING COMMUNITY.**—*For*  
 18          *purposes of this section, the term ‘emerging community’*  
 19          *means a metropolitan area (as defined in section 2607) for*  
 20          *which there has been reported to and confirmed by the Di-*  
 21          *rector of the Centers for Disease Control and Prevention a*  
 22          *cumulative total of at least 500, but fewer than 1,000, cases*  
 23          *of AIDS during the most recent period of 5 calendar years*  
 24          *for which such data are available.*

1       “(e) *CONTINUED STATUS AS EMERGING COMMU-*  
 2 *NITY.*—*Notwithstanding any other provision of this section,*  
 3 *a metropolitan area that is an emerging community for a*  
 4 *fiscal year continues to be an emerging community until*  
 5 *the metropolitan area fails, for three consecutive fiscal*  
 6 *years—*

7               “(1) *to meet the requirements of subsection (d);*  
 8       *and*

9               “(2) *to have a cumulative total of 750 or more*  
 10 *living cases of AIDS (reported to and confirmed by*  
 11 *the Director of the Centers for Disease Control and*  
 12 *Prevention) as of December 31 of the most recent cal-*  
 13 *endar year for which such data is available.*

14       “(f) *DISTRIBUTION.*—*The amount of a grant under*  
 15 *subsection (a) for a State for a fiscal year shall be an*  
 16 *amount equal to the product of—*

17               “(1) *the amount available under section*  
 18 *2623(b)(1) for the fiscal year; and*

19               “(2) *a percentage equal to the ratio constituted*  
 20 *by the number of living cases of HIV/AIDS in emerg-*  
 21 *ing communities in the State to the sum of the respec-*  
 22 *tive numbers of such cases in such communities for*  
 23 *all States.”.*



1 **SEC. 207. TIMEFRAME FOR OBLIGATION AND EXPENDITURE**  
 2 **OF GRANT FUNDS.**

3 *Subpart I of part B of title XXVI of the Public Health*  
 4 *Service Act (42 U.S.C. 300ff–21 et seq.), as amended by*  
 5 *section 205, is further amended by adding at the end the*  
 6 *following:*

7 **“SEC. 2622. TIMEFRAME FOR OBLIGATION AND EXPENDI-**  
 8 **TURE OF GRANT FUNDS.**

9 *“(a) OBLIGATION BY END OF GRANT YEAR.—Effective*  
 10 *for fiscal year 2007 and subsequent fiscal years, funds from*  
 11 *a grant award made to a State for a fiscal year pursuant*  
 12 *to section 2618(a)(1) or 2618(a)(2)(G), or under section*  
 13 *2620 or 2621, are available for obligation by the State*  
 14 *through the end of the one-year period beginning on the date*  
 15 *in such fiscal year on which funds from the award first*  
 16 *become available to the State (referred to in this section as*  
 17 *the ‘grant year for the award’), except as provided in sub-*  
 18 *section (c)(1).*

19 *“(b) SUPPLEMENTAL GRANTS; CANCELLATION OF UN-*  
 20 *OBLIGATED BALANCE OF GRANT AWARD.—Effective for fis-*  
 21 *cal year 2007 and subsequent fiscal years, if a grant award*  
 22 *made to a State for a fiscal year pursuant to section*  
 23 *2618(a)(2)(G)(ii), or under section 2620 or 2621, has an*  
 24 *unobligated balance as of the end of the grant year for the*  
 25 *award—*

1           “(1) the Secretary shall cancel that unobligated  
2           balance of the award, and shall require the State to  
3           return any amounts from such balance that have been  
4           disbursed to the State; and

5           “(2) the funds involved shall be made available  
6           by the Secretary as additional amounts for grants  
7           pursuant to section 2620 for the first fiscal year be-  
8           ginning after the fiscal year in which the Secretary  
9           obtains the information necessary for determining  
10          that the balance is required under paragraph (1) to  
11          be canceled, except that the availability of the funds  
12          for such grants is subject to section 2618(a)(2)(H) as  
13          applied for such year.

14          “(c) *FORMULA GRANTS; CANCELLATION OF UNOBLI-*  
15 *GATED BALANCE OF GRANT AWARD; WAIVER PERMITTING*  
16 *CARRYOVER.*—

17           “(1) *IN GENERAL.*—Effective for fiscal year 2007  
18           and subsequent fiscal years, if a grant award made  
19           to a State for a fiscal year pursuant to section  
20           2618(a)(1) or 2618(a)(2)(G)(i) has an unobligated  
21           balance as of the end of the grant year for the award,  
22           the Secretary shall cancel that unobligated balance of  
23           the award, and shall require the State to return any  
24           amounts from such balance that have been disbursed  
25           to the State, unless—

1           “(A) before the end of the grant year, the  
 2           State submits to the Secretary a written applica-  
 3           tion for a waiver of the cancellation, which ap-  
 4           plication includes a description of the purposes  
 5           for which the State intends to expend the funds  
 6           involved; and

7           “(B) the Secretary approves the waiver.

8           “(2) *EXPENDITURE BY END OF CARRYOVER*  
 9           *YEAR.*—With respect to a waiver under paragraph (1)  
 10          that is approved for a balance that is unobligated as  
 11          of the end of a grant year for an award:

12          “(A) The unobligated funds are available  
 13          for expenditure by the State involved for the one-  
 14          year period beginning upon the expiration of the  
 15          grant year (referred to in this section as the ‘car-  
 16          ryover year’).

17          “(B) If the funds are not expended by the  
 18          end of the carryover year, the Secretary shall  
 19          cancel that unexpended balance of the award,  
 20          and shall require the State to return any  
 21          amounts from such balance that have been dis-  
 22          bursed to the State.

23          “(3) *USE OF CANCELLED BALANCES.*—In the  
 24          case of any balance of a grant award that is cancelled  
 25          under paragraph (1) or (2)(B), the grant funds in-

1      *involved shall be made available by the Secretary as ad-*  
 2      *ditional amounts for grants under section 2620 for*  
 3      *the first fiscal year beginning after the fiscal year in*  
 4      *which the Secretary obtains the information necessary*  
 5      *for determining that the balance is required under*  
 6      *such paragraph to be canceled, except that the avail-*  
 7      *ability of the funds for such grants is subject to sec-*  
 8      *tion 2618(a)(2)(H) as applied for such year.*

9            “(4) CORRESPONDING REDUCTION IN FUTURE  
 10      GRANT.—

11            “(A) IN GENERAL.—*In the case of a State*  
 12      *for which a balance from a grant award made*  
 13      *pursuant to section 2618(a)(1) or*  
 14      *2618(a)(2)(G)(i) is unobligated as of the end of*  
 15      *the grant year for the award—*

16            “(i) *the Secretary shall reduce, by the*  
 17      *same amount as such unobligated balance,*  
 18      *the amount of the grant under such section*  
 19      *for the first fiscal year beginning after the*  
 20      *fiscal year in which the Secretary obtains*  
 21      *the information necessary for determining*  
 22      *that such balance was unobligated as of the*  
 23      *end of the grant year (which requirement*  
 24      *for a reduction applies without regard to*  
 25      *whether a waiver under paragraph (1) has*

1           *been approved with respect to such balance);*

2           *and*

3           *“(ii) the grant funds involved in such*  
 4           *reduction shall be made available by the*  
 5           *Secretary as additional funds for grants*  
 6           *under section 2620 for such first fiscal year,*  
 7           *subject to section 2618(a)(2)(H);*

8           *except that this subparagraph does not apply to*  
 9           *the State if the amount of the unobligated bal-*  
 10          *ance was 2 percent or less.*

11          *“(B) RELATION TO INCREASES IN GRANT.—*  
 12          *A reduction under subparagraph (A) for a State*  
 13          *for a fiscal year may not be taken into account*  
 14          *in applying section 2618(a)(2)(H) with respect*  
 15          *to the State for the subsequent fiscal year.*

16          *“(d) TREATMENT OF DRUG REBATES.—For purposes*  
 17          *of this section, funds that are drug rebates referred to in*  
 18          *section 2616(g) may not be considered part of any grant*  
 19          *award referred to in subsection (a).”.*

20   **SEC. 208. AUTHORIZATION OF APPROPRIATIONS FOR SUB-**  
 21           **PART I OF PART B.**

22          *Subpart I of part B of title XXVI of the Public Health*  
 23          *Service Act (42 U.S.C. 300ff–21 et seq.), as amended by*  
 24          *section 207, is further amended by adding at the end the*  
 25          *following:*

1 **“SEC. 2623. AUTHORIZATION OF APPROPRIATIONS.**

2       “(a) *IN GENERAL.*—*For the purpose of carrying out*  
3 *this subpart, there are authorized to be appropriated*  
4 *\$1,195,500,000 for fiscal year 2007, \$1,239,500,000 for fis-*  
5 *cal year 2008, and \$1,285,200,000 for fiscal year 2009.*  
6 *Amounts appropriated under the preceding sentence for a*  
7 *fiscal year are available for obligation by the Secretary*  
8 *until the end of the second succeeding fiscal year.*

