

Calendar No. 182

111TH CONGRESS
1ST SESSION**S. 1793**

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.

IN THE SENATE OF THE UNITED STATES

OCTOBER 15, 2009

Mr. HARKIN, from the Committee on Health, Education, Labor, and Pensions, reported the following original bill; which was read twice and placed on the calendar

A BILL

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

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

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

7 (b) REFERENCES.—Except as otherwise specified,
8 whenever in this Act an amendment is expressed in terms

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

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

7 (a) **ELIMINATION OF SUNSET PROVISION.**—

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

12 (2) **EFFECTIVE DATE.**—Paragraph (1) shall
13 take effect as if enacted on September 30, 2009.

14 (3) **CONTINGENCY PROVISIONS.**—Notwith-
15 standing section 703 of the Ryan White HIV/AIDS
16 Treatment Modernization Act of 2006 (Public Law
17 109–415; 120 Stat. 2767) and section 139 of the
18 Continuing Appropriations Resolution, 2010—

19 (A) the provisions of title XXVI of the
20 Public Health Service Act (42 U.S.C. 300ff et
21 seq.), as in effect on September 30, 2009, are
22 hereby revived; and

23 (B) the amendments made by this Act to
24 title XXVI of the Public Health Service Act (42
25 U.S.C. 300ff et seq.) shall apply to such title as

1 so revived and shall take effect as if enacted on
2 September 30, 2009.

3 (b) PART A GRANTS.—Section 2610(a) (42 U.S.C.
4 300ff–20(a)) is amended by striking “and \$649,500,000
5 for fiscal year 2009” and inserting “\$649,500,000 for fis-
6 cal year 2009, \$681,975,000 for fiscal year 2010,
7 \$716,074,000 for fiscal year 2011, \$751,877,000 for fis-
8 cal year 2012, and \$789,471,000 for fiscal year 2013”.

9 (c) PART B GRANTS.—Section 2623(a) (42 U.S.C.
10 300ff–32(a)) is amended by striking “and \$1,285,200,000
11 for fiscal year 2009” and inserting “\$1,285,200,000 for
12 fiscal year 2009, \$1,349,460,000 for fiscal year 2010,
13 \$1,416,933,000 for fiscal year 2011, \$1,487,780,000 for
14 fiscal year 2012, and \$1,562,169,000 for fiscal year
15 2013”.

16 (d) PART C GRANTS.—Section 2655 (42 U.S.C.
17 300ff–55) is amended by striking “and \$235,100,000 for
18 fiscal year 2009” and inserting “\$235,100,000 for fiscal
19 year 2009, \$246,855,000 for fiscal year 2010,
20 \$259,198,000 for fiscal year 2011, \$272,158,000 for fis-
21 cal year 2012, and \$285,766,000 for fiscal year 2013”.

22 (e) PART D GRANTS.—Section 2671(i) (42 U.S.C.
23 300ff–71(i)) is amended by inserting before the period at
24 the end “, \$75,390,000 for fiscal year 2010, \$79,160,000

1 for fiscal year 2011, \$83,117,000 for fiscal year 2012, and
2 \$87,273,000 for fiscal year 2013”.

3 (f) DEMONSTRATION AND TRAINING GRANTS UNDER
4 PART F.—

5 (1) HIV/AIDS COMMUNITIES, SCHOOLS, AND
6 CENTERS.—Section 2692(c) (42 U.S.C. 300ff–
7 111(c)) is amended—

8 (A) in paragraph (1)—

9 (i) by striking “is authorized” and in-
10 sserting “are authorized”; and

11 (ii) by inserting before the period at
12 the end “, \$36,535,000 for fiscal year
13 2010, \$38,257,000 for fiscal year 2011,
14 \$40,170,000 for fiscal year 2012, and
15 \$42,178,000 for fiscal year 2013” ; and

16 (B) in paragraph (2)—

17 (i) by striking “is authorized” and in-
18 sserting “are authorized”; and

19 (ii) by inserting before the period at
20 the end “, \$13,650,000 for fiscal year
21 2010, \$14,333,000 for fiscal year 2011,
22 \$15,049,000 for fiscal year 2012, and
23 \$15,802,000 for fiscal year 2013”.

