

111TH CONGRESS
1ST SESSION

H. R. _____

To amend title XXVI of the Public Health Service Act to extend the program for providing life-saving care for those with HIV/AIDS, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend title XXVI of the Public Health Service Act to extend the program for providing life-saving care for those with HIV/AIDS, and for other purposes.

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 subtitle may be cited as
5 the “Ryan White CARE Act Amendments of 2009”.

6 (b) **REFERENCES.**—Except as otherwise specified,
7 whenever in this division an amendment is expressed in
8 terms of an amendment to a section or other provision,
9 the reference shall be considered to be made to a section

1 or other provision of the Public Health Service Act (42
2 U.S.C. 201 et seq.).

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

5 (a) PART A GRANTS.—Section 2610(a) (42 U.S.C.
6 300ff–20(a)) is amended by striking “and \$649,500,000
7 for fiscal year 2009” and inserting “\$649,500,000 for fis-
8 cal year 2009, and such sums as are necessary for each
9 of the fiscal years 2010 through 2012”.

10 (b) PART B GRANTS.—Section 2623(a) (42 U.S.C.
11 300ff–32(a)) is amended by striking “and \$1,285,200,000
12 for fiscal year 2009” and inserting “\$1,285,200,000 for
13 fiscal year 2009, and such sums as are necessary for each
14 of the fiscal years 2010 through 2012”.

15 (c) PART C GRANTS.—Section 2655 (42 U.S.C.
16 300ff–55) is amended by striking “and \$235,100,000 for
17 fiscal year 2009” and inserting “\$235,100,000 for fiscal
18 year 2009, and such sums as are necessary for each of
19 the fiscal years 2010 through 2012”.

20 (d) PART D GRANTS.—Section 2671(i) (42 U.S.C.
21 300ff–71(i)) is amended—

22 (1) by striking “is authorized” and inserting
23 “are authorized”; and

1 (2) by inserting before the period at the end
2 “and such sums as are necessary for each of the fis-
3 cal years 2010 through 2012”.

4 (e) DEMONSTRATION AND TRAINING GRANTS UNDER
5 PART F.—

6 (1) HIV/AIDS COMMUNITIES, SCHOOLS, AND
7 CENTERS.—Section 2692(e) (42 U.S.C. 300ff–
8 111(c)) is amended—

9 (A) in paragraph (1)—

10 (i) by striking “is authorized” and in-
11 serting “are authorized”; and

12 (ii) by inserting before the period at
13 the end “and such sums as are necessary
14 for each of the fiscal years 2010 through
15 2012” ; and

16 (B) in paragraph (2)—

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

19 (ii) by inserting before the period at
20 the end “and such sums as are necessary
21 for each of the fiscal years 2010 through
22 2012”.

23 (2) MINORITY AIDS INITIATIVE.—Section 2693
24 (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, and
4 such sums as are necessary for each of the fis-
5 cal years 2010 through 2012”; and

6 (B) in subsection (b)(2)—

7 (i) in subparagraph (D), by striking
8 “2009” and inserting “2012”; and

9 (ii) in subparagraph (E), by striking
10 “2009” and inserting “2012”.

11 (f) **ELIMINATION OF SUNSET PROVISION.**—The Ryan
12 White HIV/AIDS Treatment Modernization Act of 2006
13 (Public Law 109–415; 120 Stat. 2767) is amended by
14 striking section 703.

15 **SEC. 3. EXTENDED EXEMPTION PERIOD FOR NAMES-BASED**
16 **REPORTING.**

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

19 (1) in subparagraph (C)—

20 (A) in clause (ii)—

21 (i) in the matter preceding subclause
22 (I), by striking “2009” and inserting
23 “2012”; and

1 (ii) in subclause (II), by striking “or
2 2009” and inserting “or a subsequent fis-
3 cal year (before fiscal year 2013)”;

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

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

8 (D) in clause (ix)(II)—

9 (i) by striking “2010” and inserting
10 “2013”; and

11 (ii) by striking “2009” and inserting
12 “2012”; 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 (before fiscal year 2013)”;

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”; and

11 (D) in clause (viii)(II)—

12 (i) by striking “2010” and inserting
13 “2013”; and

14 (ii) by striking “2009” and inserting
15 “2012”; and

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

18 **SEC. 4. EXTENSION OF TRANSITIONAL GRANT AREA STA-**

19 **TUS.**

20 Section 2609 (42 U.S.C. 300ff–19) is amended—

21 (1) in subsection (c)(1)—

22 (A) in the heading, by striking “2007” and
23 inserting “2010”; and

24 (B) by striking “2007” each place it ap-
25 pears and inserting “2010”; and

1 (C) by striking “2006” and inserting
2 “2009”;

3 (2) in subsection (c)(2)—

4 (A) by redesignating subparagraph (B) as
5 subparagraph (C);

6 (B) by inserting after subparagraph (A)
7 the following:

8 “(B) CERTAIN METROPOLITAN AREAS.—
9 Notwithstanding subsection (b), a metropolitan
10 area shall continue to be considered a transi-
11 tional area for each of fiscal years 2010, 2011,
12 and 2012 if the metropolitan area received
13 funding as a transitional area for fiscal year
14 2009.”; and

15 (C) in subparagraph (C), as so redesi-
16 gnated, by striking “Subparagraph (A) does not
17 apply” and inserting “Subparagraphs (A) and
18 (B) do not apply”;

19 (3) in subsection (d)(1)(B), strike “2009” and
20 insert “2012”; and

21 (4) in subsection (d)(2)—

22 (A) by striking subparagraph (B); and

23 (B) by redesignating subparagraph (C) as
24 subparagraph (B).