9       “(b) *RESERVATION OF AMOUNTS.*—

10           “(1) *EMERGING COMMUNITIES.*—*Of the amount*  
11 *appropriated under subsection (a) for a fiscal year,*  
12 *the Secretary shall reserve \$5,000,000 for grants*  
13 *under section 2621.*

14           “(2) *SUPPLEMENTAL GRANTS.*—

15           “(A) *IN GENERAL.*—*Of the amount appro-*  
16 *priated under subsection (a) for a fiscal year in*  
17 *excess of the 2006 adjusted amount, the Secretary*  
18 *shall reserve  $\frac{1}{3}$  for grants under section 2620,*  
19 *except that the availability of the reserved funds*  
20 *for such grants is subject to section*  
21 *2618(a)(2)(H) as applied for such year, and ex-*  
22 *cept that any amount appropriated exclusively*  
23 *for carrying out section 2616 (and, accordingly,*  
24 *distributed under section 2618(a)(2)(G)) is not*  
25 *subject to this subparagraph.*

1           “(B) 2006 ADJUSTED AMOUNT.—For pur-  
 2           poses of subparagraph (A), the term ‘2006 ad-  
 3           justed amount’ means the amount appropriated  
 4           for fiscal year 2006 under section 2677(b) (as  
 5           such section was in effect for such fiscal year),  
 6           excluding any amount appropriated for such  
 7           year exclusively for carrying out section 2616  
 8           (and, accordingly, distributed under section  
 9           2618(a)(2)(I), as so in effect).”.

10 **SEC. 209. EARLY DIAGNOSIS GRANT PROGRAM.**

11       Section 2625 of the Public Health Service Act (42  
 12 U.S.C. 300ff–33) is amended to read as follows:

13 **“SEC. 2625. EARLY DIAGNOSIS GRANT PROGRAM.**

14       “(a) IN GENERAL.—In the case of States whose laws  
 15 or regulations are in accordance with subsection (b), the  
 16 Secretary, acting through the Centers for Disease Control  
 17 and Prevention, shall make grants to such States for the  
 18 purposes described in subsection (c).

19       “(b) DESCRIPTION OF COMPLIANT STATES.—For pur-  
 20 poses of subsection (a), the laws or regulations of a State  
 21 are in accordance with this subsection if, under such laws  
 22 or regulations (including programs carried out pursuant  
 23 to the discretion of State officials), both of the policies de-  
 24 scribed in paragraph (1) are in effect, or both of the policies  
 25 described in paragraph (2) are in effect, as follows:

1           “(1)(A) *Voluntary opt-out testing of pregnant*  
2           *women.*

3           “(B) *Universal testing of newborns.*

4           “(2)(A) *Voluntary opt-out testing of clients at*  
5           *sexually transmitted disease clinics.*

6           “(B) *Voluntary opt-out testing of clients at sub-*  
7           *stance abuse treatment centers.*

8           *The Secretary shall periodically ensure that the applicable*  
9           *policies are being carried out and recertify compliance.*

10          “(c) *USE OF FUNDS.—A State may use funds provided*  
11          *under subsection (a) for HIV/AIDS testing (including rapid*  
12          *testing), prevention counseling, treatment of newborns ex-*  
13          *posed to HIV/AIDS, treatment of mothers infected with*  
14          *HIV/AIDS, and costs associated with linking those diag-*  
15          *nosed with HIV/AIDS to care and treatment for HIV/*  
16          *AIDS.*

17          “(d) *APPLICATION.—A State that is eligible for the*  
18          *grant under subsection (a) shall submit an application to*  
19          *the Secretary, in such form, in such manner, and con-*  
20          *taining such information as the Secretary may require.*

21          “(e) *LIMITATION ON AMOUNT OF GRANT.—A grant*  
22          *under subsection (a) to a State for a fiscal year may not*  
23          *be made in an amount exceeding \$10,000,000.*



1       “(f) *RULE OF CONSTRUCTION.*—*Nothing in this sec-*  
 2       *tion shall be construed to pre-empt State laws regarding*  
 3       *HIV/AIDS counseling and testing.*

4       “(g) *DEFINITIONS.*—*In this section:*

5               “(1) *The term ‘voluntary opt-out testing’ means*  
 6       *HIV/AIDS testing—*

7                       “(A) *that is administered to an individual*  
 8       *seeking other health care services; and*

9                       “(B) *in which—*

10                               “(i) *pre-test counseling is not required*  
 11       *but the individual is informed that the in-*  
 12       *dividual will receive an HIV/AIDS test and*  
 13       *the individual may opt out of such testing;*  
 14       *and*

15                               “(ii) *for those individuals with a posi-*  
 16       *tive test result, post-test counseling (includ-*  
 17       *ing referrals for care) is provided and con-*  
 18       *fidentiality is protected.*

19               “(2) *The term ‘universal testing of newborns’*  
 20       *means HIV/AIDS testing that is administered within*  
 21       *48 hours of delivery to—*

22                       “(A) *all infants born in the State; or*

23                       “(B) *all infants born in the State whose*  
 24       *mother’s HIV/AIDS status is unknown at the*  
 25       *time of delivery.*

1       “(h) *AUTHORIZATION OF APPROPRIATIONS.*—Of the  
 2 *funds appropriated annually to the Centers for Disease*  
 3 *Control and Prevention for HIV/AIDS prevention activi-*  
 4 *ties, \$30,000,000 shall be made available for each of the fis-*  
 5 *cal years 2007 through 2009 for grants under subsection*  
 6 *(a), of which \$20,000,000 shall be made available for grants*  
 7 *to States with the policies described in subsection (b)(1),*  
 8 *and \$10,000,000 shall be made available for grants to*  
 9 *States with the policies described in subsection (b)(2).*  
 10 *Funds provided under this section are available until ex-*  
 11 *ended.”.*

12 **SEC. 210. CERTAIN PARTNER NOTIFICATION PROGRAMS;**  
 13 ***AUTHORIZATION OF APPROPRIATIONS.***

14       Section 2631(d) of the Public Health Service Act (42  
 15 U.S.C. 300ff–38(d)) is amended by striking “there are” and  
 16 all that follows and inserting the following: “there is author-  
 17 ized to be appropriated \$10,000,000 for each of the fiscal  
 18 years 2007 through 2009.”.

19 ***TITLE III—EARLY***  
 20 ***INTERVENTION SERVICES***

21 **SEC. 301. ESTABLISHMENT OF PROGRAM; CORE MEDICAL**  
 22 ***SERVICES.***

23       (a) *IN GENERAL.*—Section 2651 of the Public Health  
 24 *Service Act (42 U.S.C. 300ff–51) is amended to read as fol-*  
 25 *lows:*

1 **“SEC. 2651. ESTABLISHMENT OF A PROGRAM.**

2 “(a) *IN GENERAL.*—For the purposes described in sub-  
3 section (b), the Secretary, acting through the Administrator  
4 of the Health Resources and Services Administration, may  
5 make grants to public and nonprofit private entities speci-  
6 fied in section 2652(a).

7 “(b) *REQUIREMENTS.*—

8 “(1) *IN GENERAL.*—The Secretary may not make  
9 a grant under subsection (a) unless the applicant for  
10 the grant agrees to expend the grant only for—

11 “(A) core medical services described in sub-  
12 section (c);

13 “(B) support services described in sub-  
14 section (d); and

15 “(C) administrative expenses as described  
16 in section 2664(g)(3).

17 “(2) *EARLY INTERVENTION SERVICES.*—An ap-  
18 plicant for a grant under subsection (a) shall expend  
19 not less than 50 percent of the amount received under  
20 the grant for the services described in subparagraphs  
21 (B) through (E) of subsection (e)(1) for individuals  
22 with HIV/AIDS.

