

**A COMPILATION OF THE RYAN WHITE CARE ACT OF  
1990, AS AMENDED BY THE RYAN WHITE CARE ACT  
AMENDMENTS OF 1996** [Pub. L. 104-146]

Prepared by: Division of HIV Services, BHRD, HRSA, 5/31/96

Text: Original Language

**Text: New Language**

SECTION 1. SHORT TITLE.

This Act may be cited as the “Ryan White **CARE Act Amendments of 1996.**”

SEC. 2. PURPOSE

It is the purpose of this Act to provide emergency assistance to localities that are disproportionately affected by the Human Immunodeficiency Virus epidemic and to make financial assistance available to States and other public or private nonprofit entities to provide for the development, organization, coordination and operation of more effective and cost efficient systems for the delivery of essential services to individuals and families with HIV disease.

TITLE I--HIV EMERGENCY RELIEF GRANT PROGRAM

SEC. 101. HIV EMERGENCY RELIEF GRANT PROGRAM.

The Public Health Service Act is amended--

- (1) by redesignating title XXVI as title XXVII;
- (2) by redesignating sections 2601 through 2614 as sections 2701 through 2714, respectively; and
- (3) by inserting after title XXV (42 U.S.C. 300ee et seq.) the following new title:

“TITLE XXVI--HIV HEALTH CARE SERVICES PROGRAM

“PART A--EMERGENCY RELIEF FOR AREAS WITH SUBSTANTIAL NEED FOR SERVICES

“SEC. 2601. ESTABLISHMENT OF PROGRAM OF GRANTS.

“(a) **ELIGIBLE AREAS.**--The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall, **subject to subsection (b) through (d)**, make grants in accordance with section 2603 for the purpose of assisting in the provision of the services specified in **section 2604 in any metropolitan area for**

**which there has been reported to the Director of the Center for Disease Control and Prevention a cumulative total of more than 2,000 cases of acquired immune deficiency syndrome for the most recent period of 5 calendar years for which such data are available.**

“(b) **REQUIREMENT REGARDING CONFIRMATION OF CASES.**--The Secretary may not make a grant under subsection (a) for a metropolitan area unless, before making any payments under the grant, the cases of acquired immune deficiency syndrome reported for purposes of such subsection have been confirmed by the Secretary, acting through the Director of the Centers for Disease Control.

“(c) **REQUIREMENTS REGARDING POPULATION.**--

“(1) **NUMBER OF INDIVIDUALS.**--

“(A) **IN GENERAL.**--Except as provided in subparagraph (B), the Secretary may not make a grant under this section for a metropolitan area unless the area has a population of 500,000 or more individuals.

“(B) **LIMITATION.**--Subparagraph (A) does not apply to any metropolitan area that was an eligible area under this part for fiscal year 1995 or any prior fiscal year.

“(2) **GEOGRAPHIC BOUNDARIES.** -- For purposes of eligibility under this part, the boundaries of each metropolitan area are the boundaries that were in effect for the area for fiscal year 1994.

“(d) **CONTINUED STATUS AS ELIGIBLE AREA.**--Notwithstanding any other provision of this section, a metropolitan area that was an eligible area under this part for fiscal year 1996 is an eligible area for fiscal year 1997 and each subsequent fiscal year.

“SEC. 2602. ADMINISTRATION AND PLANNING COUNCIL.

“(a) **ADMINISTRATION.**--

“(1) **IN GENERAL.**--Assistance made available under grants awarded under this part shall be directed to the chief elected official of the city or urban county that administers the public health agency that provides outpatient and ambulatory services to the greatest number of individuals with AIDS, as reported to and confirmed by the Centers for Disease Control, in the eligible area that is awarded such a grant.

“(2) **REQUIREMENTS.**--

“(A) **IN GENERAL.**--To receive assistance under section 2601(a), the chief elected official of the eligible area involved shall--

“(i) establish, through intergovernmental agreements with the chief elected officials of the political subdivisions described in subparagraph (B), an administrative mechanism to allocate funds and services based on--

“(I) the number of AIDS cases in such subdivisions;

“(II) the severity of need for outpatient and ambulatory care services in such subdivisions; and

“(III) the health and support services personnel needs of such subdivisions; and

“(ii) establish an HIV health services planning council in accordance with subsection (b).

“(B) LOCAL POLITICAL SUBDIVISION.--The political subdivisions referred to in subparagraph (A) are those political subdivisions in the eligible area--

“(i) that provide HIV-related health services; and

“(ii) for which the number of cases reported for purposes of section 2601(a) constitutes not less than 10 percent of the number of such cases reported for the eligible area.

“(b) HIV HEALTH SERVICES PLANNING COUNCIL.--

“(1) ESTABLISHMENT.--To be eligible for assistance under this part, the chief elected official described in subsection (a)(1) shall establish or designate an HIV health services planning council that shall **reflect in its composition the demographics of the epidemic in the eligible area involved, with particular consideration given to disproportionately affected and historically underserved groups and subpopulations. Nominations for membership on the council shall be identified through an open process and candidates shall be selected based on locally delineated and publicized criteria. Such criteria shall include a conflict-of-interest standard for that is in accordance with paragraph (5).**

“(2) REPRESENTATION.--The HIV health services planning council shall include representatives of--

“(A) health care providers **including federally qualified health centers;**

“(B) community-based organizations **servicing affected populations** and AIDS service organizations;

“(C) social service providers;

“(D) mental health **and substance abuse** providers;

“(E) local public health agencies;

“(F) hospital planning agencies or health care planning agencies;

“(G) affected communities, including **people with HIV disease or AIDS and historically underserved groups and subpopulations;**

“(H) non-elected community leaders;

“(I) State government (**including the State Medicaid agency and the**

**agency administering the program under part B**);

“(J) grantees under subpart II of part C; and

“(K) **grantees under section 2671, or, if none are operating in the area, representatives of organizations with a history of serving children, youth, and families living with HIV and operating in the area; and**

“(L) **grantees under other Federal HIV programs.**“

“(3) METHOD OF PROVIDING FOR COUNCIL.--

“(A) IN GENERAL.--In providing for a council for purposes of paragraph (1), a chief elected official receiving a grant under section 2601(a) may establish the council directly or designate an existing entity to serve as the council, subject to subparagraph (B).

“(B) CONSIDERATION REGARDING DESIGNATION OF COUNCIL.--In making a determination of whether to establish or designate a council under subparagraph (A), a chief elected official receiving a grant under section 2601(a) shall give priority to the designation of an existing entity that has demonstrated experience in planning for the HIV health care service needs within the eligible area and in the implementation of such plans in addressing those needs. Any existing entity so designated shall be expanded to include a broad representation of the full range of entities that provide such services within the geographic area to be served.

“(C) **CHAIRPERSON--A planning council may not be chaired solely by an employee of the grantee.**

“(4) DUTIES.--The planning council established or designated under paragraph (1) shall--

“(A) establish priorities for the allocation of funds within the eligible area, **including how best to meet each such priority and additional factors that the grantee should consider in allocating funds under a grant based on the --**

(i) **documented needs of the HIV-infected population;**

(ii) **cost and outcome effectiveness of proposed strategies and interventions, to the extent that such data are reasonably available (either demonstrated or probable);**

“(iii) **priorities of the HIV-infected communities for whom the services are intended; and**

“(iv) **availability of other governmental and non-governmental resources;**“

“(B) develop a comprehensive plan for the organization and delivery of

health services described in section 2604 that is compatible with any existing State or local plan regarding the provision of health services to individuals with HIV disease;

“(C) assess the efficiency of the administrative mechanism in rapidly allocating funds to the areas of greatest need within the eligible area and, at the discretion of the planning council, assess the effectiveness, either directly or through contractual arrangements, of the services offered in meeting the identified needs;“

“(D) participate in the development of the Statewide coordinated statement of need initiated by the State public health agency responsible for administering grants under Part B;

“(E) establish methods for obtaining input on community needs and priorities which may include public meetings, conducting focus groups, and convening ad-hoc panels.“

“(5) CONFLICTS OF INTEREST.--

“(A) IN GENERAL.-- The planning council under paragraph (1) may not be directly involved in the administration of a grant under section 2601(a). With respect to compliance with the preceding sentence, the planning council may not designate (or otherwise be involved in the selection of) particular entities as recipients of any amounts provided in the grant.

“(B) REQUIRED AGREEMENTS.--An individual may serve on the planning council under paragraph (1) only if the individual agrees that if the individual has a financial interest in an entity, if the individual is an employee of a public or private entity, or if the individual is a member of a public or private organization, and such entity or organization is seeking amounts from a grant under section 2601(a), the individual will not, with respect to the purpose for which the entity seeks such amounts, participate (directly or in an advisory capacity) in the process of selecting entities to receive such amounts for such purpose.

(6) GRIEVANCE PROCEDURES.--A planning council under paragraph (1) shall develop procedures for addressing grievances with respect to funding under this part, including procedures for submitting grievances that cannot be resolved to binding arbitration. Such procedures shall be described in the by-laws of the planning council and be consistent with the requirements of subsection (c).

“(c) GRIEVANCE PROCEDURES.--

“(1) FEDERAL RESPONSIBILITY.--

“(A) MODELS.--The Secretary shall, through a process that includes consultations with grantees under this part and public and private experts in grievance procedures, arbitration, and mediation, develop model grievance procedures that may be implemented by the planning council under subsection (b)(1) and grantees under this part. Such model procedures shall describe the elements that must be addressed in establishing local grievance procedures and provide grantees with flexibility in the design of such local procedures.

“(B) REVIEW.--The Secretary shall review grievance procedures established by the planning council and grantees under this part to determine if such procedures are adequate. In making such a determination, the Secretary shall assess whether such procedures permit legitimate grievances to be filed, evaluated, and resolved at the local level.

“(2) GRANTEES.--To be eligible to receive funds under this part, a grantee shall develop grievance procedures that are determined by the Secretary to be consistent with the model procedures developed under paragraph (1)(A). Such procedures shall include a process for submitting grievances to binding arbitration.“

“SEC. 2603. TYPE AND DISTRIBUTION OF GRANTS.

“(a) GRANTS BASED ON RELATIVE NEED OF AREA.--

“(1) IN GENERAL.--In carrying out section 2601(a), the Secretary shall make a grant for each eligible area for which an application under section 2605(a) has been approved. Each such grant shall be made in an amount determined in accordance with paragraph (3).

“(2) EXPEDITED DISTRIBUTION.--Not later than 60 days after an appropriation becomes available to carry out this part for each of the fiscal years 1996 through 2000, the Secretary shall, except in the case of waivers granted under section 2605(c), disburse 50 percent of the amount appropriated under section 2677 for such fiscal year through grants to eligible areas under section 2601(a), in accordance with paragraph (3). The Secretary shall reserve an additional percentage of the amount appropriated under section 2677 for a fiscal year for grants under part A to make grants to eligible areas under section 2601(a) in accordance with paragraph (4).

“(3) AMOUNT OF GRANT.--

“(A) IN GENERAL.--Subject to the extent of amounts made

available in appropriations Acts, a grant made for purposes of this paragraph to an eligible area shall be made in an amount equal to the product of--

“(i) and an amount equal to the amount available for distribution under paragraph (2) for the fiscal year involved; and

“(ii) the percentage constituted by the ratio of the distribution factor for the eligible area to the sum of the respective distribution factors for all eligible areas.

“(B) DISTRIBUTION FACTOR.-- For purposes of subparagraph (A)(ii), the term ‘distribution factor’ means an amount equal to the estimated number of living cases of acquired immune deficiency syndrome in the eligible area involved, as determined under subparagraph (C).

“(C) ESTIMATE OF LIVING CASES.--The amount determined in this subparagraph is an amount equal to the product of--

“(i) the number of cases of acquired immune deficiency syndrome each year in the most recent 120 month period for which data are available with respect to all eligible areas, as indicated by the number of such cases reported to and confirmed by the Director of the Centers for Disease Control and Prevention for each year during such period; and

“(ii) with respect to--

“(I) the first year during such period, .06;

“(II) the second year during such period, .06;

“(III) the third year during such period, .08;

“(IV) the fourth year during such period, .1;

“(V) the fifth year during such period, .16;

“(VI) the sixth year during such period, .16;

“(VII) the seventh year during such period, .24;

“(VIII) the eighth year during such period, .40;

“(IX) the ninth year during such period, .57;

“(X) the tenth year during such period, .88;

The yearly percentage described in subparagraph (ii) shall be updated biennially by the Secretary, after consultation with the Centers for Disease Control and Prevention. The first such update shall occur prior to the determination of grant awards under this part for fiscal year 1988.

“(D) UNEXPENDED FUNDS.--The Secretary may, in

determining the amount of a grant for a fiscal year under this paragraph, adjust the grant amount to reflect the amount of unexpended and uncanceled grant funds remaining at the end of the fiscal year preceding the year for which the grant determination is to be made. The amount of any such unexpended funds shall be determined using the financial status report of the grantee.