1 **SEC. 5. HOLD HARMLESS.**

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

4 (1) in the matter preceding clause (i) in sub-
5 paragraph (A)—

6 (A) by striking “2006” and inserting
7 “2009”; and

8 (B) by striking “2007 through 2009” and
9 inserting “2010 through 2012”;

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

12 “(i) For fiscal year 2010, an amount
13 equal to 95 percent of the sum of—

14 “(I) the amount of the grant
15 made pursuant to paragraph (3) and
16 this paragraph for fiscal year 2009;
17 plus

18 “(II) the amount made available
19 to the area under the 10th proviso
20 under the heading ‘Health Resources
21 and Services Administration—Health
22 Resources and Services’ in title II of
23 division F of the Omnibus Appropria-
24 tions Act, 2009 (Public Law 111–8;
25 123 Stat. 524, 764).

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.”; and

6 (3) in subparagraph (C), by striking “2009”
7 and inserting “2012”.

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

10 (1) in clause (i)(I)—

11 (A) by striking “2007” and inserting
12 “2010”; and

13 (B) by striking “2006” and inserting
14 “2009”;

15 (2) by striking clause (ii);

16 (3) in clause (iii)—

17 (A) in the heading, by striking “2008 AND
18 2009” and inserting “2011 AND 2012”;

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

21 (C) by striking “2007” and inserting
22 “2010”; and

23 (4) in clause (v), by striking “2009” and insert-
24 ing “2012”.

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

3 (1) in subparagraphs (A)(i), (H)(i), (H)(ii), and
4 (H)(iii) of section 2618(a)(2), by striking the term
5 “subparagraph (G)” each place it appears and in-
6 serting “subparagraph (F)”;

7 (2) in sections 2620(a)(2), 2622(c)(1), and
8 2622(c)(4), by striking “2618(a)(2)(G)(i)” and in-
9 serting “2618(a)(2)(F)(i)”;

10 (3) in sections 2622(a) and 2623(b)(2)(A), by
11 striking “2618(a)(2)(G)” and inserting
12 “2618(a)(2)(F)”;

13 (4) in section 2622(b), by striking
14 “2618(a)(2)(G)(ii)” and inserting
15 “2618(a)(2)(F)(ii)”.

16 **SEC. 6. ADAP REBATE FUNDS.**

17 (a) TREATMENT OF DRUG REBATES.—Section
18 2622(d) of the Public Health Service Act (42 U.S.C.
19 300ff–31a) is amended to read as follows:

20 “(d) TREATMENT OF DRUG REBATES.—

21 “(1) IN GENERAL.—For purposes of this sub-
22 part—

23 “(A) funds that are drug rebates received
24 on drugs purchased from funds provided pursu-

1 ant to section 2616 and applied to activities
2 supported under this subpart—

3 “(i) may not be considered part of
4 any grant award referred to in subsection
5 (a); and

6 “(ii) may not be required to be obli-
7 gated or expended before the end of the
8 year in which such funds are received if
9 such requirement would result in a penalty
10 under this section; and

11 “(B) no funds under this subpart may be
12 withheld, cancelled, or required to be returned
13 based on the failure of a State to obligate or ex-
14 pend funds described in subparagraph (A) by
15 the end of the year in which such funds are re-
16 ceived.

17 “(2) CERTIFICATION BY GRANTEES.—The Sec-
18 retary, in consultation with grantees under this sub-
19 part, shall develop a process under which such
20 grantees—

21 “(A) certify that any drug rebate described
22 in section 2616(g) is used in accordance with
23 such section; and

24 “(B) describe the activities for which the
25 drug rebate is used.”.

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

4 **SEC. 7. TREATMENT OF UNOBLIGATED FUNDS.**

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

7 (1) in section 2603(b)(1)(H) (42 U.S.C. 300ff–
8 13(b)(1)(H)), by striking “2 percent” and inserting
9 “5 percent”; and

10 (2) in section 2620(a)(2) (42 U.S.C. 300ff–
11 29a(a)(2)), by striking “2 percent” and inserting “5
12 percent”.

13 (b) ELIMINATION OF CORRESPONDING REDUCTION
14 IN FUTURE GRANT.—Title XXVI (42 U.S.C. 300ff–11 et
15 seq.) is amended—

16 (1) by striking subparagraph (D) of section
17 2603(e)(3) (42 U.S.C. 300ff–13(e)(3)); and

18 (2) by striking paragraph (4) of section 2622(c)
19 (42 U.S.C. 300ff–31a(c)).

20 **SEC. 8. APPLICATION TO PRIMARY CARE SERVICES .**

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

23 (1) by redesignating subsection (i) as subsection
24 (j);

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

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

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

11 (b) PROVISION OF CARE THROUGH MEMORANDUM
12 OF UNDERSTANDING.—Section 2671(a) (42 U.S.C.
13 300ff–71(a)) is amended by striking “contracts” and in-
14 serting “contracts or memoranda of understanding”.

15 **SEC. 9. GAO REPORT.**

16 Section 2686 (42 U.S.C. 300ff–86) is amended to
17 read as follows:

18 **“SEC. 2686. GAO REPORT.**

19 “The Comptroller General of the United States, in
20 consultation with the appropriate committees of Congress,
21 shall periodically report on activities carried out under
22 subpart III of part F.”.

1 **SEC. 10. SEVERITY OF NEED INDEX AND CLIENT-LEVEL**
2 **DATA.**

3 (a) USE OF SEVERITY OF NEED INDEX.—Section
4 2687 (42 U.S.C. 300ff–87) is amended by adding at the
5 end the following:

6 “(e) USE OF SEVERITY OF NEED INDEX.—During
7 the period beginning on the date of the enactment of this
8 subsection and ending on December 31, 2012, the Sec-
9 retary may not use the severity of need index or client-
10 level data to adjust the distribution of funds under part
11 A or B of this title.”.