23 “(c) *REQUIRED FUNDING FOR CORE MEDICAL SERV-*  
24 *ICES.*—

25 “(1) *IN GENERAL.*—With respect to a grant  
26 under subsection (a) to an applicant for a fiscal year,

1     *the applicant shall, of the portion of the grant re-*  
 2     *maining after reserving amounts for purposes of*  
 3     *paragraphs (3) and (5) of section 2664(g), use not*  
 4     *less than 75 percent to provide core medical services*  
 5     *that are needed in the area involved for individuals*  
 6     *with HIV/AIDS who are identified and eligible under*  
 7     *this title (including services regarding the co-occur-*  
 8     *ring conditions of the individuals).*

9             “(2) *WAIVER.—*

10            “(A) *The Secretary shall waive the applica-*  
 11            *tion of paragraph (1) with respect to an appli-*  
 12            *cant for a grant if the Secretary determines that,*  
 13            *within the service area of the applicant—*

14                    “(i) *there are no waiting lists for*  
 15                    *AIDS Drug Assistance Program services*  
 16                    *under section 2616; and*

17                    “(ii) *core medical services are available*  
 18                    *to all individuals with HIV/AIDS identi-*  
 19                    *fied and eligible under this title.*

20            “(B) *NOTIFICATION OF WAIVER STATUS.—*

21            *When informing an applicant that a grant*  
 22            *under subsection (a) is being made for a fiscal*  
 23            *year, the Secretary shall inform the applicant*  
 24            *whether a waiver under subparagraph (A) is in*  
 25            *effect for the fiscal year.*

1           “(3) *CORE MEDICAL SERVICES.*—For purposes of  
2           *this subsection, the term ‘core medical services’, with*  
3           *respect to an individual with HIV/AIDS (including*  
4           *the co-occurring conditions of the individual) means*  
5           *the following services:*

6                   “(A) *Outpatient and ambulatory health*  
7                   *services.*

8                   “(B) *AIDS Drug Assistance Program treat-*  
9                   *ments under section 2616.*

10                  “(C) *AIDS pharmaceutical assistance.*

11                  “(D) *Oral health care.*

12                  “(E) *Early intervention services described*  
13                  *in subsection (e).*

14                  “(F) *Health insurance premium and cost*  
15                  *sharing assistance for low-income individuals in*  
16                  *accordance with section 2615.*

17                  “(G) *Home health care.*

18                  “(H) *Medical nutrition therapy.*

19                  “(I) *Hospice services.*

20                  “(J) *Home and community-based health*  
21                  *services as defined under section 2614(c).*

22                  “(K) *Mental health services.*

23                  “(L) *Substance abuse outpatient care.*

24                  “(M) *Medical case management, including*  
25                  *treatment adherence services.*

1 “(d) *SUPPORT SERVICES.*—

2 “(1) *IN GENERAL.*—*For purposes of this section,*  
 3 *the term ‘support services’ means services, subject to*  
 4 *the approval of the Secretary, that are needed for in-*  
 5 *dividuals with HIV/AIDS to achieve their medical*  
 6 *outcomes (such as respite care for persons caring for*  
 7 *individuals with HIV/AIDS, outreach services, med-*  
 8 *ical transportation, linguistic services, and referrals*  
 9 *for health care and support services).*

10 “(2) *DEFINITION OF MEDICAL OUTCOMES.*—*In*  
 11 *this section, the term ‘medical outcomes’ means those*  
 12 *outcomes affecting the HIV-related clinical status of*  
 13 *an individual with HIV/AIDS.*

14 “(e) *SPECIFICATION OF EARLY INTERVENTION SERV-*  
 15 *ICES.*—

16 “(1) *IN GENERAL.*—*The early intervention serv-*  
 17 *ices referred to in this section are—*

18 “(A) *counseling individuals with respect to*  
 19 *HIV/AIDS in accordance with section 2662;*

20 “(B) *testing individuals with respect to*  
 21 *HIV/AIDS, including tests to confirm the pres-*  
 22 *ence of the disease, tests to diagnose the extent of*  
 23 *the deficiency in the immune system, and tests*  
 24 *to provide information on appropriate thera-*  
 25 *peutic measures for preventing and treating the*

deterioration of the immune system and for preventing and treating conditions arising from HIV/AIDS;

“(C) referrals described in paragraph (2);

“(D) other clinical and diagnostic services regarding HIV/AIDS, and periodic medical evaluations of individuals with HIV/AIDS; and

“(E) providing the therapeutic measures described in subparagraph (B).

“(2) *REFERRALS.*—The services referred to in paragraph (1)(C) are referrals of individuals with HIV/AIDS to appropriate providers of health and support services, including, as appropriate—

“(A) to entities receiving amounts under part A or B for the provision of such services;

“(B) to biomedical research facilities of institutions of higher education that offer experimental treatment for such disease, or to community-based organizations or other entities that provide such treatment; or

“(C) to grantees under section 2671, in the case of a pregnant woman.

“(3) *REQUIREMENT OF AVAILABILITY OF ALL EARLY INTERVENTION SERVICES THROUGH EACH GRANTEE.*—

1           “(A) *IN GENERAL.*—*The Secretary may not*  
 2           *make a grant under subsection (a) unless the ap-*  
 3           *plicant for the grant agrees that each of the early*  
 4           *intervention services specified in paragraph (2)*  
 5           *will be available through the grantee. With re-*  
 6           *spect to compliance with such agreement, such a*  
 7           *grantee may expend the grant to provide the*  
 8           *early intervention services directly, and may ex-*  
 9           *pend the grant to enter into agreements with*  
 10           *public or nonprofit private entities, or private*  
 11           *for-profit entities if such entities are the only*  
 12           *available provider of quality HIV care in the*  
 13           *area, under which the entities provide the serv-*  
 14           *ices.*

15           “(B) *OTHER REQUIREMENTS.*—*Grantees de-*  
 16           *scribed in—*

17                   “(i) *subparagraphs (A), (D), (E), and*  
 18                   *(F) of section 2652(a)(1) shall use not less*  
 19                   *than 50 percent of the amount of such a*  
 20                   *grant to provide the services described in*  
 21                   *subparagraphs (A), (B), (D), and (E) of*  
 22                   *paragraph (1) directly and on-site or at*  
 23                   *sites where other primary care services are*  
 24                   *rendered; and*



1                   “(ii) subparagraphs (B) and (C) of  
 2                   section 2652(a)(1) shall ensure the avail-  
 3                   ability of early intervention services through  
 4                   a system of linkages to community-based  
 5                   primary care providers, and to establish  
 6                   mechanisms for the referrals described in  
 7                   paragraph (1)(C), and for follow-up con-  
 8                   cerning such referrals.”.

9           (b) *ADMINISTRATIVE EXPENSES; CLINICAL QUALITY*  
 10 *MANAGEMENT PROGRAM.*—Section 2664(g) of the Public  
 11 *Health Service Act (42 U.S.C. 300ff–64(g)) is amended—*

12                   (1) *in paragraph (3), by amending the para-*  
 13 *graph to read as follows:*

14                   “(3) *the applicant will not expend more than 10*  
 15 *percent of the grant for administrative expenses with*  
 16 *respect to the grant, including planning and evalua-*  
 17 *tion, except that the costs of a clinical quality man-*  
 18 *agement program under paragraph (5) may not be*  
 19 *considered administrative expenses for purposes of*  
 20 *such limitation;”;* and

21                   (2) *in paragraph (5), by inserting “clinical” be-*  
 22 *fore “quality management”.*

1 **SEC. 302. ELIGIBLE ENTITIES; PREFERENCES; PLANNING**  
 2 **AND DEVELOPMENT GRANTS.**

3 (a) *MINIMUM QUALIFICATION OF GRANTEES.*—Section  
 4 2652(a) of the Public Health Service Act (42 U.S.C. 300ff–  
 5 52(a)) is amended to read as follows:

6 “(a) *ELIGIBLE ENTITIES.*—

7 “(1) *IN GENERAL.*—The entities referred to in  
 8 section 2651(a) are public entities and nonprofit pri-  
 9 vate entities that are—

10 “(A) *federally-qualified health centers under*  
 11 *section 1905(l)(2)(B) of the Social Security Act;*

12 “(B) *grantees under section 1001 (regarding*  
 13 *family planning) other than States;*

14 “(C) *comprehensive hemophilia diagnostic*  
 15 *and treatment centers;*

16 “(D) *rural health clinics;*

17 “(E) *health facilities operated by or pursu-*  
 18 *ant to a contract with the Indian Health Serv-*  
 19 *ice;*

20 “(F) *community-based organizations, clin-*  
 21 *ics, hospitals and other health facilities that pro-*  
 22 *vide early intervention services to those persons*  
 23 *infected with HIV/AIDS through intravenous*  
 24 *drug use; or*

25 “(G) *nonprofit private entities that provide*  
 26 *comprehensive primary care services to popu-*

1           *lations at risk of HIV/AIDS, including faith-*  
 2           *based and community-based organizations.*

3           “(2) *UNDERSERVED POPULATIONS.*—*Entities de-*  
 4           *scribed in paragraph (1) shall serve underserved pop-*  
 5           *ulations which may include minority populations*  
 6           *and Native American populations, ex-offenders, indi-*  
 7           *viduals with comorbidities including hepatitis B or*  
 8           *C, mental illness, or substance abuse, low-income pop-*  
 9           *ulations, inner city populations, and rural popu-*  
 10          *lations.”.*

11          *(b) PREFERENCES IN MAKING GRANTS.*—*Section 2653*  
 12          *of the Public Health Service Act (42 U.S.C. 300ff–53) is*  
 13          *amended—*

14                 *(1) in subsection (b)(1)—*

15                         *(A) in subparagraph (A), by striking “ac-*  
 16                         *quired immune deficiency syndrome” and insert-*  
 17                         *ing “HIV/AIDS”; and*

18                         *(B) in subparagraph (D), by inserting be-*  
 19                         *fore the semicolon the following: “and the num-*  
 20                         *ber of cases of individuals co-infected with HIV/*  
 21                         *AIDS and hepatitis B or C”; and*

22                 *(2) in subsection (d)(2), by striking “special con-*  
 23                 *sideration” and inserting “preference”.*

1       (c) *PLANNING AND DEVELOPMENT GRANTS.*—Section  
 2   2654(c) of the Public Health Service Act (42 U.S.C. 300ff–  
 3   54(c)) is amended—

4               (1) in paragraph (1)—

5                       (A) in subparagraph (A), by striking  
 6               “HIV”; and

7                       (B) in subparagraph (B), by striking  
 8               “HIV” and inserting “HIV/AIDS”; and

9               (2) in paragraph (3), by striking “or under-  
 10   served communities” and inserting “areas or to un-  
 11   derserved populations”.