“(4) INCREASE IN GRANT.--With respect to an eligible area under section 2601(a), the Secretary shall increase the amount of a grant under paragraph (2) for a fiscal year to ensure that such eligible area receives not less than--

(A) with respect to fiscal year 1996, 100 percent;

(B) with respect to fiscal year 1997, 99 percent;

(C) with respect to fiscal year 1998, 98 percent;

(D) with respect to fiscal year 1999, 96.5 percent;

(E) with respect to fiscal year 2000, 95 percent;

of the amount allocated for fiscal year 1995 to such entity under this subsection.“

“(b) SUPPLEMENTAL GRANTS.--

“(1) IN GENERAL.--Not later than 150 days after the date on which appropriations are made under section 2677 for a fiscal year, the Secretary shall disburse the remainder of amounts not disbursed under section 2603(a)(2) for such fiscal year for the purpose of making grants under section 2601(a) to eligible areas whose application under section 2605(b)--

“(A) contains a report concerning the dissemination of emergency relief funds under subsection (a) and the plan for utilization of such funds;

“(B) demonstrates the severe need in such area for supplemental financial assistance to combat the HIV epidemic;

“(C) demonstrates the existing commitment of local resources of the area, both financial and in-kind, to combating the HIV epidemic;

“(D) demonstrates the ability of the area to utilize such supplemental financial resources in a manner that is immediately responsive and cost effective;

“(E) demonstrates that resources will be allocated in accordance with the local demographic incidence of AIDS including appropriate allocations for services for infants, children, women, and families with HIV disease; and

“(F) demonstrates the inclusiveness of the planning council membership, with particular emphasis on affected communities and

individuals with HIV disease; and

“(G) demonstrates the manner in which proposed services are consistent with the local needs assessment and the Statewide coordinated statement of need.”

“(2) DEFINITION.--

“(A) SEVERE NEED.--In determining severe need in accordance with paragraph (1)(B), the Secretary shall consider the ability of the qualified applicant to expend funds efficiently and the impact of relevant factors on the cost and complexity of delivering health care and support services to individuals with HIV disease in the eligible area, including factors such as--

“(i) sexually transmitted diseases, substance abuse, tuberculosis, severe mental illness, or other comorbid factors determined relevant by the Secretary;

“(ii) new or growing subpopulations of individuals with HIV disease; and

“(iii) homelessness.

“(B) PREVALENCE.--In determining the impact of the factors described in subparagraph (A), the Secretary shall, to the extent practicable, use national, quantitative incidence data that is available for each eligible area. Not later than two years after the date of enactment of this paragraph, the Secretary shall develop a mechanism to use such data. In the absence of such data, the Secretary may consider a detailed description and qualitative analysis of severe need, as determined under subparagraph (A), including any local prevalence data gathered and analyzed by the eligible area.

“(C) PRIORITY.--Subsequent to the development of the quantitative mechanism described in subparagraph (B), the Secretary shall phase-in, over a three year period, beginning in fiscal year 1998, the use of such a mechanism to determining the severe need of an eligible area compared to other eligible areas and to determine, in part, the amount of supplemental funds awarded to the eligible area under this part.”

“(3) REMAINDER OF AMOUNTS.--In determining the amount of funds to be obligated under paragraph (1), the Secretary shall include amounts that are not paid to the eligible areas under expedited procedures under section 2603(a)(2) as a result of--

“(A) the failure of any eligible area to submit an application under

section 2605(c); or

“(B) any eligible area informing the Secretary that such eligible area does not intend to expend the full amount of its grant under such section.

“(4) AMOUNT OF GRANT.--The amount of each grant made for purposes of this subsection shall be determined by the Secretary based on the application submitted by the eligible area under section 2605(b).

“(5) FAILURE TO SUBMIT.--

“(A) IN GENERAL.--The failure of an eligible area to submit an application for an expedited grant under section 2603(a)(2) shall not result in such area being ineligible for a grant under this subsection.

“(B) APPLICATION.--The application of an eligible area submitted under section 2605(b) shall contain the assurances required under subsection (a) of such section if such eligible area fails to submit an application for an expedited grant under section 2603(a)(2).

“(c) COMPLIANCE WITH PRIORITIES OF THE PLANNING COUNCIL.--Notwithstanding any other provision of this part, the Secretary, in carrying out section 2601(a), may not make any grant under subsection (a) or (b) to an eligible area unless the application submitted by such area under section 2605 for the grant involved demonstrates that the grants made under subsections (a) and (b) to the area for the preceding fiscal year (if any) were expended in accordance with the priorities applicable to such year that were established, pursuant to section 2602(b)(3)(A), by the planning council serving the area.”

“SEC. 2604. USE OF AMOUNTS.

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

“(1) subject to paragraph (2), the allocation of funds and services within the eligible area will be made in accordance with the priorities established, pursuant to section 2602(b)(3)(A), by the HIV health services planning council that serves such eligible area; and

“(2) funds provided under section 2601 will be expended only for the purposes described in subsections (b) and (c).

“(b) PRIMARY PURPOSES.--

“(1) IN GENERAL.--The chief elected official shall use amounts received under a grant under section 2601 to provide direct financial assistance to entities described in paragraph (2) for the purpose of delivering or enhancing HIV-related--

“(A) outpatient and ambulatory health and support services, including case management, **substance abuse treatment and mental health treatment**, and comprehensive treatment services, **which shall include treatment education and prophylactic treatment for opportunistic infections**, for individuals and families with HIV disease; and

“(B) inpatient case management services that prevent unnecessary hospitalization or that expedite discharge, as medically appropriate, from inpatient facilities.

“(2) APPROPRIATE ENTITIES.--

“(A) IN GENERAL.--Subject to subparagraph (B), direct financial assistance may be provided under paragraph (1) to public or nonprofit private entities, **or private for-profit entities if such entities are the only available provider of quality HIV care in the area**, including hospitals (which may include Veterans Administration facilities), community-based organizations, hospices, ambulatory care facilities, community health centers, migrant health centers, and homeless health centers, **substance abuse treatment programs, and mental health programs**.

“(B) PRIORITY.--In providing direct financial assistance under paragraph (1) the chief elected official shall give priority to entities that are currently participating in Health Resources and Services Administration HIV health care demonstration projects.

“(3) **PRIORITY FOR WOMEN INFANTS AND CHILDREN.--For the purpose of providing and support services to infants, children, and women with HIV disease, including treatment measures to prevent the perinatal transmission of HIV, the chief elected official of the eligible area in accordance with planning council established priorities, shall use, of the grants made available for the area under section 2601(a) for a fiscal year, not less than the percentage constituted by the ratio of the population in such area of infants, children, and women with acquired immune deficiency syndrome to the general population in such area of individuals with such syndrome.**

“(c) LIMITED EXPENDITURES FOR PERSONNEL NEEDS.--

“(1) IN GENERAL.--A chief elected official, in accordance with paragraph (3), may use not to exceed 10 percent of amounts received under a grant under section 2601 to provide financial assistance or services, for the purposes described in paragraph (2), to any public or nonprofit private entity, including hospitals (which may include Veterans Administration facilities), nursing homes, subacute and transitional care facilities, and hospices that--

“(A) provide HIV-related care or services to a disproportionate share of low-income individuals and families with HIV disease;

“(B) incur uncompensated costs in the provision of such care or services to such individuals and families;

“(C) have established, and agree to implement, a plan to evaluate the utilization of services provided in the care of individuals and families with HIV disease; and

“(D) have established a system designed to ensure that such individuals and families are referred to the most medically appropriate level of care as soon as such referral is medically indicated.

“(2) USE.--A chief elected official may use amounts referred to in paragraph (1) to--

“(A) provide direct financial assistance to institutions and entities of the type referred to in such paragraph to assist such institutions and entities in recruiting or training and paying compensation to qualified personnel determined, under paragraph (3), to be necessary by the HIV health services planning council, specifically for the care of individuals with HIV disease; or

“(B) in lieu of providing direct financial assistance, make arrangements for the provision of the services of such qualified personnel to such institutions and entities.

“(3) REQUIREMENT OF DETERMINATION BY COUNCIL.--A chief elected official shall not use any of the amounts received under a grant under section 2601(a) to provide assistance or services under paragraph (2) unless the HIV health services planning council of the eligible area has made a determination that, with respect to the care of individuals with HIV disease--

“(A) a shortage of specific health, mental health or support service personnel exists within specific institutions or entities in the eligible area;

“(B) the shortage of such personnel has resulted in the inappropriate utilization of inpatient services within the area; and

“(C) assistance or services provided to an institution or entity under paragraph (2), will not be used to supplant the existing resources devoted by such institution or entity to the uses described in such paragraph.

“(d) REQUIREMENT OF STATUS AS MEDICAID PROVIDER.--

“(1) PROVISION OF SERVICE.--Subject to paragraph (2), the Secretary may not make a grant under section 2601(a) for the provision of services under this section in a State unless, in the case of any such service that is available pursuant to the State plan approved under title XIX of the Social Security Act for the State--

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

“(B) the political subdivision will enter into an agreement with a public or nonprofit private entity under which the entity will provide the service, and the entity has entered into such a participation agreement and is qualified to receive such payments.

“(2) WAIVER.--

“(A) IN GENERAL.--In the case of an entity making an agreement pursuant to paragraph (1)(B) regarding the provision of services, the requirement established in such paragraph shall be waived by the HIV health services planning council for the eligible area if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

“(B) DETERMINATION.--A determination by the HIV health services planning council of whether an entity referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the entity accepts voluntary donations for the purpose of providing services to the public.

“(e) ADMINISTRATION.--

“(1) **IN GENERAL.--**The chief executive officer of an eligible area shall not use in excess of 5 percent of amounts received under a grant awarded under this part for **administration. In the case of entities and subcontractors to which such officer allocates amounts received by the officer under the grant, the officer shall ensure that, of the aggregate amount so allocated, the total of the expenditures by such entities for administrative expenses does not exceed 10 percent (without regard to whether particular entities expend more or less than 10 percent for such expenses).**“

“(2) **ADMINISTRATIVE ACTIVITIES.--**For the purposes of paragraph (1), amounts may be used for administrative activities that include--

“(A) **routine grant administration and monitoring activities, including the development of applications for part A funds, the receipt and disbursement of program funds, the development and establishment of reimbursement and accounting systems, the preparation of routine programmatic and financial reports, and compliance with grant conditions and audit requirements; and**

“(B) **all activities associated with the grantee’s contract award procedures, including the development of requests for proposals, contract proposal review activities, negotiation and awarding of contracts, monitoring of contracts through telephone consultation, written documentation or onsite visits, reporting on contracts, and funding reallocation activities.**“

“(3) **SUBCONTRACTOR ADMINISTRATIVE COSTS.--**For the purposes of this subsection, subcontractor administrative activities include--

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

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

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

“(f) **CONSTRUCTION.--**A State may not use amounts received under a grant awarded under this part to purchase or improve land, or to purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or to make cash payments to intended recipients of services.

“SEC. 2605. APPLICATION.

“(a) **IN GENERAL.--**To be eligible to receive a grant under section 2601, an eligible area shall prepare and submit to the Secretary an application, **in accordance with subsection (c) regarding a single application and grant award**, at such time, in such form, and containing such information as the Secretary shall require, including assurances adequate to ensure--

“(1) (A) that funds received under a grant awarded under this part will be utilized to supplement not supplant State funds made available in the year for which the grant is awarded to provide HIV-related services to individuals with HIV disease;

“(B) that the political subdivisions within the eligible area will maintain the level of expenditures by such political subdivisions for HIV-related services for individuals with HIV disease at a level that is equal to the level of such expenditures by such political subdivisions for the **preceding fiscal year**; and

“(C) that political subdivisions within the eligible area will not use funds received under a grant awarded under this part in maintaining the level of expenditures for HIV-related services as required in subparagraph (B);

“(2) that the eligible area has an HIV health services planning council and

has entered into intergovernmental agreements pursuant to section 2602, and has developed or will develop the comprehensive plan in accordance with section 2602(b)(3)(B);

“(3) that entities within the eligible area that will receive funds under a grant provided under section 2601(a) shall participate in an established HIV community-based continuum of care if such continuum exists within the eligible area;

“(4) that funds received under a grant awarded under this part will not be utilized to make payments for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to that item or service--

“(A) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

“(B) by an entity that provides health services on a prepaid basis;

“(5) to the maximum extent practicable, that--

“(A) HIV health care and support services provided with assistance made available under this part will be provided without regard--

“(i) to the ability of the individual to pay for such services; and

“(ii) to the current or past health condition of the individual to be served;

“(B) such services will be provided in a setting that is accessible to low-income individuals with HIV-disease; and

“(C) a program of outreach will be provided to low-income individuals with HIV-disease to inform such individuals of such services; **and**

**“(6) that the applicant has participated, or will agree to participate, in the Statewide coordinated statement of need process where it has been initiated by the State, and ensure that the services provided under the comprehensive plan are consistent with the Statewide coordinated statement of need.”**

“(b) APPLICATION.--An eligible area that desires to receive a grant under section 2603(b) shall prepare and submit to the Secretary an additional application, **in accordance with subsection (c) regarding a single application and grant award**, at such time, in such form, and containing such information as the Secretary shall require, including the information required under such subsection and information concerning--

“(1) the number of individuals to be served within the eligible area with assistance provided under the grant;

“(2) demographic data on the population of such individuals;

“(3) the average cost of providing each category of HIV-related health

services and the extent to which such cost is paid by third-party payers;

“(4) the aggregate amounts expended for each such category of services;

**“(c) SINGLE APPLICATION AND GRANT AWARD.--**

**“(1) APPLICATION.--The Secretary may phase in the use of a single application that meets the requirements of subsections (a) and (b) of section 2603 with respect to an eligible area that desires to receive grants under section 2603 for a fiscal year.**

**“(2) GRANT AWARD.--The Secretary may phase in the awarding of a single grant to an eligible area that submits an approved application under paragraph (1) for a fiscal year.”**

**“(d) DATE CERTAIN FOR SUBMISSION.--**

“(1) REQUIREMENT.--Except as provided in paragraph (2), to be eligible to receive a grant under section 2601(a) for a fiscal year, an application under subsection (a) shall be submitted not later than 45 days after the date on which appropriations are made under section 2677 for the fiscal year.