24 (2) MINORITY AIDS INITIATIVE.—Section 2693
25 (42 U.S.C. 300ff–121) is amended—

1 (A) in subsection (a), by striking “and
2 \$139,100,000 for fiscal year 2009.” and insert-
3 ing “\$139,100,000 for fiscal year 2009,
4 \$146,055,000 for fiscal year 2010,
5 \$153,358,000 for fiscal year 2011,
6 \$161,026,000 for fiscal year 2012, and
7 \$169,077,000 for fiscal year 2013. The Sec-
8 retary shall develop a formula for the awarding
9 of grants under subsections (b)(1)(A) and
10 (b)(1)(B) that ensures that funding is provided
11 based on the distribution of populations dis-
12 proportionately impacted by HIV/AIDS.”;

13 (B) in subsection (b)(2)—

14 (i) In subparagraph (A)—

15 (I) in the matter preceding clause

16 (i), by striking “competitive,”; and

17 (II) by adding at the end the fol-

18 lowing:

19 “(iv) For fiscal year 2010,
20 \$46,738,000.

21 “(v) For fiscal year 2011,
22 \$49,075,000.

23 “(vi) For fiscal year 2012,
24 \$51,528,000.

1 “(vii) For fiscal year 2013,
2 \$54,105,000.”;

3 (ii) in subparagraph (B)—

4 (I) in the matter preceding clause

5 (i), by striking “competitive”; and

6 (II) by adding at the end the fol-
7 lowing:

8 “(iv) For fiscal year 2010,
9 \$8,763,000.

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

11 “(vi) For fiscal year 2012,
12 \$9,662,000.

13 “(vii) For fiscal year 2013,
14 \$10,145,000.”;

15 (iii) in subparagraph (C), by adding
16 at the end the following:

17 “(iv) For fiscal year 2010,
18 \$61,343,000.

19 “(v) For fiscal year 2011,
20 \$64,410,000.

21 “(vi) For fiscal year 2012,
22 \$67,631,000.

23 “(vii) For fiscal year 2013,
24 \$71,012,000.”;

1 (iv) in subparagraph (D), by striking
2 “\$18,500,000” and all that follows
3 through the period and inserting the fol-
4 lowing: “the following, as applicable:

5 “(i) For fiscal year 2010,
6 \$20,448,000.

7 “(ii) For fiscal year 2011,
8 \$21,470,000.

9 “(iii) For fiscal year 2012,
10 \$22,543,000.

11 “(iv) For fiscal year 2013,
12 \$23,671,000.”;

13 (v) in subparagraph (E), by striking
14 “\$8,500,000” and all that follows through
15 the period and inserting the following: “the
16 following, as applicable:

17 “(i) For fiscal year 2010, \$8,763,000.

18 “(ii) For fiscal year 2011,
19 \$9,201,000.

20 “(iii) For fiscal year 2012,
21 \$9,662,000.

22 “(iv) For fiscal year 2013,
23 \$10,144,000.”; and

24 (vi) by adding at the end the fol-
25 lowing:

1 “(g) SYNCHRONIZATION OF MINORITY AIDS INITIA-
2 TIVE.—For fiscal year 2010 and each subsequent fiscal
3 year, the Secretary shall incorporate and synchronize the
4 schedule of application submissions and funding avail-
5 ability under this section with the schedule of application
6 submissions and funding availability under the cor-
7 responding provisions of this title XXVI as follows:

8 “(1) The schedule for carrying out subsection
9 (b)(1)(A) shall be the same as the schedule applica-
10 ble to emergency assistance under part A.

11 “(2) The schedule for carrying out subsection
12 (b)(1)(B) shall be the same as the schedule applica-
13 ble to care grants under part B.

14 “(3) The schedule for carrying out subsection
15 (b)(1)(C) shall be the same as the schedule applica-
16 ble to grants for early intervention services under
17 part C.

18 “(4) The schedule for carrying out subsection
19 (b)(1)(D) shall be the same as the schedule applica-
20 ble to grants for services through projects for HIV-
21 related care under part D.

22 “(5) The schedule for carrying out subsection
23 (b)(1)(E) shall be the same as the schedule applica-
24 ble to grants and contracts for activities through
25 education and training centers under section 2692.”.