12 **SEC. 303. AUTHORIZATION OF APPROPRIATIONS.**

13       Section 2655 of the Public Health Service Act (42  
 14   U.S.C. 300ff–55) is amended by striking “such sums” and  
 15   all that follows through “2005” and inserting “,  
 16   \$218,600,000 for fiscal year 2007, \$226,700,000 for fiscal  
 17   year 2008, and \$235,100,000 for fiscal year 2009”.

18 **SEC. 304. CONFIDENTIALITY AND INFORMED CONSENT.**

19       Section 2661 of the Public Health Service Act (42  
 20   U.S.C. 300ff–61) is amended to read as follows:

21 **“SEC. 2661. CONFIDENTIALITY AND INFORMED CONSENT.**

22       “(a) *CONFIDENTIALITY.*—The Secretary may not make  
 23   a grant under this part unless, in the case of any entity  
 24   applying for a grant under section 2651, the entity agrees  
 25   to ensure that information regarding the receipt of early

1 *intervention services pursuant to the grant is maintained*  
 2 *confidentially in a manner not inconsistent with applicable*  
 3 *law.*

4 “(b) *INFORMED CONSENT.*—*The Secretary may not*  
 5 *make a grant under this part unless the applicant for the*  
 6 *grant agrees that, in testing an individual for HIV/AIDS,*  
 7 *the applicant will test an individual only after the indi-*  
 8 *vidual confirms that the decision of the individual with re-*  
 9 *spect to undergoing such testing is voluntarily made.”.*

10 **SEC. 305. PROVISION OF CERTAIN COUNSELING SERVICES.**

11 *Section 2662 of the Public Health Service Act (42*  
 12 *U.S.C. 300ff–62) is amended to read as follows:*

13 **“SEC. 2662. PROVISION OF CERTAIN COUNSELING SERV-**  
 14 **ICES.**

15 “(a) *COUNSELING OF INDIVIDUALS WITH NEGATIVE*  
 16 *TEST RESULTS.*—*The Secretary may not make a grant*  
 17 *under this part unless the applicant for the grant agrees*  
 18 *that, if the results of testing conducted for HIV/AIDS indi-*  
 19 *cate that an individual does not have such condition, the*  
 20 *applicant will provide the individual information,*  
 21 *including—*

22 “(1) *measures for prevention of, exposure to, and*  
 23 *transmission of HIV/AIDS, hepatitis B, hepatitis C,*  
 24 *and other sexually transmitted diseases;*

1           “(2) the accuracy and reliability of results of  
2           testing for HIV/AIDS, hepatitis B, and hepatitis C;

3           “(3) the significance of the results of such testing,  
4           including the potential for developing AIDS, hepatitis  
5           B, or hepatitis C;

6           “(4) the appropriateness of further counseling,  
7           testing, and education of the individual regarding  
8           HIV/AIDS and other sexually transmitted diseases;

9           “(5) if diagnosed with chronic hepatitis B or  
10          hepatitis C co-infection, the potential of developing  
11          hepatitis-related liver disease and its impact on HIV/  
12          AIDS; and

13          “(6) information regarding the availability of  
14          hepatitis B vaccine and information about hepatitis  
15          treatments.

16          “(b) COUNSELING OF INDIVIDUALS WITH POSITIVE  
17          TEST RESULTS.—The Secretary may not make a grant  
18          under this part unless the applicant for the grant agrees  
19          that, if the results of testing for HIV/AIDS indicate that  
20          the individual has such condition, the applicant will pro-  
21          vide to the individual appropriate counseling regarding the  
22          condition, including—

23               “(1) information regarding—

1           “(A) measures for prevention of, exposure  
2           to, and transmission of HIV/AIDS, hepatitis B,  
3           and hepatitis C;

4           “(B) the accuracy and reliability of results  
5           of testing for HIV/AIDS, hepatitis B, and hepa-  
6           titis C; and

7           “(C) the significance of the results of such  
8           testing, including the potential for developing  
9           AIDS, hepatitis B, or hepatitis C;

10          “(2) reviewing the appropriateness of further  
11         counseling, testing, and education of the individual  
12         regarding HIV/AIDS and other sexually transmitted  
13         diseases; and

14          “(3) providing counseling—

15                 “(A) on the availability, through the appli-  
16                 cant, of early intervention services;

17                 “(B) on the availability in the geographic  
18                 area of appropriate health care, mental health  
19                 care, and social and support services, including  
20                 providing referrals for such services, as appro-  
21                 priate;

22                 “(C)(i) that explains the benefits of locating  
23                 and counseling any individual by whom the in-  
24                 fected individual may have been exposed to HIV/  
25                 AIDS, hepatitis B, or hepatitis C and any indi-

vidual whom the infected individual may have  
 exposed to HIV/AIDS, hepatitis B, or hepatitis  
 C; and

“(ii) that emphasizes it is the duty of in-  
 fected individuals to disclose their infected status  
 to their sexual partners and their partners in the  
 sharing of hypodermic needles; that provides ad-  
 vice to infected individuals on the manner in  
 which such disclosures can be made; and that  
 emphasizes that it is the continuing duty of the  
 individuals to avoid any behaviors that will ex-  
 pose others to HIV/AIDS, hepatitis B, or hepa-  
 titis C; and

“(D) on the availability of the services of  
 public health authorities with respect to locating  
 and counseling any individual described in sub-  
 paragraph (C);

“(4) if diagnosed with chronic hepatitis B or  
 hepatitis C co-infection, the potential of developing  
 hepatitis-related liver disease and its impact on HIV/  
 AIDS; and

“(5) information regarding the availability of  
 hepatitis B vaccine.

“(c) *ADDITIONAL REQUIREMENTS REGARDING APPRO-  
 PRIATE COUNSELING.*—The Secretary may not make a



1 grant under this part unless the applicant for the grant  
 2 agrees that, in counseling individuals with respect to HIV/  
 3 AIDS, the applicant will ensure that the counseling is pro-  
 4 vided under conditions appropriate to the needs of the indi-  
 5 viduals.

6 “(d) *COUNSELING OF EMERGENCY RESPONSE EM-*  
 7 *PLOYEES.*—The Secretary may not make a grant under this  
 8 part to a State unless the State agrees that, in counseling  
 9 individuals with respect to HIV/AIDS, the State will ensure  
 10 that, in the case of emergency response employees, the coun-  
 11 seling is provided to such employees under conditions ap-  
 12 propriate to the needs of the employees regarding the coun-  
 13 seling.

14 “(e) *RULE OF CONSTRUCTION REGARDING COUN-*  
 15 *SELING WITHOUT TESTING.*—Agreements made pursuant to  
 16 this section may not be construed to prohibit any grantee  
 17 under this part from expending the grant for the purpose  
 18 of providing counseling services described in this section to  
 19 an individual who does not undergo testing for HIV/AIDS  
 20 as a result of the grantee or the individual determining that  
 21 such testing of the individual is not appropriate.”.