“(2) EXCEPTION.--The Secretary may extend the time for the submission of an application under paragraph (1) for a period of not to exceed 60 days if the Secretary determines that the eligible area has made a good faith effort to comply with the requirement of such paragraph but has otherwise been unable to submit its application.

“(3) DISTRIBUTION BY SECRETARY.--Not later than 45 days after receiving an application that meets the requirements of subsection (a) from an eligible area, the Secretary shall distribute to such eligible area the amounts awarded under the grant for which the application was submitted.

“(4) REDISTRIBUTION.--Any amounts appropriated in any fiscal year under this part and not obligated to an eligible entity as a result of the failure of such entity to submit an application shall be redistributed by the Secretary to other eligible entities in proportion to the original grants made to such eligible areas under 2601(a).

**“(e) REQUIREMENTS REGARDING IMPOSITION OF CHARGES FOR SERVICES.--**

“(1) IN GENERAL.--The Secretary may not make a grant under section 2601 to an eligible area unless the eligible area provides assurances that in the provision of services with assistance provided under the grant--

“(A) in the case of individuals with an income less than or equal to 100 percent of the official poverty line, the provider will not impose charges on any such individual for the provision of services under the grant;

“(B) in the case of individuals with an income greater than 100 percent

of the official poverty line, the provider--

“(i) will impose a charge on each such individual for the provision of such services; and

“(ii) will impose the charge according to a schedule of charges that is made available to the public;

“(C) in the case of individuals with an income greater than 100 percent of the official poverty line and not exceeding 200 percent of such poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 5 percent of the annual gross income of the individual involved;

“(D) in the case of individuals with an income greater than 200 percent of the official poverty line and not exceeding 300 percent of such poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 7 percent of the annual gross income of the individual involved; and

“(E) in the case of individuals with an income greater than 300 percent of the official poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 10 percent of the annual gross income of the individual involved.

“(2) ASSESSMENT OF CHARGE.--With respect to compliance with the assurance made under paragraph (1), a grantee or entity receiving assistance under this part may, in the case of individuals subject to a charge for purposes of such paragraph--

“(A) assess the amount of the charge in the discretion of the grantee, including imposing only a nominal charge for the provision of services, subject to the provisions of such paragraph regarding public schedules and regarding limitations on the maximum amount of charges; and

“(B) take into consideration the medical expenses of individuals in assessing the amount of the charge, subject to such provisions.

“(3) APPLICABILITY OF LIMITATION ON AMOUNT OF CHARGE.--The Secretary may not make a grant under section 2601 to an eligible area unless the eligible area agrees that the limitations established in subparagraphs (C), (D) and (E) of paragraph (1) regarding the imposition of charges for services applies to the annual aggregate of charges imposed for such services, without regard to whether they are characterized as enrollment fees, premiums, deductibles, cost sharing, copayments, coinsurance, or other charges.

“(4) WAIVER REGARDING SECONDARY AGREEMENTS.--The requirements established in paragraphs (1) through (3) shall be waived in

accordance with section 2604(d)(2).

“SEC. 2606. TECHNICAL ASSISTANCE.

“The Administrator of the Health Resources and Services Administration **shall**, beginning on the date of enactment of this title, provide technical assistance, **including assistance from other grantees, contractors, or subcontractors under this title to assist newly eligible metropolitan areas in the establishment of HIV health services planning councils and** to assist entities in complying with the requirements of this part in order to make such entities eligible to receive a grant under this part. **The Administrator may make planning grants available to metropolitan areas, in an amount not to exceed \$75,000 for any metropolitan area, projected to be an eligible area for funding under section 2601 in the following fiscal year. Such grant amounts shall be deducted from the first year formula award to eligible areas accepting such grants. Not to exceed 1 percent of the amount appropriated for a fiscal year under section 2677 for grants under part A may be used to carry out this section.**

“SEC. 2607. DEFINITIONS.

“For purposes of this part:

“(1) ELIGIBLE AREA.--**The term ‘eligible area’ means a metropolitan area meeting the requirements of section 2601 that are applicable to the area.**

“(2) METROPOLITAN AREA.--The term ‘metropolitan area’ means an area referred to in the HIV/AIDS Surveillance Report of the Centers for Disease Control as a metropolitan area.

“SEC. 2608 AUTHORIZATION OF APPROPRIATION  
**REPEALED**

TITLE II--HIV CARE GRANTS

SEC. 201. HIV CARE GRANTS.

Title XXVI of the Public Health Service Act (as added by section 101) is amended by adding at the end thereof the following new part:

“PART B--CARE GRANT PROGRAM

“SEC. 2611. GRANTS.

“(a) **IN GENERAL.**--“The Secretary shall, subject to the availability of appropriations, make grants to States to enable such States to improve the quality, availability and organization of health care and support services for individuals and families with HIV disease.

“(b) **PRIORITY FOR WOMEN, INFANTS, AND CHILDREN.**--**For the purpose of providing health and support services to infants, children, and women with HIV disease, including treatment measures to prevent the perinatal transmission of HIV, a State shall use, under this part for a fiscal year, not less than the percentage constituted by the ratio of the population of the State of infants, children, and women with acquired immune deficiency syndrome to the general population in the State of individuals with such syndrome.**“

“SEC. 2612. GENERAL USE OF GRANTS.

A State may use amounts provided under grants made under this part--

“(1) **to provide the services described in section 2604(b)(1) for individuals with HIV disease;**

“(2) to establish and operate HIV care consortia within areas most affected by HIV disease that shall be designed to provide a comprehensive continuum of care to individuals and families with HIV disease in accordance with section 2613;

“(3) to provide home- and community-based care services for individuals with HIV disease in accordance with section 2614;

“(4) to provide assistance to assure the continuity of health insurance coverage for individuals with HIV disease in accordance with section 2615; and

“(5) to provide **therapeutics to treat HIV disease**, to individuals with HIV disease in accordance with section 2616.

**Services described in paragraph (1) shall be delivered through consortia designed as described in paragraph (2), where such consortia exist, unless the State demonstrates to the Secretary that delivery of such service would be more effective when other delivery mechanisms are used. In making a determination regarding the delivery of services, the State shall consult with appropriate representatives of service providers and recipients of services who would be affected by such determination, and shall include in its demonstration to the Secretary the findings of the State regarding such consultation.**“

“SEC. 2613. GRANTS TO ESTABLISH HIV CARE CONSORTIA.

“(a) **CONSORTIA.**--A State may use amounts provided under a grant awarded

under this part to provide assistance under section 2612(a)(1) to an entity that--

“(1) is an association of one or more public, and one or more nonprofit private **(or private for-profit providers or organizations if such entities are the only available providers of quality HIV care in the area)**, health care and support service providers and community based organizations operating within areas determined by the State to be most affected by HIV disease; and

“(2) agrees to use such assistance for the planning, development and delivery, through the direct provision of services or through entering into agreements with other entities for the provision of such services, of comprehensive outpatient health and support services for individuals with HIV disease, that may include--

“(A) essential health services such as case management services, medical, nursing, **substance abuse treatment, mental health treatment,** and dental care, diagnostics, monitoring, **prophylactic treatment for opportunistic infections, treatment education to take place in the context of health care delivery,** and medical follow-up services, mental health, developmental, and rehabilitation services, home health and hospice care; and

“(B) essential support services such as transportation services, attendant care, homemaker services, day or respite care, benefits advocacy, advocacy services provided through public and nonprofit private entities, and services that are incidental to the provision of health care services for individuals with HIV disease including nutrition services, housing referral services, and child welfare and family services (including foster care and adoption services).

An entity or entities of the type described in this subsection shall hereinafter be referred to in this title as a `consortium' or `consortia'.

“(b) **ASSURANCES.**--

“(1) **REQUIREMENT.**--To receive assistance from a State under subsection (a), an applicant consortium shall provide the State with assurances that--

“(A) within any locality in which such consortium is to operate, the populations and subpopulations of individuals and families with HIV disease have been identified by the consortium;

“(B) the service plan established under subsection (c)(2) by such consortium addresses the special care and service needs of the populations and subpopulations identified under subparagraph (A); and

“(C) except as provided in paragraph (2), the consortium will be a single coordinating entity that will integrate the delivery of services among

the populations and subpopulations identified under subparagraph (A).

“(2) EXCEPTION.--Subparagraph (c) of paragraph (1) shall not apply to any applicant consortium that the State determines will operate in a community or locality in which it has been demonstrated by the applicant consortium that--

“(A) subpopulations exist within the community to be served that have unique service requirements; and

“(B) such unique service requirements cannot be adequately and efficiently addressed by a single consortium serving the entire community or locality.

“(c) APPLICATION.--

“(1) IN GENERAL.--To receive assistance from the State under subsection (a), a consortium shall prepare and submit to the State, an application that--

“(A) demonstrates that the consortium includes agencies and community-based organizations--

“(i) with a record of service to populations and subpopulations with HIV disease requiring care within the community to be served; and

“(ii) that are representative of populations and subpopulations reflecting the local incidence of HIV and that are located in areas in which such populations reside;

“(B) demonstrates that the consortium has carried out an assessment of service needs within the geographic area to be served and, after consultation with the entities described in paragraph (2), has established a plan to ensure the delivery of services to meet such identified needs that shall include--

“(i) assurances that service needs will be addressed through the coordination and expansion of existing programs before new programs are created;

“(ii) assurances that, in metropolitan areas, the geographic area to be by the consortium corresponds to the geographic boundaries of local health and support services delivery systems to the extent practicable;

“(iii) assurances that, in the case of services for individuals residing in rural areas, the applicant consortium shall deliver case management services that link available community support services to appropriate specialized medical services; and

“(iv) assurances that the assessment of service needs and the planning of the delivery of services will include participation by individuals with HIV disease;

“(C) demonstrates that adequate planning has occurred to meet the

special needs of families with HIV disease, including family centered **and youth centered** care;

“(D) demonstrates that the consortium has created a mechanism to evaluate periodically--

“(i) the success of the consortium in responding to identified needs; and

“(ii) the cost-effectiveness of the mechanisms employed by the consortium to deliver comprehensive care; and

“(E) demonstrates that the consortium will report to the State the results of the evaluations described in subparagraph (D) and shall make available to the State or the Secretary, on request, such data and information on the program methodology that may be required to perform an independent evaluation.

“(2) CONSULTATION.--In establishing the plan required under paragraph (1)(B), the consortium shall consult with--

“(A) (i) the public health agency that provides or supports ambulatory and outpatient HIV-related health care services within the geographic area to be served; or

“(ii) in the case of a public health agency that does not directly provide such HIV-related health care services such agency shall consult with an entity or entities that directly provide ambulatory and outpatient HIV-related health care services within the geographic area to be served;

“(B) not less than one community-based organization that is organized solely for the purpose of providing HIV-related support services to individuals with HIV disease. The organization to be consulted under subparagraph (B) shall be at the discretion of the applicant consortium; and

“(C) **grantees under section 2671, or if none are operating in the area, representatives of organizations with a history of serving children, youth, women and families with HIV.**“

“(d) DEFINITION.--As used in this part, the term `family centered care' means the system of services described in this section 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.

“(e) PRIORITY.--In providing assistance under subsection (a), the State shall, among applicants that meet the requirements of this section, give priority--

“(1) first to consortia that are receiving assistance from the Health Resources

and Services Administration for adult and pediatric HIV- related care demonstration projects; and then  
“(2) to any other existing HIV care consortia.

“SEC. 2614. GRANTS FOR HOME- AND COMMUNITY-BASED CARE.

“(a) USES.--A State may use amounts provided under a grant awarded under this part to make grants under section 2612(a)(2) to entities to--

“(1) provide home- and community-based health services for individuals with HIV disease pursuant to written plans of care prepared by a case management team, that shall include appropriate health care professionals, in such State for providing such services to such individuals;

“(2) provide outreach services to individuals with HIV disease, including those individuals in rural areas; and

“(3) provide for the coordination of the provision of services under this section with the provision of HIV-related health services provided by public and private entities.

“(b) PRIORITY.--In awarding grants under subsection (a), a State shall give priority to entities that provide assurances to the State that--

“(1) such entities will participate in HIV care consortia if such consortia exist within the State; and

“(2) such entities will utilize amounts provided under such grants for the provision of home- and community-based services to low-income individuals with HIV disease.

“(c) DEFINITION.--As used in this part, the term ‘home- and community-based health services’--

“(1) means, with respect to an individual with HIV disease, skilled health services furnished to the individual in the individual's home pursuant to a written plan of care established by a case management team, that shall include appropriate health care professionals, for the provision of such services and items described in paragraph (2);

“(2) includes--

“(A) durable medical equipment;

“(B) homemaker or home health aide services and personal care services furnished in the home of the individual;

“(C) day treatment or other partial hospitalization services;

“(D) home intravenous and aerosolized drug therapy (including prescription drugs administered as part of such therapy);

“(E) routine diagnostic testing administered in the home of the

individual; and

“(F) appropriate mental health, developmental, and rehabilitation services; and

“(3) does not include--

“(A) inpatient hospital services; and

“(B) nursing home and other long term care facilities.

“SEC. 2615. CONTINUUM OF HEALTH INSURANCE COVERAGE.

“(a) IN GENERAL.--A State may use amounts received under a grant awarded under this part to establish a program of financial assistance under section 2612(a)(3) to assist eligible low-income individuals with HIV disease in--

“(1) maintaining a continuity of health insurance; or

“(2) receiving medical benefits under a health insurance program, including risk-pools.