1 (3) HHS REPORT.—Not later than 6 months
2 after the publication of the Government Account-
3 ability Office Report on the Minority Aids Initiative
4 described in section 2686, the Secretary of Health
5 and Human Services shall submit to the appropriate
6 committees of Congress a Departmental plan for
7 using funding under section 2693 of the Public
8 Health Service Act (42 U.S.C. 300ff-93) in all rel-
9 evant agencies to build capacity, taking into consid-
10 eration the best practices included in such Report.

11 (g) GAO REPORT.—Section 2686 (42 U.S.C. 300ff-
12 86) is amended to read as follows:

13 **“SEC. 2686. GAO REPORT.**

14 “The Comptroller General of the Government Ac-
15 countability Office shall, not less than 1 year after the
16 date of enactment of the Ryan White HIV/AIDS Treat-
17 ment Extension Act of 2009, submit to the appropriate
18 committees of Congress a report describing Minority
19 AIDS Initiative activities across the Department of Health
20 and Human Services, including programs under this title
21 and programs at the Centers for Disease Control and Pre-
22 vention, the Substance Abuse and Mental Health Services
23 Administration, and other departmental agencies. Such re-
24 port shall include a history of program activities within
25 each relevant agency and a description of activities con-

1 ducted, people served and types of grantees funded, and
 2 shall collect and describe best practices in community out-
 3 reach and capacity-building of community based organiza-
 4 tions serving the communities that are disproportionately
 5 affected by HIV/AIDS.”.

6 **SEC. 3. EXTENDED EXEMPTION PERIOD FOR NAMES-BASED**
 7 **REPORTING.**

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

10 (1) in subparagraph (C)—

11 (A) in clause (ii)—

12 (i) in the matter preceding subclause
 13 (I), by striking “2009” and inserting
 14 “2012”; and

15 (ii) in subclause (II), by striking “or
 16 2009” and inserting “or a subsequent fis-
 17 cal year through fiscal year 2012”;

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

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

22 (D) in clause (vi)(II), by inserting after “5
 23 percent” the following: “for fiscal years before
 24 fiscal year 2012 (and 6 percent for fiscal year
 25 2012)”;

1 (E) in clause (ix)(II)—

2 (i) by striking “2010” and inserting
3 “2013”; and

4 (ii) by striking “2009” and inserting
5 “2012”; and

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

7 “(xi) FUTURE FISCAL YEARS.—For
8 fiscal years beginning with fiscal year
9 2013, determinations under this paragraph
10 shall be based only on living names-based
11 cases of HIV/AIDS with respect to the
12 area involved.”; and

13 (2) in subparagraph (D)—

14 (A) in clause (i)—

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

18 (ii) in subclause (II), by striking “and
19 2009” and inserting “through 2012”; and

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

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

24 (1) in subparagraph (D)—

25 (A) in clause (ii)—

1 (i) in the matter preceding subclause
2 (I), by striking “2009” and inserting
3 “2012”; and

4 (ii) in subclause (II), by striking “or
5 2009” and inserting “or a subsequent fis-
6 cal year through fiscal year 2012”;

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

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

11 (D) in clause (vi)(II), by inserting after “5
12 percent” the following: “for fiscal years before
13 fiscal year 2012 (and 6 percent for fiscal year
14 2012)”;

15 (E) in clause (viii)(II)—

16 (i) by striking “2010” and inserting
17 “2013”; and

18 (ii) by striking “2009” and inserting
19 “2012”; and

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

21 “(x) FUTURE FISCAL YEARS.—For
22 fiscal years beginning with fiscal year
23 2013, determinations under this paragraph
24 shall be based only on living names-based

1 cases of HIV/AIDS with respect to the
2 State involved.”; and

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

5 **SEC. 4. EXTENSION OF TRANSITIONAL GRANT AREA STA-**
6 **TUS.**

7 (a) **ELIGIBILITY.**—Section 2609 (42 U.S.C. 300ff–
8 19) is amended—

9 (1) in subsection (c)(1)—

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

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

14 (C) by striking “2006” and inserting
15 “2010”;

16 (2) in subsection (c)(2)—

17 (A) in subparagraph (A)(ii), by striking
18 “to have a” and inserting “subject to subpara-
19 graphs (B) and (C), to have a”;