22 **SEC. 306. GENERAL PROVISIONS.**

23 (a) *APPLICABILITY OF CERTAIN REQUIREMENTS.*—  
 24 Section 2663 of the Public Health Service Act (42 U.S.C.  
 25 300ff–63) is amended by striking “will, without” and all

1 *that follows through “be carried” and inserting “with funds*  
 2 *appropriated through this Act will be carried”.*

3       (b) *ADDITIONAL REQUIRED AGREEMENTS.—Section*  
 4 *2664(a) of the Public Health Service Act (42 U.S.C. 300ff–*  
 5 *64(a)) is amended—*

6               (1) *in paragraph (1)—*

7                       (A) *in subparagraph (A), by striking “and”*  
 8 *at the end;*

9                       (B) *in subparagraph (B), by striking “and”*  
 10 *at the end; and*

11                      (C) *by adding at the end the following:*

12                               “(C) *information regarding how the ex-*  
 13 *pected expenditures of the grant are related to*  
 14 *the planning process for localities funded under*  
 15 *part A (including the planning process described*  
 16 *in section 2602) and for States funded under*  
 17 *part B (including the planning process described*  
 18 *in section 2617(b)); and*

19                               “(D) *a specification of the expected expendi-*  
 20 *tures and how those expenditures will improve*  
 21 *overall client outcomes, as described in the State*  
 22 *plan under section 2617(b);”;*

23                      (2) *in paragraph (2), by striking the period and*  
 24 *inserting a semicolon; and*

25                      (3) *by adding at the end the following:*

1           “(3) the applicant agrees to provide additional  
 2           documentation to the Secretary regarding the process  
 3           used to obtain community input into the design and  
 4           implementation of activities related to such grant;  
 5           and

6           “(4) the applicant agrees to submit, every 2  
 7           years, to the lead State agency under section  
 8           2617(b)(4) audits, consistent with Office of Manage-  
 9           ment and Budget circular A133, regarding funds ex-  
 10          pended in accordance with this title and shall include  
 11          necessary client level data to complete unmet need  
 12          calculations and Statewide coordinated statements of  
 13          need process.”.

14          (c) *PAYER OF LAST RESORT*.—Section 2664(f)(1)(A)  
 15          of the Public Health Service Act (42 U.S.C. 300ff–  
 16          64(f)(1)(A)) is amended by inserting “(except for a program  
 17          administered by or providing the services of the Indian  
 18          Health Service)” before the semicolon.

## 19           **TITLE IV—WOMEN, INFANTS,** 20           **CHILDREN, AND YOUTH**

### 21          **SEC. 401. WOMEN, INFANTS, CHILDREN, AND YOUTH.**

22          Part D of title XXVI of the Public Health Service Act  
 23          (42 U.S.C. 300ff–71 et seq.) is amended to read as follows:

1     **“PART D—WOMEN, INFANTS, CHILDREN, AND**  
 2                                   **YOUTH**

3     **“SEC. 2671. GRANTS FOR COORDINATED SERVICES AND AC-**  
 4                                   **CESS TO RESEARCH FOR WOMEN, INFANTS,**  
 5                                   **CHILDREN, AND YOUTH.**

6             “(a) *IN GENERAL.*—The Secretary, acting through the  
 7     Administrator of the Health Resources and Services Admin-  
 8     istration, shall award grants to public and nonprofit pri-  
 9     vate entities (including a health facility operated by or pur-  
 10    suant to a contract with the Indian Health Service) for the  
 11    purpose of providing family-centered care involving out-  
 12    patient or ambulatory care (directly or through contracts)  
 13    for women, infants, children, and youth with HIV/AIDS.

14           “(b) *ADDITIONAL SERVICES FOR PATIENTS AND FAMI-*  
 15    *LIES.*—Funds provided under grants awarded under sub-  
 16    section (a) may be used for the following support services:

17                 “(1) *Family-centered care including case man-*  
 18                 *agement.*

19                 “(2) *Referrals for additional services including—*

20                         “(A) *referrals for inpatient hospital serv-*  
 21                         *ices, treatment for substance abuse, and mental*  
 22                         *health services; and*

23                         “(B) *referrals for other social and support*  
 24                         *services, as appropriate.*

25                 “(3) *Additional services necessary to enable the*  
 26                 *patient and the family to participate in the program*

1     *established by the applicant pursuant to such sub-*  
2     *section including services designed to recruit and re-*  
3     *tain youth with HIV.*

4             *“(4) The provision of information and education*  
5     *on opportunities to participate in HIV/AIDS-related*  
6     *clinical research.*

7             *“(c) COORDINATION WITH OTHER ENTITIES.—A*  
8     *grant awarded under subsection (a) may be made only if*  
9     *the applicant provides an agreement that includes the fol-*  
10    *lowing:*

11            *“(1) The applicant will coordinate activities*  
12    *under the grant with other providers of health care*  
13    *services under this Act, and under title V of the So-*  
14    *cial Security Act, including programs promoting the*  
15    *reduction and elimination of risk of HIV/AIDS for*  
16    *youth.*

17            *“(2) The applicant will participate in the state-*  
18    *wide coordinated statement of need under part B*  
19    *(where it has been initiated by the public health agen-*  
20    *cy responsible for administering grants under part B)*  
21    *and in revisions of such statement.*

22            *“(3) The applicant will every 2 years submit to*  
23    *the lead State agency under section 2617(b)(4) audits*  
24    *regarding funds expended in accordance with this*  
25    *title and shall include necessary client-level data to*

1        *complete unmet need calculations and Statewide co-*  
 2        *ordinated statements of need process.*

3        “(d) *ADMINISTRATION; APPLICATION.—A grant may*  
 4        *only be awarded to an entity under subsection (a) if an*  
 5        *application for the grant is submitted to the Secretary and*  
 6        *the application is in such form, is made in such manner,*  
 7        *and contains such agreements, assurances, and information*  
 8        *as the Secretary determines to be necessary to carry out*  
 9        *this section. Such application shall include the following:*

10            “(1) *Information regarding how the expected ex-*  
 11            *penditures of the grant are related to the planning*  
 12            *process for localities funded under part A (including*  
 13            *the planning process outlined in section 2602) and for*  
 14            *States funded under part B (including the planning*  
 15            *process outlined in section 2617(b)).*

16            “(2) *A specification of the expected expenditures*  
 17            *and how those expenditures will improve overall pa-*  
 18            *tient outcomes, as outlined as part of the State plan*  
 19            *(under section 2617(b)) or through additional out-*  
 20            *come measures.*

21        “(e) *ANNUAL REVIEW OF PROGRAMS; EVALUATIONS.—*

22            “(1) *REVIEW REGARDING ACCESS TO AND PAR-*  
 23            *TICIPATION IN PROGRAMS.—With respect to a grant*  
 24            *under subsection (a) for an entity for a fiscal year,*  
 25            *the Secretary shall, not later than 180 days after the*

1 *end of the fiscal year, provide for the conduct and*  
 2 *completion of a review of the operation during the*  
 3 *year of the program carried out under such subsection*  
 4 *by the entity. The purpose of such review shall be the*  
 5 *development of recommendations, as appropriate, for*  
 6 *improvements in the following:*

7           “(A) *Procedures used by the entity to allo-*  
 8           *cate opportunities and services under subsection*  
 9           *(a) among patients of the entity who are women,*  
 10          *infants, children, or youth.*

11          “(B) *Other procedures or policies of the en-*  
 12          *tity regarding the participation of such individ-*  
 13          *uals in such program.*

14          “(2) *EVALUATIONS.*—*The Secretary shall, di-*  
 15          *rectly or through contracts with public and private*  
 16          *entities, provide for evaluations of programs carried*  
 17          *out pursuant to subsection (a).*

18          “(f) *ADMINISTRATIVE EXPENSES.*—

19               “(1) *LIMITATION.*—*A grantee may not use more*  
 20          *than 10 percent of amounts received under a grant*  
 21          *awarded under this section for administrative ex-*  
 22          *penses.*

23               “(2) *CLINICAL QUALITY MANAGEMENT PRO-*  
 24          *GRAM.*—*A grantee under this section shall implement*  
 25          *a clinical quality management program to assess the*

1     *extent to which HIV health services provided to pa-*  
 2     *tients under the grant are consistent with the most re-*  
 3     *cent Public Health Service guidelines for the treat-*  
 4     *ment of HIV/AIDS and related opportunistic infec-*  
 5     *tion, and as applicable, to develop strategies for en-*  
 6     *sureing that such services are consistent with the*  
 7     *guidelines for improvement in the access to and qual-*  
 8     *ity of HIV health services.*

9     “(g) *TRAINING AND TECHNICAL ASSISTANCE.*—From  
 10    *the amounts appropriated under subsection (i) for a fiscal*  
 11    *year, the Secretary may use not more than 5 percent to*  
 12    *provide, directly or through contracts with public and pri-*  
 13    *vate entities (which may include grantees under subsection*  
 14    *(a)), training and technical assistance to assist applicants*  
 15    *and grantees under subsection (a) in complying with the*  
 16    *requirements of this section.*

17    “(h) *DEFINITIONS.*—In this section:

18           “(1) *ADMINISTRATIVE EXPENSES.*—The term  
 19    ‘*administrative expenses*’ means funds that are to be  
 20    used by grantees for grant management and moni-  
 21    toring activities, including costs related to any staff  
 22    or activity unrelated to services or indirect costs.

23           “(2) *INDIRECT COSTS.*—The term ‘*indirect costs*’  
 24    means costs included in a Federally negotiated indi-  
 25    rect rate.