“(b) LIMITATIONS.--Assistance shall not be utilized under subsection (a)--

“(1) to pay any costs associated with the creation, capitalization, or administration of a liability risk pool (other than those costs paid on behalf of individuals as part of premium contributions to existing liability risk pools); and

“(2) to pay any amount expended by a State under title XIX of the Social Security Act.

“SEC. 2616. PROVISION OF TREATMENTS.

“(a) IN GENERAL.--A State **shall use a portion of** the amounts provided under a grant awarded under this part to establish a program under section 2612(a)(5) to provide **therapeutics to treat HIV disease** or prevent the serious deterioration of health arising from HIV disease in eligible individuals, **including measures for the prevention and treatment of opportunistic infections**.

“(b) ELIGIBLE INDIVIDUAL.--To be eligible to receive assistance from a State under this section an individual shall--

“(1) have a medical diagnosis of HIV disease; and

“(2) be a low-income individual, as defined by the State.

“(c) STATE DUTIES.--In carrying out this section the State shall--

“(1) determine, in accordance with guidelines issued by the Secretary, which treatments are eligible to be included under the program established under this section;

“(2) provide assistance for the purchase of treatments determined to be eligible under paragraph (1), and the provision of such ancillary devices that are essential to administer such treatments;

“(3) provide outreach to individuals with HIV disease, and as appropriate to the families of such individuals;

“(4) facilitate access to treatments for such individuals; and

“(5) document the progress made in making the therapeutics described in subsection (a) available to individuals eligible for assistance under this section.”

“(d) DUTIES OF THE SECRETARY.--In carrying out this section, the Secretary shall review the current status of State drug reimbursement programs established under section 2612(2) and assess the barriers to the expanded availability of treatments described in subsection (a). The Secretary shall also examine the extent to which States coordinate with other grantees under this title to reduce barriers to the expanded availability of the treatments described in subsection (a).”

“SEC. 2617. STATE APPLICATION.

“(a) IN GENERAL.--The Secretary shall not make a grant to a State under this part for a fiscal year unless the State prepares and submits, to the Secretary, an application at such time, in such form, and containing such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

“(b) DESCRIPTION OF INTENDED USES AND AGREEMENTS.--The application submitted under subsection (a) shall contain--

“(1) a detailed description of the HIV-related services provided in the State to individuals and families with HIV disease during the year preceding the year for which the grant is requested, and the number of individuals and families receiving such services, that shall include--

“(A) a description of the types of programs operated or funded by the State for the provision of HIV-related services during the year preceding the year for which the grant is requested and the methods utilized by the State to finance such programs;

“(B) an accounting of the amount of funds that the State has expended for such services and programs during the year preceding the year for which the grant is requested; and

“(C) information concerning--

“(i) the number of individuals to be served with assistance provided under the grant;

“(ii) demographic data on the population of the individuals to be served;

“(iii) the average cost of providing each category of HIV-related

health services and the extent to which such cost is paid by third-party payers; and

“(iv) the aggregate amounts expended for each such category of services;

“(2) a comprehensive plan for the organization and delivery of HIV health care and support services to be funded with assistance received under this part that shall include a description of the purposes for which the State intends to use such assistance, including--

“(A) the services and activities to be provided and an explanation of the manner in which the elements of the program to be implemented by the State with such assistance will maximize the quality of health and support services available to individuals with HIV disease throughout the State;

“(B) a description of the manner in which services funded with assistance provided under this part will be coordinated with other available related services for individuals with HIV disease;

“(C) a description of how the allocation and utilization of resources are consistent with the Statewide coordinated statement of need (including traditionally underserved populations and subpopulations) developed in partnership with other grantees in the State that receive funding under this title; and

“(3) an assurance that the public health agency administering the grant for the State will periodically convene a meeting of individuals with HIV, representatives of grantees under each part of this title, providers, and public agency representatives for the purpose of developing a Statewide coordinated statement of need; and

“(4) an assurance by the State that--

“(A) the public health agency that is administering the grant for the State will conduct public hearings concerning the proposed use and distribution of the assistance to be received under this part;

“(B) the State will--

“(i) to the maximum extent practicable, ensure that HIV-related health care and support services delivered pursuant to a program established with assistance provided under this part will be provided without regard to the ability of the individual to pay for such services and without regard to the current or past health condition of the individual with HIV disease;

“(ii) ensure that such services will be provided in a setting that is accessible to low-income individuals with HIV disease;

“(iii) provide outreach to low-income individuals with HIV disease to inform such individuals of the services available under this part; and

“(iv) in the case of a State that intends to use amounts provided under the grant for purposes described in section 2615, submit a plan to the Secretary that demonstrates that the State has established a program that assures that--

“(I) such amounts will be targeted to individuals who would not otherwise be able to afford health insurance coverage; and

“(II) income, asset, and medical expense criteria will be established and applied by the State to identify those individuals who qualify for assistance under such program, and information concerning such criteria shall be made available to the public;

“(C) the State will provide for periodic independent peer review to assess the quality and appropriateness of health and support services provided by entities that receive funds from the State under this part;

“(D) the State will permit and cooperate with any Federal investigations undertaken regarding programs conducted under this part;

“(E) the State will maintain HIV-related activities at a level that is equal to not less than the level of such expenditures by the State for the 1-year period preceding the fiscal year for which the State is applying to receive a grant under this part; and

“(F) the State will ensure that grant funds are not utilized to make payments for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to that item or service--

“(i) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

“(ii) by an entity that provides health services on a prepaid basis.

“(c) REQUIREMENTS REGARDING IMPOSITION OF CHARGES FOR SERVICES.--

“(1) IN GENERAL.--The Secretary may not make a grant under section 2611 to a State unless the State provides assurances that in the provision of services with assistance provided under the grant--

“(A) in the case of individuals with an income less than or equal to 100 percent of the official poverty line, the provider will not impose charges on any such individual for the provision of services under the grant;

“(B) in the case of individuals with an income greater than 100 percent

of the official poverty line, the provider--

“(i) will impose charges on each such individual for the provision of such services; and

“(ii) will impose charges according to a schedule of charges that is made available to the public;

“(C) in the case of individuals with an income greater than 100 percent of the official poverty line and not exceeding 200 percent of such poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 5 percent of the annual gross income of the individual involved;

“(D) in the case of individuals with an income greater than 200 percent of the official poverty line and not exceeding 300 percent of such poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 7 percent of the annual gross income of the individual involved; and

“(E) in the case of individuals with an income greater than 300 percent of the official poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 10 percent of the annual gross income of the individual involved.

“(2) ASSESSMENT OF CHARGE.--With respect to compliance with the assurance made under paragraph (1), a grantee under this part may, in the case of individuals subject to a charge for purposes of such paragraph--

“(A) assess the amount of the charge in the discretion of the grantee, including imposing only a nominal charge for the provision of services, subject to the provisions of such paragraph regarding public schedules regarding limitation on the maximum amount of charges; and

“(B) take into consideration the medical expenses of individuals in assessing the amount of the charge, subject to such provisions.

“(3) Applicability of limitation on amount of charge.--The Secretary may not make a grant under section 2611 unless the applicant of the grant agrees that the limitations established in subparagraphs (C), (D), and (E) of paragraph (1) regarding the imposition of charges for services applies to the annual aggregate of charges imposed for such services, without regard to whether they are characterized as enrollment fees, premiums, deductibles, cost sharing, copayments, coinsurance, or other charges.

“(4) WAIVER.--

“(A) IN GENERAL.--The State shall waive the requirements established in paragraphs (1) through (3) in the case of an entity that does

not, in providing health care services, impose a charge or accept reimbursement from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

“(B) DETERMINATION.--A determination by the State of whether an entity referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the entity accepts voluntary donations regarding the provision of services to the public.

“(d) REQUIREMENT OF MATCHING FUNDS REGARDING STATE ALLOTMENTS.--

“(1) IN GENERAL.--In the case of any State to which the criterion described in paragraph (3) applies, the Secretary may not make a grant under this part unless the State agrees that, with respect to the costs to be incurred by the State in carrying out the program for which the grant was awarded, the State will, subject to subsection (b)(2), make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to--

“(A) for the first fiscal year of payments under the grant, not less than 16 2/3 percent of such costs (\$1 for each \$5 of Federal funds provided in the grant);

“(B) for any second fiscal year of such payments, not less than 20 percent of such costs (\$1 for each \$4 of Federal funds provided in the grant);

“(C) for any third fiscal year of such payments, not less than 25 percent of such costs (\$1 for each \$3 of Federal funds provided in the grant);

“(D) for any fourth fiscal year of such payments, not less than 33 1/3 percent of such costs (\$1 for each \$2 of Federal funds provided in the grant); and

“(E) for any subsequent fiscal year of such payments, not less than 33 1/3 percent of such costs (\$1 for each \$2 of Federal funds provided in the grant).

“(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.--

“(A) In general.--Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, and any portion of any service subsidized by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

“(B) INCLUSION OF CERTAIN AMOUNTS.--

“(i) In making a determination of the amount of non-Federal contributions made by a State for purposes of paragraph (1), the Secretary shall, subject to clause (ii), include any non-Federal contributions provided by the State for HIV-related services, without regard to whether the contributions are made for programs established pursuant to this title;

“(ii) In making a determination for purposes of clause (I), the Secretary may not include any non-Federal contributions provided by the State as a condition of receiving Federal funds under any program under this title (except for the program established in this part) or under other provisions of law.

“(3) APPLICABILITY OF REQUIREMENT.--

“(A) NUMBER OF CASES.--A State referred to in paragraph (1) is any State for which the number of cases of acquired immune deficiency syndrome reported to and confirmed by the Director of the Centers for Disease Control for the period described in subparagraph (B) constitutes in excess of 1 percent of the aggregate number of such cases reported to and confirmed by the Director for such period for the United States.

“(B) PERIOD OF TIME.--The period referred to in subparagraph (A) is the 2-year period preceding the fiscal year for which the State involved is applying to receive a grant under subsection (a).

“(C) PUERTO RICO.--For purposes of paragraph (1), the number of cases of acquired immune deficiency syndrome reported and confirmed for the Commonwealth of Puerto Rico for any fiscal year shall be deemed to be less than 1 percent.

“(4) DIMINISHED STATE CONTRIBUTION.--With respect to a State that does not make available the entire amount of the non-Federal contribution referred to in paragraph (1), the State shall continue to be eligible to receive Federal funds under a grant under this part, except that the Secretary in providing Federal funds under the grant shall provide such funds (in accordance with the ratios prescribed in paragraph (1)) only with respect to the amount of funds contributed by such State.

“SEC. 2618. DISTRIBUTION OF FUNDS.

“(a) SPECIAL PROJECTS OF NATIONAL SIGNIFICANCE.--**REPEALED (moved)**

“(b) AMOUNT OF GRANT TO STATE.--

“(1) Minimum allotment.--Subject to the extent of amounts made available

under section 2677, the amount of a grant to be made under this part for--

“(A) each of the several States and the District of Columbia for a fiscal year shall be the greater of--

“(i)(I) with respect to a State or District that has less than 90 living cases of acquired immune deficiency syndrome, as determined under paragraph (2)(D), \$100,000; or

“(i)(I) with respect to a State or District that has 90 or more living cases of acquired immune deficiency syndrome, as determined under paragraph (2)(D), \$250,000;

“(ii) an amount determined under paragraph (2); and

“(B) each territory of the United States, as defined in paragraph 3, shall be an amount determined under paragraph (2).

“(2) DETERMINATION.--

“(A) FORMULA.-The amount referred to in paragraph (1)(A)(ii) for a State and paragraph (1)(B) for a territory of the United States shall be the product of--

“(i) and an amount equal to the amount available for distribution under section 2677 for the fiscal year involved for grants under Part B subject to subparagraph (H); and

“(ii) the percentage constituted by the sum of--

“(I) the product of .80 and the ratio of the State distribution factor for the State or territory (as determined under subsection (B)) to the sum of the respective distribution factors for all States or territories; and

“(II) the product of .20 and the ratio of the non-EMA distribution factor for the State or territory (as determined under subparagraph (C)) to the sum of the respective distribution factors for all States or territories;

“(B) STATE DISTRIBUTION FACTOR.- For purposes of subparagraph (A)(ii)(I), the term ‘State distribution factor’ means an amount equal to the estimated number of living cases of acquired immune deficiency syndrome in the eligible area involved, as determined under subparagraph (D).

“(C) NON-EMA DISTRIBUTION FACTOR.-- For purposes of subparagraph (A)(ii)(I), the term ‘non-EMA distribution factor’ means an amount equal to the sum of--

“(i) the estimated number of living cases of acquired immune deficiency syndrome in the State or territory involved, as

determined under subparagraph (D); less

“(ii) the estimated number of living cases of acquired immune deficiency syndrome in such State or territory that are within an eligible area (as determined under Part A) .

“(D) ESTIMATE OF LIVING CASES.--The amount determined in this subparagraph is an amount equal to the product of--

“(i) the number of cases of acquired immune deficiency syndrome each year in the most recent 120 month period for which data are available with respect to all States and territories , as indicated by the number of such cases reported to and confirmed by the Director of the Centers for Disease Control and Prevention for each year during such period; and

“(ii) with respect to each of the first through the tenth year during such period, the amount referred to in 2603(a)(3)(C)(ii).

“(E) PUERTO RICO, VIRGIN ISLANDS, AND GUAM.--For purposes of subparagraph (d), the cost index for Puerto Rico, the Virgin Islands, and Guam shall be 1.0“

“(F) UNEXPENDED FUNDS.--The Secretary may, in determining the amount of a grant for a fiscal year under this subsection, adjust the grant amount to reflect the amount of unexpended and uncanceled grant funds remaining at the end of the fiscal year preceding the year for which the grant determination is to be made. The amount of any such unexpended funds shall be determined using the financial status report of the grantee.