20 (B) by redesignating subparagraph (B) as
21 subparagraph (C);

22 (C) by inserting after subparagraph (A)
23 the following:

24 “(B) **PERMITTING MARGIN OF ERROR AP-**
25 **PLICABLE TO CERTAIN METROPOLITAN**

1 AREAS.—In applying subparagraph (A)(ii) for a
2 fiscal year after fiscal year 2008, in the case of
3 a metropolitan area that has a cumulative total
4 of at least 1,400 (and fewer than 1,500) living
5 cases of AIDS as of December 31 of the most
6 recent calendar year for which such data is
7 available, such area shall be treated as having
8 met the criteria of such subparagraph if not
9 more than 5 percent of the total from grants
10 awarded to such area under this part is unobli-
11 gated as of the end of the most recent fiscal
12 year for which such data is available.”; and

13 (D) in subparagraph (C), as so redesign-
14 ated, by striking “Subparagraph (A) does not
15 apply” and inserting “Subparagraphs (A) and
16 (B) do not apply”; and

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

19 (b) TRANSFER OF AMOUNTS DUE TO CHANGE IN
20 STATUS AS TRANSITIONAL AREA.—Subparagraph (B) of
21 section 2610(c)(2) (42 U.S.C. 300ff–20(c)(2)) is amend-
22 ed—

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

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

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

4 “(ii) for each of fiscal years 2010 through
5 2013, notwithstanding subsection (a)—

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

12 “(aa) for the first fiscal year of
13 the metropolitan area not being a
14 transitional area, 75 percent of the
15 amount described in subparagraph
16 (A)(i) for such area;

17 “(bb) for the second fiscal year
18 of the metropolitan area not being a
19 transitional area, 50 percent of such
20 amount; and

21 “(cc) for the third fiscal year of
22 the metropolitan area not being a
23 transitional area, 25 percent of such
24 amount; and

1 “(II) there shall be transferred and
2 made available for grants pursuant to sec-
3 tion 2618(a)(1) for the fiscal year, in addi-
4 tion to amounts available for such grants
5 under section 2623, an amount equal to
6 the total amount of the reduction for such
7 fiscal year under subparagraph (A), less
8 the amount transferred for such fiscal year
9 under subclause (I).”.

10 **SEC. 5. HOLD HARMLESS.**

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

13 (1) in the matter preceding clause (i) in sub-
14 paragraph (A)—

15 (A) by striking “2006” and inserting
16 “2009”; and

17 (B) by striking “2007 through 2009” and
18 inserting “2010 through 2013”;

19 (2) by striking clauses (i) and (ii) in subpara-
20 graph (A) and inserting the following:

21 “(i) For fiscal year 2010, an amount
22 equal to 95 percent of the sum of the
23 amount of the grant made pursuant to
24 paragraph (3) and this paragraph for fis-
25 cal year 2009.

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

6 “(iii) For fiscal year 2013, an amount
7 equal to 92.5 percent of the amount of the
8 grant made pursuant to paragraph (3) and
9 this paragraph for fiscal year 2012.”; and
10 (3) in subparagraph (C), by striking “2009”
11 and inserting “2013”.

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

14 (1) in clause (i)(I)—

15 (A) by striking “2007” and inserting
16 “2010”; and

17 (B) by striking “2006” and inserting
18 “2009”;

19 (2) by striking clause (ii) and redesignating
20 clause (iii) as clause (ii);

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

22 (A) in the heading, by striking “2008 AND
23 2009” and inserting “2011 AND 2012”;

24 (B) by striking “2008 and 2009” and in-
25 serting “2011 and 2012”; and

1 (C) by striking “2007” and inserting
2 “2010”;

3 (4) by inserting after clause (ii), as so redesignated, the following new clause:

5 “(iii) FISCAL YEAR 2013.—For fiscal
6 year 2013, the Secretary shall ensure that
7 the total for a State of the grant pursuant
8 to paragraph (1) and the grant pursuant
9 to subparagraph (F) is not less than 92.5
10 percent of such total for the State for fiscal
11 year 2012.”; and

12 (5) in clause (v), by striking “2009” and inserting
13 “2013”.