1 “(3) *SERVICES.*—*The term ‘services’ means—*

2 “(A) *services that are provided to clients to*  
 3 *meet the goals and objectives of the program*  
 4 *under this section, including the provision of*  
 5 *professional, diagnostic, and therapeutic services*  
 6 *by a primary care provider or a referral to and*  
 7 *provision of specialty care; and*

8 “(B) *services that sustain program activity*  
 9 *and contribute to or help improve services under*  
 10 *subparagraph (A).*

11 “(i) *AUTHORIZATION OF APPROPRIATIONS.*—*For the*  
 12 *purpose of carrying out this section, there are authorized*  
 13 *to be appropriated, \$71,800,000 for each of the fiscal years*  
 14 *2007 through 2009.”.*

15 **SEC. 402. GAO REPORT.**

16 *Not later than 24 months after the date of enactment*  
 17 *of this Act, the Comptroller General of the Government Ac-*  
 18 *countability Office shall conduct an evaluation, and submit*  
 19 *to Congress a report, concerning the funding provided for*  
 20 *under part D of title XXVI of the Public Health Service*  
 21 *Act to determine—*

22 (1) *how funds are used to provide the adminis-*  
 23 *trative expenses, indirect costs, and services, as de-*  
 24 *finied in section 2671(h) of such title, for individuals*  
 25 *with HIV/AIDS;*

(2) *how funds are used to provide the administrative expenses, indirect costs, and services, as defined in section 2671(h) of such title, to family members of women, infants, children, and youth infected with HIV/AIDS;*

(3) *how funds are used to provide family-centered care involving outpatient or ambulatory care authorized under section 2671(a) of such title;*

(4) *how funds are used to provide additional services authorized under section 2671(b) of such title; and*

(5) *how funds are used to help identify HIV-positive pregnant women and their children who are exposed to HIV and connect them with care that can improve their health and prevent perinatal transmission.*

## **TITLE V—GENERAL PROVISIONS**

### **SEC. 501. GENERAL PROVISIONS.**

*Part E of title XXVI of the Public Health Service Act (42 U.S.C. 300ff–80 et seq.) is amended to read as follows:*

#### **“PART E—GENERAL PROVISIONS**

##### **“SEC. 2681. COORDINATION.**

*“(a) REQUIREMENT.—The Secretary shall ensure that the Health Resources and Services Administration, the Centers for Disease Control and Prevention, the Substance*

1 *Abuse and Mental Health Services Administration, and the*  
 2 *Centers for Medicare & Medicaid Services coordinate the*  
 3 *planning, funding, and implementation of Federal HIV*  
 4 *programs (including all minority AIDS initiatives of the*  
 5 *Public Health Service, including under section 2693) to en-*  
 6 *hance the continuity of care and prevention services for in-*  
 7 *dividuals with HIV/AIDS or those at risk of such disease.*  
 8 *The Secretary shall consult with other Federal agencies, in-*  
 9 *cluding the Department of Veterans Affairs, as needed and*  
 10 *utilize planning information submitted to such agencies by*  
 11 *the States and entities eligible for assistance under this*  
 12 *title.*

13       “(b) *REPORT.*—*The Secretary shall biennially prepare*  
 14 *and submit to the appropriate committees of the Congress*  
 15 *a report concerning the coordination efforts at the Federal,*  
 16 *State, and local levels described in this section, including*  
 17 *a description of Federal barriers to HIV program integra-*  
 18 *tion and a strategy for eliminating such barriers and en-*  
 19 *hancing the continuity of care and prevention services for*  
 20 *individuals with HIV/AIDS or those at risk of such disease.*

21       “(c) *INTEGRATION BY STATE.*—*As a condition of re-*  
 22 *ceipt of funds under this title, a State shall provide assur-*  
 23 *ances to the Secretary that health support services funded*  
 24 *under this title will be integrated with other such services,*  
 25 *that programs will be coordinated with other available pro-*

1 *grams (including Medicaid), and that the continuity of care*  
 2 *and prevention services of individuals with HIV/AIDS is*  
 3 *enhanced.*

4       “(d) *INTEGRATION BY LOCAL OR PRIVATE ENTI-*  
 5 *TIES.—As a condition of receipt of funds under this title,*  
 6 *a local government or private nonprofit entity shall provide*  
 7 *assurances to the Secretary that services funded under this*  
 8 *title will be integrated with other such services, that pro-*  
 9 *grams will be coordinated with other available programs*  
 10 *(including Medicaid), and that the continuity of care and*  
 11 *prevention services of individuals with HIV is enhanced.*

12 **“SEC. 2682. AUDITS.**

13       “(a) *IN GENERAL.—For fiscal year 2009, and each*  
 14 *subsequent fiscal year, the Secretary may reduce the*  
 15 *amounts of grants under this title to a State or political*  
 16 *subdivision of a State for a fiscal year if, with respect to*  
 17 *such grants for the second preceding fiscal year, the State*  
 18 *or subdivision fails to prepare audits in accordance with*  
 19 *the procedures of section 7502 of title 31, United States*  
 20 *Code. The Secretary shall annually select representative*  
 21 *samples of such audits, prepare summaries of the selected*  
 22 *audits, and submit the summaries to the Congress.*

23       “(b) *POSTING ON THE INTERNET.—All audits that the*  
 24 *Secretary receives from the State lead agency under section*  
 25 *2617(b)(4) shall be posted, in their entirety, on the Internet*

1 *website of the Health Resources and Services Administra-*  
 2 *tion.*

3 **“SEC. 2683. PUBLIC HEALTH EMERGENCY.**

4       “(a) *IN GENERAL.*—*In an emergency area and during*  
 5 *an emergency period, the Secretary shall have the authority*  
 6 *to waive such requirements of this title to improve the*  
 7 *health and safety of those receiving care under this title and*  
 8 *the general public, except that the Secretary may not ex-*  
 9 *pend more than 5 percent of the funds allocated under this*  
 10 *title for sections 2620 and section 2603(b).*

11       “(b) *EMERGENCY AREA AND EMERGENCY PERIOD.*—  
 12 *In this section:*

13               “(1) *EMERGENCY AREA.*—*The term ‘emergency*  
 14 *area’ means a geographic area in which there exists—*

15                       “(A) *an emergency or disaster declared by*  
 16 *the President pursuant to the National Emer-*  
 17 *gencies Act or the Robert T. Stafford Disaster*  
 18 *Relief and Emergency Assistance Act; or*

19                       “(B) *a public health emergency declared by*  
 20 *the Secretary pursuant to section 319.*

21       “(2) *EMERGENCY PERIOD.*—*The term ‘emergency*  
 22 *period’ means the period in which there exists—*

23                       “(A) *an emergency or disaster declared by*  
 24 *the President pursuant to the National Emer-*

1            *gencies Act or the Robert T. Stafford Disaster*  
 2            *Relief and Emergency Assistance Act; or*

3            *“(B) a public health emergency declared by*  
 4            *the Secretary pursuant to section 319.*

5            *“(c) UNOBLIGATED FUNDS.—If funds under a grant*  
 6            *under this section are not expended for an emergency in*  
 7            *the fiscal year in which the emergency is declared, such*  
 8            *funds shall be returned to the Secretary for reallocation*  
 9            *under sections 2603(b) and 2620.*

10        **“SEC. 2684. PROHIBITION ON PROMOTION OF CERTAIN AC-**  
 11            **TIVITIES.**

12            *“None of the funds appropriated under this title shall*  
 13            *be used to fund AIDS programs, or to develop materials,*  
 14            *designed to promote or encourage, directly, intravenous*  
 15            *drug use or sexual activity, whether homosexual or hetero-*  
 16            *sexual. Funds authorized under this title may be used to*  
 17            *provide medical treatment and support services for individ-*  
 18            *uals with HIV.*

19        **“SEC. 2685. PRIVACY PROTECTIONS.**

20            *“(a) IN GENERAL.—The Secretary shall ensure that*  
 21            *any information submitted to, or collected by, the Secretary*  
 22            *under this title excludes any personally identifiable infor-*  
 23            *mation.*

24            *“(b) DEFINITION.—In this section, the term ‘person-*  
 25            *ally identifiable information’ has the meaning given such*

1 term under the regulations promulgated under section  
2 264(c) of the Health Insurance Portability and Account-  
3 ability Act of 1996.