“(G) LIMITATION.--

“(i) IN GENERAL.--The Secretary shall ensure that the amount of a grant awarded to a State or territory for a fiscal year under this part is equal to not less than--

“(I) with respect to fiscal year 1996, 100 percent;

“(II) with respect to fiscal year 1997, 99 percent;

“(III) with respect to fiscal year 1998, 98 percent;

“(IV) with respect to fiscal year 1999, 96.5 percent;

“(V) with respect to fiscal year 2000, 95 percent;

of the amount such State or territory received for fiscal year 1995 under this part. In administering this subparagraph, the Secretary shall, with respect to States that will receive grants in amounts that exceed the amounts that such States received under this part in fiscal year 1995, proportionally

reduce such amounts to ensure compliance with this subparagraph. In making such reductions, the Secretary shall ensure that no such State receives less than that State received for fiscal year 1995.

“(ii) **RATABLE REDUCTION.**--If the amount appropriated under section 2677 and available for allocation under this part is less than the amount appropriated and available under this part for fiscal year 1995, the limitation contained in clause (i) shall be reduced by a percentage of the reduction in such amounts appropriated and available.

“(H) **APPROPRIATIONS FOR TREATMENT DRUG PROGRAM.**--With respect to the fiscal year involved, if under section 2677 an appropriations Act provides an amount exclusively for carrying out section 2616, the portion of such amount allocated to a State shall be the product of--

- (i) 100 percent of such amount; and
- (ii) the percentage constituted by the ratio of the State distribution factor for the State (as determined under subparagraph (B)) to the sum of the State distribution factors for all States.

“(3) **DEFINITIONS.**--As used in this subsection--

“(A) the term ‘State’ means each of the 50 States, the District of Columbia and the Commonwealth of Puerto Rico; and

“(B) the term ‘territory of the United States’ means the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Republic of the Marshall Islands.

“(c) **ALLOCATION OF ASSISTANCE BY STATES.**--

“(2) **ALLOWANCES.**--Prior to allocating assistance under this subsection, a State shall consider the unmet needs of those areas that have not received financial assistance under part A.

“(3) **PLANNING AND EVALUATIONS.**--**Subject to paragraph (5) and except as provided in paragraph (6), a State may not use more than 10 percent of amounts received under a grant awarded under this part for planning and evaluation activities.**

“(4) **ADMINISTRATION.**--

“(A) **IN GENERAL.**--**Subject to paragraph (5) and except as provided in paragraph (6), a State may not use more than 10 percent of amounts received under a grant awarded under this part for**

administration. In the case of entities and subcontractors to which the State allocates amounts under the grant (including consortia under section 2613), that State shall ensure that, of the aggregate amount so allocated, the total of the expenditures by such entities for administrative expenses does not exceed 10 percent (without regard to whether particular entities expend more than 10 percent for such expenses).“

“(B) **ADMINISTRATIVE ACTIVITIES.**--For the purposes of paragraph (A), amounts may be used for administrative activities that include routine grant administration and monitoring activities.

“(C) **SUBCONTRACTOR ADMINISTRATIVE COSTS.**-- For the purposes of this paragraph, subcontractor administrative activities include--

“(i) usual and recognized overhead, including established indirect rates for agencies.

“(ii) management oversight of specific programs funded under this title; and

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

“(5) **LIMITATION ON USE OF FUNDS.**--Except as provided in paragraph (6), a State may not use more than a total of 15 percent of amounts received under a grant awarded under this part for the purposes described in paragraphs (3) and (4).

“(6) **EXCEPTION.**--With respect to a State that receives the minimum allotment under subsection (a)(1) for a fiscal year, such State, from the amounts received under a grant awarded under this part for such fiscal year for the activities described in paragraphs (3) and (4), may, notwithstanding paragraphs (3), (4) and (5), use not more than that amount required to support one full-time-equivalent employee.“

“(7) **CONSTRUCTION.**--A State may not use amounts received under a grant awarded under this part to purchase or improve land, or to purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or to make cash payments to intended recipients of services.

“(d) **EXPEDITED DISTRIBUTION.**--

“(1) **IN GENERAL.**--Not less than 75 percent of the amounts received under a grant awarded to a State under this part shall be obligated to specific programs and projects and made available for expenditure not later than--

“(A) in the case of the first fiscal year for which amounts are received,

150 days after the receipt of such amounts by the State; and

“(B) in the case of succeeding fiscal years, 120 days after the receipt of such amounts by the State.

“(2) PUBLIC COMMENT.--Within the time periods referred to in paragraph (1), the State shall invite and receive public comment concerning methods for the utilization of such amounts.

“(e) REALLOCATION.--Any amounts appropriated in any fiscal year and made available to a State under this part that have not been obligated as described in subsection (d) shall be repaid to the Secretary and reallocated to other States in proportion to the original grants made to such States.

“SEC. 2619. TECHNICAL ASSISTANCE.

“The Secretary **shall** provide technical assistance in administering and coordinating the activities authorized under section 2612, **including technical assistance for the development and implementation of the Statewide coordinated statements of need.**

“SEC. 2620 AUTHORIZATION OF APPROPRIATION  
**REPEALED**

“SEC. 2621 COORDINATION.

“The Secretary shall ensure that the Health Resources and Services Administration, the Centers for Disease Control and Prevention, and the Substance Abuse and Mental Health Services Administration coordinate the planning and implementation of Federal HIV programs in order to facilitate the local development of a complete continuum of HIV-related services for individuals with HIV disease and those at risk of such disease. Not later than October 1, 1996 and biennially thereafter, the Secretary shall submit to the appropriate committees of the Congress a report concerning coordination efforts under this title at the Federal, State, and local levels, including a statement of whether and to what extent there exist Federal barriers to integrating HIV-related programs.”

“Subpart II--Provisions Concerning Pregnancy and Perinatal Transmission of HIV

“SEC. 2625. CDC GUIDELINES FOR PREGNANT WOMEN.

“(a) REQUIREMENT.--Notwithstanding any other provision of law, a State

**shall, not later than 120 days after the date of enactment of this subpart, certify to the Secretary that such State has in effect regulations or measures to adopt the guidelines issued by the Centers for Disease Control and Prevention concerning recommendations for human immunodeficiency virus counseling and voluntary testing for pregnant women.**

“(b) NONCOMPLIANCE.--If a State does not provide the certification required under subsection (a) within the 120-day period described in such subsection, such State shall not be eligible to receive assistance for HIV counseling and testing under this section until such certification is provided.

“(c) ADDITIONAL FUNDS REGARDING WOMEN AND INFANTS.--

“(1) IN GENERAL.--If a State provides the certification required in subsection (a) and is receiving funds under part B for a fiscal year, the Secretary may (from the amounts available pursuant to paragraph (2)) make a grant to the State for the fiscal year for the following purposes:

“(A) Making available to pregnant women appropriate counseling on HIV disease.

“(B) Making available outreach efforts to pregnant women at high risk of HIV who are not currently receiving prenatal care.

“(C) Making available to such women voluntary HIV testing for such disease.

“(D) Offsetting other State costs associated with the implementation of this section and subsections (a) and (b) of section 2626.

“(E) Offsetting State costs associated with the implementation of mandatory newborn testing in accordance with this title or at an earlier date than is required by this title.

“(2) FUNDING.--For purposes of carrying out this subsection, there are authorized to be appropriated \$10,000,000 for each of the fiscal years 1996 through 2000. Amounts made available under section 2677 for carrying out this part are not available for carrying out this section unless otherwise authorized.

“(3) PRIORITY.--In awarding grants under this subsection the Secretary shall give priority to States that have the greatest proportion of HIV seroprevalance among child bearing women using the most recent data available as determined by the Centers for Disease Control and Prevention.

“SEC. 2626. PERINATAL TRANSMISSION OF HIV DISEASE;  
CONTINGENT REQUIREMENT REGARDING STATE GRANTS UNDER

**THIS PART.**

“(a) **ANNUAL DETERMINATION OF REPORTED CASES.**--A State shall annually determine the rate of reported cases of AIDS as a result of perinatal transmission among residents of the State.

“(b) **CAUSES OF PERINATAL TRANSMISSION.**--In determining the rate under subsection (a), a State shall also determine the possible causes of perinatal transmission. Such causes may include--

“(1) the inadequate provision within the State of prenatal counseling and testing in accordance with the guidelines issued by the Centers for Disease Control and Prevention;

“(2) the inadequate provision or utilization within the State of appropriate therapy or failure of such therapy to reduce perinatal transmission of HIV, including--

“(A) that therapy is not available, accessible or offered to mothers; or

“(B) that available therapy is offered but not accepted by mothers; or

“(3) other factors (which may include the lack of prenatal care) determined relevant by the State.

“(c) **CDC REPORTING SYSTEM.**--Not later than 4 months after the date of enactment of the this subpart, the Director of the Centers for Disease Control and Prevention shall develop and implement a system to be used by States to comply with the requirements of subsections (a) and (b). The Director shall issue guidelines to ensure that the data collected is statistically valid.

“(d) **DETERMINATION BY SECRETARY.**--Not later than 180 days after the expiration of the 18-month period beginning on the date on which the system is implemented under subsection (c), the Secretary shall publish in the Federal Register a determination of whether it has become a routine practice in the provision of health care in the United States to carry out each of the activities described in paragraphs (1) through (5) of section 2627. In making the determination, the Secretary shall consult with the States and with other public or private entities that have knowledge or expertise relevant to the determination.

“(e) **CONTINGENT APPLICABILITY.**--

“(1) **IN GENERAL.**--If the determination published in the Federal Register under subsection (d) is that (for purposes of such subsection) the activities involved have become routine practices, paragraph (2) shall apply on and after the expiration of the 18-month period beginning on the date on which the determination is so published.

“(2) **REQUIREMENT.**--Subject to subsection (f), the Secretary shall not make a grant under part B to a State unless the State meets not less than one of the following requirements:

“(A) A 50 percent reduction (or a comparable measure for States with less than 10 cases) in the rate of new cases of AIDS (recognizing that AIDS is a suboptimal proxy for tracking HIV in infants and was selected because such data is universally available) as a result of perinatal transmission as compared to the rate of such cases reported in 1993 (a State may use HIV data if such data is available).

“(B) At least 95 percent of women in the State who have received at least two prenatal visits (consultations) prior to 34 weeks gestation with a health care provider or provider group have been tested for the human immunodeficiency virus.

“(C) The State has in effect, in statute or through regulations, the requirements specified in paragraphs (1) through (5) of section 2627.

“(f) **LIMITATION REGARDING AVAILABILITY OF FUNDS.**--With respect to an activity described in any of paragraphs (1) through (5) of section 2627, the requirements established by a State under this section apply for purposes of this section only to the extent that the following sources of funds are available for carrying out the activity:

“(1) Federal funds provided to the State in grants under part B or under section 2625, or through other Federal sources under which payments for routine HIV testing, counseling or treatment are an eligible use.

“(2) Funds that the State or private entities have elected to provide, including through entering into contracts under which health benefits are provided. This section does not require any entity to expend non-Federal funds.

**“SEC. 2627. TESTING OF PREGNANT WOMEN AND NEWBORN INFANTS.**

“An activity or requirement described in this section is any of the following:

“(1) In the case of newborn infants who are born in the State and whose biological mothers have not undergone prenatal testing for HIV disease, that each such infant undergo testing for such disease.

“(2) That the results of such testing of a newborn infant be promptly disclosed in accordance with the following, as applicable to the infant involved:

“(A) To the biological mother of the infant (without regard to

whether she is the legal guardian of the infant).