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

16 (1) in subparagraphs (A)(i) and (H) of section
17 2618(a)(2), by striking the term “subparagraph
18 (G)” each place it appears and inserting “subpara-
19 graph (F)”;

20 (2) in sections 2620(a)(2), 2622(c)(1), and
21 2622(c)(4)(A), by striking “2618(a)(2)(G)(i)” and
22 inserting “2618(a)(2)(F)(i)”;

23 (3) in sections 2622(a) and 2623(b)(2)(A), by
24 striking “2618(a)(2)(G)” and inserting
25 “2618(a)(2)(F)”;

1 (4) in section 2622(b), by striking
 2 “2618(a)(2)(G)(ii)” and inserting
 3 “2618(a)(2)(F)(ii)”.

4 **SEC. 6. AMENDMENTS TO THE GENERAL GRANT PROVI-**
 5 **SIONS.**

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

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

13 (2) in subparagraph (B)—

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

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

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

19 “‘(iii) individuals with HIV/AIDS who
 20 do not know their HIV status;’”; and

21 (3) in subparagraph (D)—

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

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

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

2 “(iv) includes a strategy, coordinated
3 as appropriate with other community strat-
4 egies and efforts, including discrete goals,
5 a timetable, and appropriate funding, for
6 identifying individuals with HIV/AIDS who
7 do not know their HIV status, making
8 such individuals aware of such status, and
9 enabling such individuals to use the health
10 and support services described in section
11 2604, with particular attention to reducing
12 barriers to routine testing and disparities
13 in access and services among affected sub-
14 populations and historically underserved
15 communities;”.

16 (b) TYPE AND DISTRIBUTION OF GRANTS.—Section
17 2603(b) (42 U.S.C. 300ff-13(b)) is amended—

18 (1) in paragraph (1)—

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

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

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

24 “(I) demonstrates success in identifying in-
25 dividuals with HIV/AIDS as described in

1 clauses (i) through (iii) of paragraph (2)(A).”;
2 and

3 (2) in paragraph (2)(A), by striking the period
4 and inserting: “, and demonstrated success in identi-
5 fying individuals with HIV/AIDS who do not know
6 their HIV status and making them aware of such
7 status counting one-third. In making such deter-
8 mination, the Secretary shall consider—

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

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

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

19 (c) APPLICATION.—Section 2605(b)(1) (42 U.S.C.
20 300ff-15(b)(1)) is amended by inserting “, including the
21 identification of individuals with HIV/AIDS as described
22 in clauses (i) through (iii) of section 2603(b)(2)(A)” be-
23 fore the semicolon at the end.

1 **SEC. 7. INCREASE IN ADJUSTMENT FOR NAMES-BASED RE-**
2 **PORTING.**

3 (a) PART A GRANTS.—

4 (1) FORMULA GRANTS.—Section
5 2603(a)(3)(C)(vi) (42 U.S.C. 300ff-13(a)(3)(C)(vi))
6 is amended by adding at the end the following:

7 “(III) INCREASED ADJUSTMENT
8 FOR CERTAIN AREAS PREVIOUSLY
9 USING CODE-BASED REPORTING.—For
10 purposes of this subparagraph for
11 each of fiscal years 2010 through
12 2012, the Secretary shall deem the
13 applicable number of living cases of
14 HIV/AIDS in an area that were re-
15 ported to and confirmed by the Cen-
16 ters for Disease Control and Preven-
17 tion to be 3 percent higher than the
18 actual number if—

19 “(aa) for fiscal year 2007,
20 such area was a transitional
21 area;

22 “(bb) fiscal year 2007 was
23 the first year in which the count
24 of living non-AIDS cases of HIV
25 in such area, for purposes of this

1 section, was based on a names-
2 based reporting system; and

3 “(cc) the amount of funding
4 that such area received under
5 this part for fiscal year 2007 was
6 less than 70 percent of the
7 amount of funding (exclusive of
8 funds that were identified as
9 being for purposes of the Minor-
10 ity AIDS Initiative) that such
11 area received under such part for
12 fiscal year 2006.”.