4 **“SEC. 2686. GAO REPORT.**

5       *“The Comptroller General of the Government Account-*  
6 *ability Office shall biennially submit to the appropriate*  
7 *committees of Congress a report that includes a description*  
8 *of Federal, State, and local barriers to HIV program inte-*  
9 *gration, particularly for racial and ethnic minorities, in-*  
10 *cluding activities carried out under subpart III of part F,*  
11 *and recommendations for enhancing the continuity of care*  
12 *and the provision of prevention services for individuals*  
13 *with HIV/AIDS or those at risk for such disease. Such re-*  
14 *port shall include a demonstration of the manner in which*  
15 *funds under this subpart are being expended and to what*  
16 *extent the services provided with such funds increase access*  
17 *to prevention and care services for individuals with HIV/*  
18 *AIDS and build stronger community linkages to address*  
19 *HIV prevention and care for racial and ethnic minority*  
20 *communities.*

21 **“SEC. 2687. SEVERITY OF NEED INDEX.**

22       *“(a) DEVELOPMENT OF INDEX.—Not later than Sep-*  
23 *tember 30, 2008, the Secretary shall develop and submit to*  
24 *the appropriate committees of Congress a severity of need*  
25 *index in accordance with subsection (c).*

1       “(b) *DEFINITION OF SEVERITY OF NEED INDEX.*—In  
 2   this section, the term ‘severity of need index’ means the  
 3   index of the relative needs of individuals within a State  
 4   or area, as identified by a number of different factors, and  
 5   is a factor or set of factors that is multiplied by the number  
 6   of living HIV/AIDS cases in a State or area, providing dif-  
 7   ferent weights to those cases based on needs. Such factors  
 8   or set of factors may be different for different components  
 9   of the provisions under this title.

10       “(c) *REQUIREMENTS FOR SECRETARIAL SUBMIS-*  
 11   *SION.*—When the Secretary submits to the appropriate com-  
 12   mittees of Congress the severity of need index under sub-  
 13   section (a), the Secretary shall provide the following:

14               “(1) *Methodology for and rationale behind devel-*  
 15   *oping the severity of need index, including informa-*  
 16   *tion related to the field testing of the severity of need*  
 17   *index.*

18               “(2) *An independent contractor analysis of ac-*  
 19   *tivities carried out under paragraph (1).*

20               “(3) *Information regarding the process by which*  
 21   *the Secretary received community input regarding the*  
 22   *application and development of the severity of need*  
 23   *index.*

24       “(d) *ANNUAL REPORTS.*—If the Secretary fails to sub-  
 25   mit the severity of need index under subsection (a) in either



1 of fiscal years 2007 or 2008, the Secretary shall prepare  
 2 and submit to the appropriate committees of Congress a re-  
 3 port for such fiscal year—

4 “(1) that updates progress toward having client  
 5 level data;

6 “(2) that updates the progress toward having a  
 7 severity of need index, including information related  
 8 to the methodology and process for obtaining commu-  
 9 nity input; and

10 “(3) that, as applicable, states whether the Sec-  
 11 retary could develop a severity of need index before  
 12 fiscal year 2009.

13 **“SEC. 2688. DEFINITIONS.**

14 “For purposes of this title:

15 “(1) *AIDS*.—The term ‘AIDS’ means acquired  
 16 immune deficiency syndrome.

17 “(2) *CO-OCCURRING CONDITIONS*.—The term ‘co-  
 18 occurring conditions’ means one or more adverse  
 19 health conditions in an individual with HIV/AIDS,  
 20 without regard to whether the individual has AIDS  
 21 and without regard to whether the conditions arise  
 22 from HIV.

23 “(3) *COUNSELING*.—The term ‘counseling’ means  
 24 such counseling provided by an individual trained to  
 25 provide such counseling.

1           “(4) *FAMILY-CENTERED CARE*.—The term ‘family-centered care’ means the system of services described in this title that is targeted specifically to the special needs of infants, children, women and families. Family-centered care shall be based on a partnership between parents, professionals, and the community designed to ensure an integrated, coordinated, culturally sensitive, and community-based continuum of care for children, women, and families with HIV/AIDS.

11           “(5) *FAMILIES WITH HIV/AIDS*.—The term ‘families with HIV/AIDS’ means families in which one or more members have HIV/AIDS.

14           “(6) *HIV*.—The term ‘HIV’ means infection with the human immunodeficiency virus.

16           “(7) *HIV/AIDS*.—

17           “(A) *IN GENERAL*.—The term ‘HIV/AIDS’ means HIV, and includes AIDS and any condition arising from AIDS.

20           “(B) *COUNTING OF CASES*.—The term ‘living cases of HIV/AIDS’, with respect to the counting of cases in a geographic area during a period of time, means the sum of—

24           “(i) the number of living non-AIDS cases of HIV in the area; and

1                   “(ii) *the number of living cases of*  
2                   *AIDS in the area.*

3                   “(C) *NON-AIDS CASES.—The term ‘non-*  
4                   *AIDS’, with respect to a case of HIV, means that*  
5                   *the individual involved has HIV but does not*  
6                   *have AIDS.*

7                   “(8) *HUMAN IMMUNODEFICIENCY VIRUS.—The*  
8                   *term ‘human immunodeficiency virus’ means the etio-*  
9                   *logic agent for AIDS.*

10                  “(9) *OFFICIAL POVERTY LINE.—The term ‘offi-*  
11                  *cial poverty line’ means the poverty line established*  
12                  *by the Director of the Office of Management and*  
13                  *Budget and revised by the Secretary in accordance*  
14                  *with section 673(2) of the Omnibus Budget Reconcili-*  
15                  *ation Act of 1981.*

16                  “(10) *PERSON.—The term ‘person’ includes one*  
17                  *or more individuals, governments (including the Fed-*  
18                  *eral Government and the governments of the States),*  
19                  *governmental agencies, political subdivisions, labor*  
20                  *unions, partnerships, associations, corporations, legal*  
21                  *representatives, mutual companies, joint-stock compa-*  
22                  *nies, trusts, unincorporated organizations, receivers,*  
23                  *trustees, and trustees in cases under title 11, United*  
24                  *States Code.*

25                  “(11) *STATE.—*

1           “(A) *IN GENERAL.*—The term ‘State’ means  
2           each of the 50 States, the District of Columbia,  
3           and each of the territories.

4           “(B) *TERRITORIES.*—The term ‘territory’  
5           means each of American Samoa, Guam, the  
6           Commonwealth of Puerto Rico, the Common-  
7           wealth of the Northern Mariana Islands, the Vir-  
8           gin Islands, the Republic of the Marshall Islands,  
9           the Federated States of Micronesia, and Palau.

10          “(12) *YOUTH WITH HIV.*—The term ‘youth with  
11          HIV’ means individuals who are 13 through 24 years  
12          old and who have HIV/AIDS.”.

## 13   ***TITLE VI—DEMONSTRATION AND*** 14                                   ***TRAINING***

### 15   ***SEC. 601. DEMONSTRATION AND TRAINING.***

16          *Subpart I of part F of title XXVI of the Public Health*  
17          *Service Act (42 U.S.C. 300ff–101 et seq.) is amended to read*  
18          *as follows:*

#### 19   ***“Subpart I—Special Projects of National Significance*** 20   ***“SEC. 2691. SPECIAL PROJECTS OF NATIONAL SIGNIFI-*** 21                                   ***CANCE.***

22          “(a) *IN GENERAL.*—Of the amount appropriated  
23          under each of parts A, B, C, and D for each fiscal year,  
24          the Secretary shall use the greater of \$20,000,000 or an  
25          amount equal to 3 percent of such amount appropriated

1 *under each such part, but not to exceed \$25,000,000, to ad-*  
2 *minister special projects of national significance to—*

3       “(1) *quickly respond to emerging needs of indi-*  
4 *viduals receiving assistance under this title; and*

5       “(2) *to fund special programs to develop a*  
6 *standard electronic client information data system to*  
7 *improve the ability of grantees under this title to re-*  
8 *port client-level data to the Secretary.*

9       “(b) *GRANTS.—The Secretary shall award grants*  
10 *under subsection (a) to entities eligible for funding under*  
11 *parts A, B, C, and D based on—*

12       “(1) *whether the funding will promote obtaining*  
13 *client level data as it relates to the creation of a sever-*  
14 *ity of need index, including funds to facilitate the*  
15 *purchase and enhance the utilization of qualified*  
16 *health information technology systems;*

17       “(2) *demonstrated ability to create and main-*  
18 *tain a qualified health information technology system;*

19       “(3) *the potential replicability of the proposed*  
20 *activity in other similar localities or nationally;*

21       “(4) *the demonstrated reliability of the proposed*  
22 *qualified health information technology system across*  
23 *a variety of providers, geographic regions, and clients;*  
24 *and*

1           “(5) *the demonstrated ability to maintain a safe*  
2           *and secure qualified health information system; or*

3           “(6) *newly emerging needs of individuals receiv-*  
4           *ing assistance under this title.*

5           “(c) *COORDINATION.—The Secretary may not make a*  
6           *grant under this section unless the applicant submits evi-*  
7           *dence that the proposed program is consistent with the*  
8           *statewide coordinated statement of need, and the applicant*  
9           *agrees to participate in the ongoing revision process of such*  
10           *statement of need.*

11           “(d) *PRIVACY PROTECTION.—The Secretary may not*  
12           *make a grant under this section for the development of a*  
13           *qualified health information technology system unless the*  
14           *applicant provides assurances to the Secretary that the sys-*  
15           *tem will, at a minimum, comply with the privacy regula-*  
16           *tions promulgated under section 264(c) of the Health Insur-*  
17           *ance Portability and Accountability Act of 1996.*

18           “(e) *REPLICATION.—The Secretary shall make infor-*  
19           *mation concerning successful models or programs developed*  
20           *under this part available to grantees under this title for*  
21           *the purpose of coordination, replication, and integration.*  
22           *To facilitate efforts under this subsection, the Secretary*  
23           *may provide for peer-based technical assistance for grantees*  
24           *funded under this part.”.*

1 **SEC. 602. AIDS EDUCATION AND TRAINING CENTERS.**

2 (a) *AMENDMENTS REGARDING SCHOOLS AND CEN-*  
 3 *TERS.*—Section 2692(a)(2) of the Public Health Service Act  
 4 (42 U.S.C. 300ff–111(a)(2)) is amended—

5 (1) in subparagraph (A)—

6 (A) by inserting “and Native Americans”  
 7 after “minority individuals”; and

8 (B) by striking “and” at the end;

9 (2) in subparagraph (B), by striking the period  
 10 and inserting “; and”; and

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

12 “(C) train or result in the training of  
 13 health professionals and allied health profes-  
 14 sionals to provide treatment for hepatitis B or C  
 15 co-infected individuals.”.