**“(B) If the State is the legal guardian of the infant:**

**“(i) To the appropriate official of the State agency with responsibility for the care of the infant.**

**“(ii) To the appropriate official of each authorized agency providing assistance in the placement of the infant.**

**“(iii) If the authorized agency is giving significant consideration to approving an individual as a foster parent of the infant, to the prospective foster parent.**

**“(iv) If the authorized agency is giving significant consideration to approving an individual as an adoptive parent of the infant, to the prospective adoptive parent.**

**“(C) If neither the biological mother nor the State is the legal guardian of the infant, to another legal guardian of the infant.**

**“(D) To the child’s health care provider.**

**“(3) That, in the case of prenatal testing for HIV disease that is conducted in the State, the results of such testing be promptly disclosed to the pregnant woman involved.**

**“(4) That, in disclosing the test results to an individual under paragraph (2) or (3), appropriate counseling on the human immunodeficiency virus be made available to the individual (except in the case of a disclosure to an official of a State or an authorized agency).**

**“(5) With respect to State insurance laws, that such laws require--**

**“(A) that, if health insurance is in effect for an individual, the insurer involved may not (without the consent of the individual) discontinue the insurance, or alter the terms of the insurance (except as provided in subparagraph (C)), solely on the basis that the individual is infected with HIV disease or solely on the basis that the individual has been tested for the disease or its manifestation;**

**“(B) that subparagraph (A) does not apply to an individual who, in applying for the health insurance involved, knowingly misrepresented the HIV status of the individual; and**

**“(C) that subparagraph (A) does not apply to any reasonable alteration in the terms of health insurance for an individual with HIV disease that would have been made if the individual had a serious disease other than HIV disease.**

**For purposes of this subparagraph, a statute or regulation shall be deemed to regulate insurance for purposes of this paragraph only to the extent that**

**such statute or regulation is treated as regulating insurance for purposes of section 514(b)(2) of the Employee Retirement Income Security Act of 1974.**

**“SEC. 2628. REPORT BY THE INSTITUTE OF MEDICINE.**

**“(a) IN GENERAL.--The Secretary shall request that the Institute of Medicine of the National Academy of Sciences conduct an evaluation of the extent to which State efforts have been effective in reducing the perinatal transmission of the human immunodeficiency virus, and an analysis of the existing barriers to the further reduction in such transmission.**

**“(b) REPORT TO CONGRESS.--The Secretary shall ensure that, not later than 2 years after the date of enactment of this section, the evaluation and analysis described in subsection (a) is completed and a report summarizing the results of such evaluation and analysis is prepared by the Institute of Medicine and submitted to the appropriate committees of Congress together with the recommendations of the Institute.**

**“SEC. 2629. STATE HIV TESTING PROGRAMS ESTABLISHED PRIOR TO OR AFTER ENACTMENT.**

**“Nothing in this subpart shall be construed to disqualify a State from receiving grants under this title if such state has established at any time prior to or after the date of enactment of this subpart a program of mandatory HIV testing.**

**“PART C--EARLY INTERVENTION SERVICES**

**“SUBPART II--CATEGORICAL GRANTS**

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

**“(a) IN GENERAL.--For the purposes described in subsection (b), the Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to public and nonprofit private entities specified in section 2652(a)(1).**

**“(b) PURPOSES OF GRANTS.--**

**“(1) IN GENERAL.--The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees to **expend not less than 50 percent of the grant for such services that are specified in subparagraphs (B) through (E) of such paragraph for individuals with HIV disease.****

**“(2) SPECIFICATION OF EARLY INTERVENTION SERVICES.--The early intervention services referred to in paragraph (1) are--**

“(A) counseling individuals with respect to HIV disease in accordance with section 2662;

“(B) testing individuals with respect to such disease, including tests to confirm the presence of the disease, tests to diagnose the extent of the deficiency in the immune system, and tests to provide information on appropriate therapeutic measures for preventing and treating the deterioration of the immune system and for preventing and treating conditions arising from the disease;

“(C) referrals described in paragraph (3);

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

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

“(3) REFERRALS.--The services referred to in paragraph (2)(C) are referrals of individuals with HIV disease 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 facility 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.

“(4) REQUIREMENT OF AVAILABILITY OF ALL EARLY INTERVENTION SERVICES THROUGH EACH GRANTEE.--

“(A) **IN GENERAL.**--The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that each of the early intervention services specified in paragraph (2) will be available through the grantee. With respect to compliance with such agreement, such a grantee may expend the grant to provide the early intervention services directly, and may expend the grant to enter into agreements with public or nonprofit private entities **or private for profit entities if such entities are the only available provider of quality HIV care in the area**, under which the entities provide the services.

“(B) **OTHER REQUIREMENTS.**--Grantees described in--

“(i) **paragraphs (1), (2), (5), and (6) of section 2652(a) shall use not less than 50 percent of the amount of such a grant to provide the services described in subparagraphs (A), (B), (D), and (E) of section 2651(b)(2) directly and on-site or at sites where**

**other primary care service are rendered; and**

**“(ii) paragraphs (3) and (4) of section 2652(a) shall ensure the availability of early intervention services through a system of linkages to community-based primary care providers, and to establish mechanisms for the referrals described in section 2651(b)(2)(C), and for follow-up concerning such referrals.**

“(5) **OPTIONAL SERVICES.**--A grantee under subsection (a)--

“(A) may expend the grant to provide outreach services to individuals who may have HIV disease or may be at risk of the disease, and who may be unaware of the availability and potential benefits of early treatment of the disease, and to provide outreach services to health care professionals who may be unaware of such availability and potential benefits; and

“(B) may, in the case of individuals who seek early intervention services from the grantee, expend the grant--

“(i) for case management to provide coordination in the provision of health care services to the individuals and to review the extent of utilization of the services by the individuals; and

“(ii) to provide assistance to the individuals regarding establishing the eligibility of the individuals for financial assistance and services under Federal, State, or local programs providing for health services, mental health services, social services, or other appropriate services.

“(c) **PARTICIPATION IN CERTAIN CONSORTIUM.**--The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees to make reasonable efforts to participate in a consortium established with a grant under section 2612(a)(1) regarding comprehensive services to individuals with HIV disease, if such a consortium exist in the geographic area with respect to which the applicant is applying to receive such a grant.

“**SEC. 2652. MINIMUM QUALIFICATIONS OF GRANTEES.**

“(a) **IN GENERAL.**--The entities referred to in subsection (b) are public entities and nonprofit private entities that are--

“(A) migrant health centers under section 329 or community health centers under section 330;

“(B) grantees under section 340 (regarding health services for the homeless);

“(C) grantees under section 1001 (regarding family planning) other than States;

“(D) comprehensive hemophilia diagnostic and treatment centers;

“(E) Federally-qualified health centers under section 1905(l)(2)(B) of the Social Security Act; or

“(F) a nonprofit private entity that provides comprehensive primary care services to populations at risk of HIV disease.

“(b) STATUS AS MEDICAID PROVIDER.--

“(1) IN GENERAL.--Subject to paragraph (2), the Secretary may not make a grant under section 2651 for the provision of services described in subsection (b) of such section in a State unless, in the case of any such service that is available pursuant to the State plan approved under title XIX of the Social Security Act for the State--

“(A) the applicant for the grant will provide the service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

“(B) the applicant for the grant will enter into an agreement with a public or nonprofit private entity, **or a private for profit entity if such entity is the only available provider of quality HIV care in the area**, under which the entity will provide the service, and the entity has entered into such a participation agreement and is qualified to receive such payments.

“(2) WAIVER REGARDING CERTAIN SECONDARY AGREEMENTS.--

“(A) In the case of an entity making an agreement pursuant to paragraph (1)(B) regarding the provision of services, the requirement established in such paragraph regarding a participation agreement shall be waived by the Secretary if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

“(B) A determination by the Secretary of whether an entity referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the entity accepts voluntary donations regarding the provision of services to the public.

“SEC. 2653. PREFERENCES IN MAKING GRANTS.

“(a) IN GENERAL.--In making grants under section 2651, the Secretary shall give preference to any qualified applicant experiencing an increase in the burden of providing services regarding HIV disease, as indicated by the factors specified in subsection (b).

“(b) SPECIFICATION OF FACTORS.--

“(1) IN GENERAL.--In the case of the geographic area with respect to which the entity involved is applying for a grant under section 2651, the factors referred to in subsection (a), as determined for the period specified in paragraph (2), are--

“(A) the number of cases of acquired immune deficiency syndrome;

“(B) the rate of increase in such cases;

“(C) the lack of availability of early intervention services;

“(D) the number of other cases of sexually transmitted diseases, and the number of cases of tuberculosis and of drug abuse;

“(E) the rate of increase in each of the cases specified in subparagraph (D);

“(F) the lack of availability of primary health services from providers other than such applicant; and

“(G) the distance between such area and the nearest community that has an adequate level of availability of appropriate HIV-related services, and the length of time required to travel such distance.

“(2) RELEVANT PERIOD OF TIME.--The period referred to in paragraph (1) is the 2-year period preceding the fiscal year for which the entity involved is applying to receive a grant under section 2651.

“(c) EQUITABLE ALLOCATIONS.--In providing preferences for purposes of subsection (b), the Secretary shall equitably allocate the preferences among urban and rural areas.

“SEC. 2654. MISCELLANEOUS PROVISIONS.

“(a) SERVICES FOR INDIVIDUALS WITH HEMOPHILIA.--In making grants under section 2651, the Secretary shall ensure that any such grants made regarding the provision of early intervention services to individuals with hemophilia are made through the network of comprehensive hemophilia diagnostic and treatment centers.

“(b) TECHNICAL ASSISTANCE.--The Secretary may, directly or through grants or contracts, provide technical assistance to nonprofit private entities regarding the process of submitting to the Secretary applications for grants under section 2651, and may provide technical assistance with respect to the planning, development, and operation of any program or service carried out pursuant to such section.

“(c) PLANNING AND DEVELOPMENT GRANTS.--

“(1) IN GENERAL.--**The Secretary may provide planning grants in the amount not to exceed \$50,000 for each such grant, to public and nonprofit private entities for the purpose of enabling such entities to provide**

**HIV early intervention services.**

**“(2) REQUIREMENT.--The Secretary may only award a grant to an entity under paragraph (1) if the Secretary determines that the entity will use such grant to assist the entity in qualifying for a grant under section 2651.**

**“(3) PREFERENCE.--In awarding grants under paragraph (1), the Secretary shall give preference to entities that provide primary care services in rural or underserved communities.**

**“(4) LIMITATION.--Not to exceed 1 percent of the amount appropriated for a fiscal year under section 2655 may be used to carry out this section.”**

“SEC. 2655. AUTHORIZATION OF APPROPRIATIONS.

“For the purpose of making grants under section 2651, there are authorized to be appropriated **such sums as may be necessary in each of the fiscal years 1996, 1997, 1998, 1999, and 2000.**”

“SUBPART III--GENERAL PROVISIONS

“SEC. 2661. CONFIDENTIALITY AND INFORMED CONSENT.

“(a) CONFIDENTIALITY.--The Secretary may not make a grant under this part unless--

“(1) in the case of any State applying for a grant under section 2641, the State agrees to ensure that information regarding the receipt of early intervention services is maintained confidentially pursuant to law or regulations in a manner not inconsistent with applicable law; and

“(2) in the case of any entity applying for a grant under section 2651, the entity agrees to ensure that information regarding the receipt of early intervention services pursuant to the grant is maintained confidentially in a manner not inconsistent with applicable law.

“(b) INFORMED CONSENT.--

“(1) IN GENERAL.--The Secretary may not make a grant under this part unless the applicant for the grant agrees that, in testing an individual for HIV disease, the applicant will test an individual only after obtaining from the individual a statement, made in writing and signed by the individual, declaring that the individual has undergone the counseling described in section 2662(a) and that the decision of the individual with respect to undergoing such testing is voluntarily made.

“(2) PROVISIONS REGARDING ANONYMOUS TESTING.--

“(A) If, pursuant to section 2664(b), an individual will undergo testing pursuant to this part through the use of a pseudonym, a grantee under such section shall be considered to be in compliance with the agreement made under paragraph (1) if the individual signs the statement described in such subsection using the pseudonym.

“(B) If, pursuant to section 2664(b), an individual will undergo testing pursuant to this part without providing any information relating to the identity of the individual, a grantee under such section shall be considered to be in compliance with the agreement made under paragraph (1) if the individual orally provides the declaration described in such paragraph.

“SEC. 2662. PROVISION OF CERTAIN COUNSELING SERVICES.

“(a) COUNSELING BEFORE TESTING.--The Secretary may not make a grant under this part unless the applicant for the grant agrees that, before testing an individual for HIV disease, the applicant will provide to the individual appropriate counseling regarding the disease based on the most recently available scientific data), including counseling on--

“(1) measures for the prevention of exposure to, and the transmission of, HIV;

“(2) the accuracy and reliability of the results of testing for HIV disease;

“(3) the significance of the results of such testing, including the potential for developing acquired immune deficiency syndrome;

“(4) encouraging the individual, as appropriate, to undergo such testing;

“(5) the benefits of such testing, including the medical benefits of diagnosing HIV disease in the early stages and the medical benefits of receiving early intervention services during such stages;

“(6) provisions of law relating to the confidentiality of the process of receiving such services, including information regarding any disclosures that may be authorized under applicable law and information regarding the availability of anonymous counseling and testing pursuant to section 2664(b); and

“(7) provisions of applicable law relating to discrimination against individuals with HIV disease.

“(b) COUNSELING OF INDIVIDUALS WITH NEGATIVE TEST RESULTS.--The Secretary may not make a grant under this part unless the applicant for the grant agrees that, if the results of testing conducted for HIV disease indicate that an individual does not have the disease, the applicant will review for the individual the information provided pursuant to subsection (a), including--

“(1) the information described in paragraphs (1) through (3) of such subsection; and

“(2) the appropriateness of further counseling, testing, and education of the individual regarding such disease.

“(c) COUNSELING OF INDIVIDUALS WITH POSITIVE TEST

RESULTS.--The Secretary may not make a grant under this part unless the applicant for the grant agrees that, if the results of testing for HIV disease indicate that the individual has the disease, the applicant will provide to the individual appropriate counseling regarding such disease, including--

“(1) reviewing the information described in paragraphs (1) through (3) of subsection (a);

“(2) reviewing the appropriateness of further counseling, testing, and education of the individual regarding such disease; and

“(3) providing counseling on--

“(A) the availability, through the applicant, of early intervention services;

“(B) the availability in the geographic area of appropriate health care, mental health care, and social and support services, including providing referrals for such services, as appropriate;

“(C) the benefits of locating and counseling any individual by whom the infected individual may have been exposed to HIV and any individual whom the infected individual may have exposed to HIV; and

“(D) the availability of the services of public health authorities with respect to locating and counseling any individual described in subparagraph (C).

“(d) ADDITIONAL REQUIREMENTS REGARDING APPROPRIATE COUNSELING.--The Secretary may not make a grant under this part unless the applicant for the grant agrees that, in counseling individuals with respect to HIV disease, the applicant will ensure that the counseling is provided under conditions appropriate to the needs of the individuals.

“(e) COUNSELING OF EMERGENCY RESPONSE EMPLOYEES.--The Secretary may not make a grant under this part to a State unless the State agrees that, in counseling individuals with respect to HIV disease, the State will ensure that, in the case of emergency response employees, the counseling is provided to such employees under conditions appropriate to the needs of the employees regarding the counseling.