13 (2) SUPPLEMENTAL GRANTS.—Section
14 2603(b)(2) (42 U.S.C. 300ff-13(b)(2)) is amended
15 by adding at the end the following:

16 “(D) INCREASED ADJUSTMENT FOR CER-
17 TAIN AREAS PREVIOUSLY USING CODE-BASED
18 REPORTING.—For purposes of this subsection
19 for each of fiscal years 2010 through 2012, the
20 Secretary shall deem the applicable number of
21 living cases of HIV/AIDS in an area that were
22 reported to and confirmed by the Centers for
23 Disease Control and Prevention to be 3 percent
24 higher than the actual number if the conditions

1 described in items (aa) through (cc) of sub-
2 section (a)(3)(C)(vi)(III) are all satisfied.”.

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

6 “(III) INCREASED ADJUSTMENT
7 FOR CERTAIN STATES PREVIOUSLY
8 USING CODE-BASED REPORTING.—For
9 purposes of this subparagraph for
10 each of fiscal years 2010 through
11 2012, the Secretary shall deem the
12 applicable number of living cases of
13 HIV/AIDS in a State that were re-
14 ported to and confirmed by the Cen-
15 ters for Disease Control and Preven-
16 tion to be 3 percent higher than the
17 actual number if—

18 “(aa) there is an area in
19 such State that satisfies all of
20 the conditions described in items
21 (aa) through (cc) of section
22 2603(a)(3)(C)(vi)(III); or

23 “(bb)(AA) fiscal year 2007
24 was the first year in which the
25 count of living non-AIDS cases of

1 HIV in such area, for purposes
2 of this part, was based on a
3 names-based reporting system;
4 and

5 “(BB) the amount of fund-
6 ing that such State received
7 under this part for fiscal year
8 2007 was less than 70 percent of
9 the amount of funding that such
10 State received under such part
11 for fiscal year 2006.”.

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

13 (a) ELIGIBILITY FOR SUPPLEMENTAL GRANTS.—
14 Title XXVI (42 U.S.C. 300ff–11 et seq.) is amended—

15 (1) in section 2603(b)(1)(H) (42 U.S.C. 300ff–
16 13(b)(1)(H)), by striking “2 percent” and inserting
17 “5 percent”; and

18 (2) in section 2620(a)(2) (42 U.S.C. 300ff–
19 29a(a)(2)), by striking “2 percent” and inserting “5
20 percent”.

21 (b) CORRESPONDING REDUCTION IN FUTURE
22 GRANT.—

23 (1) IN GENERAL.—Title XXVI (42 U.S.C.
24 300ff–11 et seq.) is amended—

1 (A) in section 2603(c)(3)(D)(i)(42 U.S.C.
2 300ff–13(c)(3)(D)(i)), in the matter following
3 subclause (II), by striking “2 percent” and in-
4 serting “5 percent”; and

5 (B) in 2622(c)(4)(A) (42 U.S.C. 300ff–
6 31a(c)(A)), in the matter following clause (ii),
7 by striking “2 percent” and inserting “5 per-
8 cent”.

9 (2) AUTHORITY REGARDING ADMINISTRATION
10 OF PROVISION.—Title XXVI (42 U.S.C. 300ff–11 et
11 seq.) is amended—

12 (A) in section 2603(c) (42 U.S.C. 300ff–
13 13(c), by adding at the end the following:

14 “(4) AUTHORITY REGARDING ADMINISTRATION
15 OF PROVISIONS.—In administering paragraphs (2)
16 and (3) with respect to the unobligated balance of
17 an eligible area, the Secretary may elect to reduce
18 the amount of future grants to the area under sub-
19 section (a) or (b), as applicable, by the amount of
20 any such unobligated balance in lieu of cancelling
21 such amount as provided for in paragraph (2) or
22 (3)(A). In such case, the Secretary may permit the
23 area to use such unobligated balance for purposes of
24 any such future grant. An amount equal to such re-
25 duction shall be available for use as additional

1 amounts for grants pursuant to subsection (b), sub-
2 ject to subsection (a)(4) and section 2610(d)(2).
3 Nothing in this paragraph shall be construed to af-
4 fect the authority of the Secretary under paragraphs
5 (2) and (3), including the authority to grant waivers
6 under paragraph (3)(A). The reduction in future
7 grants authorized under this paragraph shall be not-
8 withstanding the penalty required under paragraph
9 (3)(D) with respect to unobligated funds.”;

10 (B) in section 2622 (42 U.S.C. 300ff-31a),
11 by adding at the end the following:

12 “(e) AUTHORITY REGARDING ADMINISTRATION OF
13 PROVISIONS.—In administering subsections (b) and (c)
14 with respect to the unobligated balance of a State, the Sec-
15 retary may elect to reduce the amount of future grants
16 to the State under section 2618, 2620, or 2621, as appli-
17 cable, by the amount of any such unobligated balance in
18 lieu of cancelling such amount as provided for in sub-
19 section (b) or (c)(1). In such case, the Secretary may per-
20 mit the State to use such unobligated balance for purposes
21 of any such future grant. An amount equal to such reduc-
22 tion shall be available for use as additional amounts for
23 grants pursuant to section 2620, subject to section
24 2618(a)(2)(H). Nothing in this paragraph shall be con-
25 strued to affect the authority of the Secretary under sub-

1 sections (b) and (c), including the authority to grant waiv-
 2 ers under subsection (c)(1). The reduction in future
 3 grants authorized under this subsection shall be notwith-
 4 standing the penalty required under subsection (c)(4) with
 5 respect to unobligated funds.”;

6 (C) in section 2603(b)(1)(H) (42 U.S.C.
 7 300ff-13(b)(1)(H)), by striking “canceled” and
 8 inserting “canceled, offset under subsection
 9 (c)(4),”; and

10 (D) in section 2620(a)(2) (42 U.S.C.
 11 300ff-29a(a)(2)), by striking “canceled” and in-
 12 sserting “canceled, offset under section
 13 2622(e),”.

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

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

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

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

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

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

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

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

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

11 “(8) a comprehensive plan—

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

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

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

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

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

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

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

7 (a) USE OF UNOBLIGATED FUNDS.—Section 2622(d)
8 (42 U.S.C. 300ff-31a(d)) is amended by adding at the end
9 the following: “If an expenditure of ADAP rebate funds
10 would trigger a penalty under this section or a higher pen-
11 alty than would otherwise have applied, the State may re-
12 quest that for purposes of this section, the Secretary deem
13 the State’s unobligated balance to be reduced by the
14 amount of rebate funds in the proposed expenditure. Not-
15 withstanding 2618(a)(2)(F), any unobligated amount
16 under section 2618(a)(2)(F)(ii)(V) that is returned to the
17 Secretary for reallocation shall be used by the Secretary
18 for—

19 “(1) the ADAP supplemental program if the
20 Secretary determines appropriate; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 “(3) the number of individuals who—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 “(4) INSUFFICIENT INFORMATION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

13 “(2) FINDINGS OF EVALUATION.—

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

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

23 “(ii) the medical facility shall provide
24 to the designated officer the applicable re-
25 sponse specified in subsection (d).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **“SEC. 2695G. MISCELLANEOUS PROVISIONS.**

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

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

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

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

23 “(e) NOTIFICATION AND REPORTING DEADLINES.—
24 In any case in which the Secretary determines that, wholly
25 or partially as a result of a public health emergency that
26 has been determined pursuant to section 319(a), individ-

1 uals or public or private entities are unable to comply with
2 the requirements of this part, the Secretary may, notwith-
3 standing any other provision of law, temporarily suspend,
4 in whole or in part, the requirements of this part as the
5 circumstances reasonably require. Before or promptly
6 after such a suspension, the Secretary shall notify the
7 Congress of such action and publish in the Federal Reg-
8 ister a notice of the suspension.

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

13 **“SEC. 2695H. INJUNCTIONS REGARDING VIOLATION OF**
14 **PROHIBITION.**

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

19 “(b) FACILITATION OF INFORMATION ON VIOLA-
20 TIONS.—The Secretary shall establish an administrative
21 process for encouraging emergency response employees to
22 provide information to the Secretary regarding violations
23 of this subpart. As appropriate, the Secretary shall inves-
24 tigate alleged such violations and seek appropriate injunc-
25 tive relief.

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

2 “**This subpart shall not apply in a State if the chief**
3 **executive officer of the State certifies to the Secretary that**
4 **the law of the State is substantially consistent with this**
5 **subpart.”.**

Calendar No. 182

111TH CONGRESS
1ST Session

S. 1793

A BILL

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.

OCTOBER 15, 2009

Read twice and placed on the calendar