16 (b) *AUTHORIZATIONS OF APPROPRIATIONS FOR*  
 17 *SCHOOLS, CENTERS, AND DENTAL PROGRAMS.*—Section  
 18 2692(c) of the Public Health Service Act (42 U.S.C. 300ff–  
 19 111(c)) is amended to read as follows:

20 “(c) *AUTHORIZATION OF APPROPRIATIONS.*—

21 “(1) *SCHOOLS; CENTERS.*—For the purpose of  
 22 awarding grants under subsection (a), there is au-  
 23 thorized to be appropriated \$34,700,000 for each of  
 24 the fiscal years 2007 through 2009.

25 “(2) *DENTAL SCHOOLS.*—For the purpose of  
 26 awarding grants under subsection (b), there is author-

1        *ized to be appropriated \$13,000,000 for each of the*  
 2        *fiscal years 2007 through 2009.”.*

3        **SEC. 603. CODIFICATION OF MINORITY AIDS INITIATIVE.**

4        *Part F of title XXVI of the Public Health Service Act*  
 5        *(42 U.S.C. 300ff–101 et seq.) is amended by adding at the*  
 6        *end the following:*

7                **“Subpart III—Minority AIDS Initiative**

8        **“SEC. 2693. MINORITY AIDS INITIATIVE.**

9                *“(a) IN GENERAL.—For the purpose of carrying out*  
 10        *activities under this section to evaluate and address the dis-*  
 11        *proportionate impact of HIV/AIDS on, and the disparities*  
 12        *in access, treatment, care, and outcomes for, racial and eth-*  
 13        *nic minorities (including African Americans, Alaska Na-*  
 14        *tives, Latinos, American Indians, Asian Americans, Native*  
 15        *Hawaiians, and Pacific Islanders), there are authorized to*  
 16        *be appropriated \$131,200,000 for fiscal year 2007,*  
 17        *\$135,100,000 for fiscal year 2008, and \$139,100,000 for fis-*  
 18        *cal year 2009.*

19                *“(b) CERTAIN ACTIVITIES.—*

20                *“(1) IN GENERAL.—In carrying out the purpose*  
 21        *described in subsection (a), the Secretary shall pro-*  
 22        *vide for—*

23                *“(A) emergency assistance under part A;*

24                *“(B) care grants under part B;*



1           “(C) *early intervention services under part*  
2           *C;*

3           “(D) *services through projects for HIV-re-*  
4           *lated care under part D; and*

5           “(E) *activities through education and train-*  
6           *ing centers under section 2692.*

7           “(2) *ALLOCATIONS AMONG ACTIVITIES.—Activi-*  
8           *ties under paragraph (1) shall be carried out by the*  
9           *Secretary in accordance with the following:*

10           “(A) *For competitive, supplemental grants*  
11           *to improve HIV-related health outcomes to re-*  
12           *duce existing racial and ethnic health dispari-*  
13           *ties, the Secretary shall, of the amount appro-*  
14           *priated under subsection (a) for a fiscal year, re-*  
15           *serve the following, as applicable:*

16                   “(i) *For fiscal year 2007, \$43,800,000.*

17                   “(ii) *For fiscal year 2008, \$45,400,000.*

18                   “(iii) *For fiscal year 2009,*  
19                   *\$47,100,000.*

20           “(B) *For competitive grants used for sup-*  
21           *plemental support education and outreach serv-*  
22           *ices to increase the number of eligible racial and*  
23           *ethnic minorities who have access to treatment*  
24           *through the program under section 2616 for*  
25           *therapeutics, the Secretary shall, of the amount*

1        *appropriated for a fiscal year under subsection*  
2        *(a), reserve the following, as applicable:*

3                *“(i) For fiscal year 2007, \$7,000,000.*

4                *“(ii) For fiscal year 2008, \$7,300,000.*

5                *“(iii) For fiscal year 2009, \$7,500,000.*

6                *“(C) For planning grants, capacity-build-*  
7        *ing grants, and services grants to health care*  
8        *providers who have a history of providing cul-*  
9        *turally and linguistically appropriate care and*  
10       *services to racial and ethnic minorities, the Sec-*  
11       *retary shall, of the amount appropriated for a*  
12       *fiscal year under subsection (a), reserve the fol-*  
13       *lowing, as applicable:*

14                *“(i) For fiscal year 2007, \$53,400,000.*

15                *“(ii) For fiscal year 2008, \$55,400,000.*

16                *“(iii) For fiscal year 2009,*  
17        *\$57,400,000.*

18                *“(D) For eliminating racial and ethnic dis-*  
19        *parities in the delivery of comprehensive, cul-*  
20        *turally and linguistically appropriate care serv-*  
21        *ices for HIV disease for women, infants, chil-*  
22        *dren, and youth, the Secretary shall, of the*  
23        *amount appropriated under subsection (a), re-*  
24        *serve \$18,500,000 for each of the fiscal years*  
25        *2007 through 2009.*

1           “(E) *For increasing the training capacity*  
 2           *of centers to expand the number of health care*  
 3           *professionals with treatment expertise and*  
 4           *knowledge about the most appropriate standards*  
 5           *of HIV disease-related treatments and medical*  
 6           *care for racial and ethnic minority adults, ado-*  
 7           *lescents, and children with HIV disease, the Sec-*  
 8           *retary shall, of the amount appropriated under*  
 9           *subsection (a), reserve \$8,500,000 for each of the*  
 10          *fiscal years 2007 through 2009.*

11          “(c) *CONSISTENCY WITH PRIOR PROGRAM.—With re-*  
 12          *spect to the purpose described in subsection (a), the Sec-*  
 13          *retary shall carry out this section consistent with the activi-*  
 14          *ties carried out under this title by the Secretary pursuant*  
 15          *to the Departments of Labor, Health and Human Services,*  
 16          *and Education, and Related Agencies Appropriations Act,*  
 17          *2002 (Public Law 107–116).”.*

## 18           ***TITLE VII—MISCELLANEOUS*** 19           ***PROVISIONS***

### 20          ***SEC. 701. HEPATITIS; USE OF FUNDS.***

21          *Section 2667 of the Public Health Service Act (42*  
 22          *U.S.C. 300ff–67) is amended—*

23                  *(1) in paragraph (2), by striking “and” at the*  
 24          *end;*

1           (2) *in paragraph (3), by striking the period and*  
 2           *inserting “; and”; and*

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

4           “(4) *shall provide information on the trans-*  
 5           *mission and prevention of hepatitis A, B, and C, in-*  
 6           *cluding education about the availability of hepatitis*  
 7           *A and B vaccines and assisting patients in identi-*  
 8           *fying vaccination sites.”.*

9   **SEC. 702. CERTAIN REFERENCES.**

10          *Title XXVI of the Public Health Service Act (42 U.S.C.*  
 11          *300ff et seq.) is amended—*

12           (1) *by striking “acquired immune deficiency*  
 13           *syndrome” each place such term appears, other than*  
 14           *in section 2687(1) (as added by section 501 of this*  
 15           *Act), and inserting “AIDS”;*

16           (2) *by striking “such syndrome” and inserting*  
 17           *“AIDS”; and*

18           (3) *by striking “HIV disease” each place such*  
 19           *term appears and inserting “HIV/AIDS”.*

1 **SEC. 703. REPEAL.**

2 *Effective on October 1, 2009, title XXVI of the Public*

3 *Health Service Act (42 U.S.C. 300ff et seq.) is repealed.*

Attest:

*Secretary.*

109TH CONGRESS  
2D SESSION

**H. R. 6143**

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**AMENDMENT**