“(f) RULE OF CONSTRUCTION REGARDING COUNSELING WITHOUT TESTING.--Agreements made pursuant to this section may not be construed to prohibit any grantee under this part from expending the grant for the purpose of

providing counseling services described in this section to an individual who does not undergo testing for HIV disease as a result of the grantee or the individual determining that such testing of the individual is not appropriate.

“SEC. 2663. APPLICABILITY OF REQUIREMENTS REGARDING CONFIDENTIALITY, INFORMED CONSENT, AND COUNSELING.

“The Secretary may not make a grant under this part unless the applicant for the grant agrees that, with respect to testing for HIV disease, any such testing carried out by the applicant will, without regard to whether such testing is carried out with Federal funds, be carried out in accordance with conditions described in sections 2661 and 2662.

“SEC. 2664. ADDITIONAL REQUIRED AGREEMENTS.

“(a) REPORTS TO SECRETARY.--The Secretary may not make a grant under this part unless--

“(1) the applicant submits to the Secretary--

“(A) a specification of the expenditures made by the applicant for early intervention services for the fiscal year preceding the fiscal year for which the applicant is applying to receive the grant; and

“(B) an estimate of the number of individuals to whom the applicant has provided such services for such fiscal year; and

“(2) the applicant agrees to submit to the Secretary a report providing--

“(A) the number of individuals to whom the applicant provides early intervention services pursuant to the grant;

“(B) epidemiological and demographic data on the population of such individuals;

“(C) the extent to which the costs of HIV-related health care for such individuals are paid by third-party payors;

“(D) the average costs of providing each category of early intervention service; and

“(E) the aggregate amounts expended for each such category.

“(b) PROVISION OF OPPORTUNITIES FOR ANONYMOUS COUNSELING AND TESTING.--The Secretary may not make a grant under this part unless the applicant for the grant agrees that, to the extent permitted under State law, regulation or rule, the applicant will offer substantial opportunities for an individual--

“(1) to undergo counseling and testing regarding HIV disease without being required to provide any information relating to the identity of the individual; and

“(2) to undergo such counseling and testing through the use of a pseudonym.

“(c) PROHIBITION AGAINST REQUIRING TESTING AS CONDITION OF RECEIVING OTHER HEALTH SERVICES.--The Secretary may not make a grant under this part unless the applicant for the grant agrees that, with respect to an individual seeking health services from the applicant, the applicant will not require the individual to undergo testing for HIV as a condition of receiving any health services unless such testing is medically indicated in the provision of the health services sought by the individual.

“(d) MAINTENANCE OF SUPPORT.--The Secretary may not make a grant under this part unless the applicant for the grant agrees to maintain the expenditures of the applicant for early intervention services at a level equal to not less than the level of such expenditures maintained by the State for the fiscal year preceding the fiscal year for which the applicant is applying to receive the grant.

“(e) REQUIREMENTS REGARDING IMPOSITION OF CHARGES FOR SERVICES.--

“(1) IN GENERAL.--The Secretary may not make a grant under this part unless, subject to paragraph (5), the applicant for the grant agrees that--

“(A) in the case of individuals with an income less than or equal to 100 percent of the official poverty line, the applicant will not impose a charge on any such individual for the provision of early intervention services under the grant;

“(B) in the case of individuals with an income greater than 100 percent of the official poverty line, the applicant--

“(i) will impose a charge on each such individual for the provision of such services; and

“(ii) will impose the charge according to a schedule of charges that is made available to the public.

“(2) LIMITATION ON CHARGES REGARDING INDIVIDUALS SUBJECT TO CHARGES.--With respect to the imposition of a charge for purposes of paragraph (1)(B)(ii), the Secretary may not make a grant under this part unless, subject to paragraph (5), the applicant for the grant agrees that--

“(A) in the case of individuals with an income greater than 100 percent of the official poverty line and not exceeding 200 percent of such poverty line, the applicant will not, for any calendar year, impose charges in an amount exceeding 5 percent of the annual gross income of the individual involved;

“(B) in the case of individuals with an income greater than 200 percent of the official poverty line and not exceeding 300 percent of such poverty line, the applicant will not, for any calendar year, impose charges in an

amount exceeding 7 percent of the annual gross income of the individual involved; and

“(C) in the case of individuals with an income greater than 300 percent of the official poverty line, the applicant will not, for any calendar year, impose charges in an amount exceeding 10 percent of the annual gross income of the individual involved.

“(3) ASSESSMENT OF CHARGE.--With respect to compliance with the agreement made under paragraph (1), a grantee under this part may, in the case of individuals subject to a charge for purposes of such paragraph--

“(A) assess the amount of the charge in the discretion of the grantee, including imposing only a nominal charge for the provision of services, subject to the provisions of such paragraph regarding public schedules and of paragraph (2) regarding limitations on the maximum amount of charges; and

“(B) take into consideration the medical expenses of individuals in assessing the amount of the charge, subject to such provisions.

“(4) APPLICABILITY OF LIMITATION ON AMOUNT OF CHARGE.--The secretary may not make a grant under this part unless the applicant for the grant agrees that the limitations established in paragraph (2) regarding the imposition of charges for services applies to the annual aggregate of charges imposed for such services, without regard to whether they are characterized as enrollment fees, premiums, deductibles, cost sharing, copayments, coinsurance, or similar charges.

(5) WAIVER REGARDING CERTAIN SECONDARY AGREEMENTS.--The requirement established in paragraph (1)(B)(i) shall be waived by the Secretary in the case of any entity for whom the Secretary has granted a waiver under section 2642(b) or 2652(b)(2).

“(f) RELATIONSHIP TO ITEMS AND SERVICES UNDER OTHER PROGRAMS.--

“(1) IN GENERAL.--The Secretary may not make a grant under this part unless the applicant for the grant agrees that, subject to paragraph (2), the grant will not be expended by the applicant, or by any entity receiving amounts from the applicant for the provision of early intervention services, to make payment for any such service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such service--

“(A) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

“(B) by an entity that provides health services on a prepaid basis.

“(2) APPLICABILITY TO CERTAIN SECONDARY AGREEMENTS FOR PROVISION OF SERVICES.--An agreement made under paragraph (1) shall not apply in the case of an entity through which a grantee under this part provides early intervention services if the Secretary has provided a waiver under section 2642(b) or 2652(b)(2) regarding the entity.

“(g) ADMINISTRATION OF GRANT.--The Secretary may not make a grant under this part unless the applicant for the grant agrees that--

“(1) the applicant will not expend amounts receive pursuant to this part for any purpose other than the purposes described in the subpart under which the grant involved is made;

“(2) the applicant will establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant;

“(3) the applicant will not expend more than **7.5 percent, including planning, and evaluation** of the grant for administrative expenses with respect to the grant; and

“(4) **the applicant will submit evidence that the proposed program is consistent with the Statewide coordinated statement of need and agree to participate in the ongoing revision of such statement of need.**

“(h) CONSTRUCTION.--A State may not use amounts received under a grant awarded under section 2641 to purchase or improve land, or to purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or to make cash payments to intended recipients of services.

“SEC. 2665. REQUIREMENT OF SUBMISSION OF APPLICATION CONTAINING CERTAIN AGREEMENTS AND ASSURANCES.

“The Secretary may not make a grant under this part unless--

“(1) an application for the grant is submitted to the Secretary containing agreements and assurances in accordance with this part and containing the information specified in section 2664(a)(1);

“(2) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary; and

“(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

“SEC. 2666. PROVISION BY SECRETARY OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.

“(a) IN GENERAL.--Upon the request of a grantee under this part, the Secretary may, subject to subsection (b), provide supplies, equipment, and services for the purpose of aiding the grantee in providing early intervention services and, for such purpose, may detail to the State any officer or employee of the Department of Health and Human Services.

“(b) LIMITATION.--With respect to a request described in subsection (a), the Secretary shall reduce the amount of payments under the grant involved by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

“SEC. 2667. USE OF FUNDS.

“Counseling programs carried out under this part--

“(1) shall not be designed to promote or encourage, directly, intravenous drug abuse or sexual activity, homosexual or heterosexual;

“(2) shall be designed to reduce exposure to and transmission of HIV disease by providing accurate information; and

“(3) shall provide information on the health risks of promiscuous sexual activity and intravenous drug abuse.”.

(b) REVISION, EXTENSION, AND TRANSFER OF PROGRAM OF PRISON TESTING ACT OF 1988.--

(1) TRANSFER OF PROGRAM.--Section 902 of Public Law 100-09607--

(A) is transferred to part C of title XXVI of the Public Health Service Act, as added by subsection (a) of this Act;

(B) is redesignated as section 2648; and (C) is inserted after section 2647 of such part C.

(2) EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR PROGRAM.--Section 2648(g) of the Public Health Service Act, as transferred and added by paragraph (1) of this subsection, is amended by striking “1990“ and inserting “1995“.

(3) REVISION OF PROGRAM.--Section 2648 of the Public Health Service Act, as transferred and added by paragraph (1) of this subsection, is amended by striking subsections (a) through (f) and inserting the following:

“(a) IN GENERAL.--In addition to grants under section 2641, the Secretary may make grants to States for the purpose of assisting the States in providing early intervention services to individuals sentenced by the State to a term of imprisonment. The Secretary may make such a grant only if the State involved requires, subject to subsection (d), that--

“(1) the services be provided to such individuals; and

“(2) each such individual be informed of the requirements of subsection (c) regarding testing and be informed of the results of such testing of the individual.

“(b) REQUIREMENT OF MATCHING FUNDS.--

“(1) IN GENERAL.--The Secretary may not make a grant under subsection (a) unless the State involved agrees that, with respect to the costs to be incurred by the State in carrying out the purpose described in such subsection, the State will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to--

“(A) for the first fiscal year of payments under the grant, not less than \$1 for each \$2 of Federal funds provided in the grant; and

“(B) for any subsequent fiscal year of such payments, not less than \$1 for each \$1 of Federal funds provided in the grant.

“(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.-- Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, and services (or portions of services) subsidized by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

“(c) TESTING.--The Secretary may not make a grant under subsection (a) unless--

“(1) the State involved requires that, subject to subsection (d), any individual sentenced by the State to a term of imprisonment be tested for HIV disease--

“(A) upon entering the State penal system; and

“(B) during the 30-day period preceding the date on which the individual is released from such system;

“(2) with respect to informing employees of the penal system of the results of such testing of the individual, the State--

“(A) upon the request of any such employee, provides the results to the employee in any case in which the medical officer of the prison determines that there is a reasonable basis for believing that the employee has been exposed by the individual to such disease; and

“(B) informs the employees of the availability to the employees of such results under the conditions described in subparagraph (A);

“(3) with respect to informing the spouse of the individual of the results of such testing of the individual, the State--

“(A) upon the request of the spouse, provides such results to the

spouse prior to any conjugal visit and provides such results to the spouse during the period described in paragraph (1)(B); and

“(B) informs the spouse of the availability to the spouse of such results under the conditions described in subparagraph (A);

“(4) with respect to such testing upon entering the State penal system of such an individual who has been convicted of rape or aggravated sexual assault, the State--

“(A) upon the request of the victim of the rape or assault, provides such results to the victim; and

“(B) informs the victim of the availability to the victim of such results; and

“(5) the State, except as provided in any of paragraphs (2) through (4), maintains the confidentiality of the results of testing for HIV disease in each prison operated by the State or with amounts provided by the State, and makes disclosures of such results only as medically necessary.

“(d) DETERMINATION OF PRISONS SUBJECT TO REQUIREMENT.--

“(1) IN GENERAL.--The Secretary may not make a grant under subsection (a) unless the State involved agrees that the requirement established in such subsection regarding the provision of early intervention services to inmates will apply only to inmates who are incarcerated in prisons with respect to which the State public health officer, after consultation with the chief State correctional officer, has, on the basis of the criteria described in paragraph (2), determined that the provision of such services is appropriate with respect to the public health and safety.

“(2) DESCRIPTION OF CRITERIA.--The criteria to be considered for purposes of paragraph (1) are--

“(A) with respect to the geographic areas in which inmates of the prison involved resided before incarceration in the prison--

“(i) the severity of the epidemic of HIV disease in the areas during the period in which the inmates resided in the areas; and

“(ii) the incidence, in the areas during such period, of behavior that places individuals at significant risk of developing HIV disease; and

“(B) the extent to which medical examinations conducted by the State for inmates of the prison involved indicate that the inmates have engaged in such behavior.

“(e) APPLICABILITY OF PROVISIONS REGARDING INFORMED CONSENT, COUNSELING, AND OTHER MATTERS.--The Secretary may not make

a grant under subsection (a) unless the State involved agrees that sections 2641(b)(4), 2662, and 2664(c) will apply to the provision of early intervention services pursuant to the grant in the same manner and to the same extent as such sections apply to the provision of such services by grantees under section 2641.

“(f) REQUIREMENT OF APPLICATION.--The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

“(g) RULE OF CONSTRUCTION.--With respect to testing inmates of State prisons for HIV disease without the consent of the inmates, the agreements made under this section may not be construed to authorize, prohibit, or require any State to conduct such testing, except as provided in subparagraphs (A) and (B) of subsection (c)(1).”.

(4) TECHNICAL AMENDMENTS.--Section 2648 of the Public Health Service Act, as transferred and added by paragraph (1) of this subsection, is amended by striking the heading and inserting the following: “TESTING AND OTHER EARLY INTERVENTION SERVICES FOR STATE PRISONERS.”

**“SEC. 2671. GRANTS FOR COORDINATED SERVICES AND ACCESS TO RESEARCH FOR WOMEN, INFANTS, CHILDREN, AND YOUTH.**

“(a) IN GENERAL.--The Secretary, acting through the Administrator of the Health Resources and Services Administration and in consultation with the Director of the National Institutes of Health, shall make grants to public and nonprofit private entities that provide primary care (directly or through contracts) for the following purposes:

“(1) Providing through such entities, in accordance with this section, opportunities for women, infants, children, and youth to be voluntary participants in research of potential clinical benefit to individuals with HIV disease.

“(2) In the case of women, infants, children, and youth with HIV disease, and the families of such individuals, providing to such individuals--

“(A) health care on an outpatient basis; and

“(B) additional services in accordance with subsection (d).

“(b) PROVISIONS REGARDING PARTICIPATION IN RESEARCH.--

“(1) IN GENERAL.--With respect to the projects of research with which an applicant under subsection (a) is concerned, the Secretary may make a grant under such subsection to the applicant only if the following conditions are met:

“(A) The applicant agrees to make reasonable efforts--

“(i) to identify which of the patients of the applicant are women, infants, children, and youth who would be appropriate participants in the projects;

“(ii) to carry out clause (i) through the use of criteria provided for such purpose by the entities that will be conducting the projects of research; and

“(iii) to offer women, infants, children, and youth the opportunity to participate in the projects (as appropriate), including the provision of services under subsection (d)(3).

“(B) The applicant agrees that, in the case of the research-related functions to be carried out by the applicant pursuant to subsection (a)(1), the applicant will comply with accepted standards that are applicable to such functions (including accepted standards regarding informed consent and other protections for human subjects).

“(C) For the first and second fiscal years for which grants under subsection (a) are to be made to the applicant, the applicant agrees that, not later than the end of the second fiscal year of receiving such a grant, a significant number of women, infants, children, and youth who are patients of the applicant will be participating in the projects of research.

“(D) Except as provided in paragraph (3) (and paragraph (4), as applicable), for the third and subsequent fiscal years for which such grants are to be made to the applicant, the Secretary has determined that a significant number of such individuals are participating in the projects.

“(2) PROHIBITION.--Receipt of services by a patient shall not be conditioned upon the consent of the patient to participate in research.

“(3) SIGNIFICANT PARTICIPATION; CONSIDERATION BY SECRETARY OF CERTAIN CIRCUMSTANCES.--In administering the requirement of paragraph (1)(D), the Secretary shall take into account circumstances in which a grantee under subsection (a) is temporarily unable to comply with the requirement for reasons beyond the control of the grantee, and shall in such circumstances provide to the grantee a reasonable period of opportunity in which to reestablish compliance with the requirement.

“(4) SIGNIFICANT PARTICIPATION; TEMPORARY WAIVER FOR ORIGINAL GRANTEES.--

“(A) **IN GENERAL.**--In the case of an applicant under subsection (a) who received a grant under such subsection for fiscal year 1995, the Secretary may, subject to subparagraph (B), provide to the applicant a waiver of the requirement of paragraph (1) (D) if the Secretary determines that the applicant is making reasonable progress toward meeting the requirement.

“(B) **TERMINATION OF AUTHORITY FOR WAIVERS.**-- The Secretary may not provide any waiver under subparagraph (A) on or after October 1, 1998. Any such waiver provided prior to such date terminates on such date, or on such earlier date as the Secretary may specify.

“(c) **PROVISIONS REGARDING CONDUCT OF RESEARCH.**--

“(1) **IN GENERAL .**--With respect to eligibility for a grant under subsection (a):

“(A) A project of research for which subjects are sought pursuant to such subsection may be conducted by the applicant for the grant, or by an entity with which the applicant has made arrangements for purposes of the grant. The grant may not be expended for the conduct of any project of research, except for such research-related functions as are appropriate for providing opportunities under subsection (a)(1) (including the functions specified in subsection (b)(1)).

“(B) The grant may be made only if the Secretary makes the following determinations:

“(i) The applicant or other entity (as the case may be under subparagraph (A)) is appropriately qualified to conduct the project of research. An entity shall be considered to be so qualified if any research protocol of the entity has been recommended for funding under this Act pursuant to technical and scientific peer review through the National Institutes of Health.

“(ii) The project of research is being conducted in accordance with a research protocol to which the Secretary gives priority regarding the prevention or treatment of HIV disease in women, infants, children, or youth, subject to paragraph (2).

“(2) **LIST OF RESEARCH PROTOCOLS.**--

“(A) **IN GENERAL.**--From among the research protocols described in paragraph (1)(B)(ii), the Secretary shall establish a list of research protocols that are appropriate for purposes of subsection

(a)(1). Such list shall be established only after consultation with public and private entities that conduct such research, and with providers of services under subsection (a) and recipients of such services.

“(B) **DISCRETION OF SECRETARY.**--The Secretary may authorize the use, for purposes of subsection (a)(1), of a research protocol that is not included on the list under subparagraph (A). The Secretary may waive the requirement specified in paragraph (1)(B)(ii) in such circumstances as the Secretary determines to be appropriate.

“(d) **ADDITIONAL SERVICES FOR PATIENTS AND FAMILIES.**--A grant under subsection (a) may be made only if the applicant for the grant agrees as follows:

“(1) The applicant will provide for the case management of the patient involved and the family of the patient.

“(2) The applicant will provide for the patient and the family of the patient--

“(A) referrals for inpatient hospital services, treatment for substance abuse, and mental health services; and

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

“(3) The applicant will provide the patient and the family of the patient with such transportation, child care, and other incidental services as may be necessary to enable the patient and the family to participate in the program established by the applicant pursuant to such subsection.

“(e) **COORDINATION WITH OTHER ENTITIES.**--A grant under subsection (a) may be made only if the applicant for the grant agrees as follows:

“(1) The applicant will coordinate activities under the grant with other providers of health care services under this Act, and under title V of the Social Security Act.

“(2) The applicant will participate in the statewide coordinated statement of need under part B (where it has been initiated by the public health agency responsible for administering grants under part B) and in revisions of such statement.

“(f) **APPLICATION.**--A grant under subsection (a) may be made only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

“(g) **COORDINATION WITH NATIONAL INSTITUTES OF**

**HEALTH.--**The Secretary shall develop and implement a plan that provides for the coordination of the activities of the National Institutes of Health with the activities carried out under this section. In carrying out the preceding sentence, the Secretary shall ensure that projects of research conducted or supported by such Institutes are made aware of applicants and grantees under subsection (a), shall require that the projects, as appropriate, enter into arrangements for purposes of such subsection, and shall require that each project entering into such an arrangement inform the applicant or grantee under such subsection of the needs of the project for the participation of women, infants, children, and youth.

**“(h) ANNUAL REVIEW OF PROGRAMS; EVALUATIONS.-**

**“(1) REVIEW REGARDING ACCESS TO AND PARTICIPATION IN PROGRAMS.--**With respect to a grant under subsection (a) for an entity for a fiscal year, the Secretary shall, not later than 180 days after the end of the fiscal year, provide for the conduct and completion of a review of the operation during the year of the program carried out under such subsection by the entity. The purpose of such review shall be the development of recommendations, as appropriate, for improvements in the following:

**“(A) Procedures used by the entity to allocate opportunities and services under subsection (a) among patients of the entity who are women, infants, children, or youth.**

**“(B) Other procedures or policies of the entity regarding the participation of such individuals in such program.**

**“(2) EVALUATIONS.--**The Secretary shall, directly or through contracts with public and private entities, provide for evaluations of programs carried out pursuant to subsection (a).

**“(i) TRAINING AND TECHNICAL ASSISTANCE.--**Of the amounts appropriated under subsection (j) for a fiscal year, the Secretary may use not more than five percent to provide, directly or through contracts with public and private entities (which may include grantees under subsection (a)), training and technical assistance to assist applicants and grantees under subsection (a) in complying with the requirements of this section.

**“(j) AUTHORIZATION OF APPROPRIATIONS.--**For the purpose of carrying out this section, there are authorized to be appropriated, such sums as may be necessary for each of the fiscal years 1996 through 2000.

**“SEC. 2674. EVALUATIONS AND REPORTS.**

**“(a) EVALUATIONS.--**The Secretary shall, directly or through grants and

contracts, evaluate programs carried out under this title.

**“(b) REPORT TO CONGRESS.--**The Secretary shall, not later than **October 1, 1996**, and annually thereafter, prepare and submit to the appropriate Committees of Congress a report--

**“(1) evaluating the programs carried out under this title; and**

**“(2) making such recommendations for administrative and legislative initiatives with respect to this title as the Secretary determines to be appropriate.**

**“(c) AUTHORIZATION OF APPROPRIATIONS.--**There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1991 through 1995.

**“(d) ALLOCATION OF FUNDS.--**The Secretary shall carry out this section with amounts available under section 241. Such amounts are in addition to any other amounts that are available to the Secretary for such purpose.

**“SEC. 2675. COORDINATION.**

**“(a) REQUIREMENT.--**The Secretary shall assure that the Health Resources and Services Administration and the Centers for Disease Control will coordinate the planning of the funding of programs authorized under this title to assure that health support services for individuals with HIV disease are integrated with each other and that the continuity of care of individuals with HIV disease is enhanced. In coordinating the allocation of funds made available under this title the Health Resources and Services Administration and the Centers for Disease Control shall utilize planning information submitted to such agencies by the States and entities eligible for support.

**“(b) INTEGRATION BY STATE.--**As a condition of receipt of funds under this title, a State shall assure the Secretary that health support services funded under this title will be integrated with each other, that programs will be coordinated with other available programs (including Medicaid) and that the continuity of care of individuals with HIV disease is enhanced.

**“(c) INTEGRATION BY LOCAL OR PRIVATE ENTITIES.--**As a condition of receipt of funds under this title, a local government or private nonprofit entity shall assure the Secretary that services funded under this title will be integrated with each other, that programs will be coordinated with other available programs (including Medicaid) and that the continuity of care of individuals with HIV is enhanced.

**“SEC. 2676. DEFINITIONS.**

**“For purposes of this title:**

**“(1) COUNSELING.--**The term ‘counseling’ means such counseling provided by an individual trained to provide such counseling.

“(2) DESIGNATED OFFICER OF EMERGENCY RESPONSE EMPLOYEES.--The term `designated officer of emergency response employees' means an individual designated under section 2686 by the public health officer of the State involved.

“(3) EMERGENCY.--The term `emergency' means an emergency involving injury or illness.

“(4) EMERGENCY RESPONSE EMPLOYEE.--The term `emergency response employees' means firefighters, law enforcement officers, paramedics, emergency medical technicians, **funeral service practitioners**, and other individuals (including employees of legally organized and recognized volunteer organizations, without regard to whether such employees receive nominal compensation) who, in the course of professional duties, respond to emergencies in the geographic area involved.

“(5) EMPLOYER OF EMERGENCY RESPONSE EMPLOYEES.--The term `employer of emergency response employees' means an organization that, in the course of professional duties, responds to emergencies in the geographic area involved.

“(6) EXPOSED.--The term `exposed', with respect to HIV disease or any other infectious disease, means to be in circumstances in which there is a significant risk of becoming infected with the etiologic agent for the disease involved.

“(7) FAMILIES WITH HIV DISEASE.--The term `families with HIV disease' means families in which one or more members have HIV disease.

“(8) HIV.--The term `HIV' means infection with the etiologic agent for acquired immune deficiency SYNDROME.

“(9) HIV DISEASE.--The term `HIV disease' means infection with the etiologic agent for acquired immune deficiency syndrome, and includes any condition arising from such syndrome.

“(10) OFFICIAL POVERTY LINE.--The term `official poverty line' means the poverty line established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

“(11) PERSON.--The term `person' includes one or more individuals, governments (including the Federal Government and the governments of the States), governmental agencies, political subdivisions, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, receivers, trustees, and trustees in cases under title 11, United States Code.

“(12) STATE.--The term `State', except as otherwise specifically provided, means each of the 50 States, the District of Columbia, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the Republic of the Marshall Islands.“

#### “SEC. 2677. AUTHORIZATION OF APPROPRIATIONS.

“(a) IN GENERAL.--Subject to subsection (b), there are authorized to be appropriated to make grants under parts A and B, such sums as may be necessary for each of the fiscal years 1996 through 2000.

“(b) DEVELOPMENT OF METHODOLOGY.--

“(1) IN GENERAL.--With respect to each of the fiscal years 1997 through 2000, the Secretary shall develop and implement a methodology for adjusting the percentages allocated to part A and part B to account for grants to new eligible areas under Part A and other relevant factors. Not later than July 1, 1996 the Secretary shall prepare and submit to the appropriate committees of Congress a report regarding the findings with respect to the methodology developed under this paragraph.

“(2) FAILURE TO IMPLEMENT.--If the Secretary determines that such a methodology under paragraph (1) cannot be developed, there are authorized to be appropriated--

“(A) such sums as may be necessary to carry out part A for each of the fiscal years 1997 through 2000; and

“(B) such sums as may be necessary to carry out part B for each of the fiscal years 1997 through 2000;

#### SEC. 2678. PROHIBITION ON PROMOTION OF CERTAIN ACTIVITIES.

“None of the funds authorized under this title shall be used to fund AIDS programs, or to develop materials, designed to promote or encourage, directly, intravenous drug use or sexual activity, whether homosexual or heterosexual. Funds authorized under this title may be used to provide medical treatment and support services for individuals with HIV.“

#### “PART F--DEMONSTRATION AND TRAINING

##### “SUBPART I--SPECIAL PROJECTS OF NATIONAL SIGNIFICANCE

#### “SEC. 2691. SPECIAL PROJECTS OF NATIONAL SIGNIFICANCE.

“(a) IN GENERAL.--Of the amount appropriated under each of parts A, B,

C, and D of this title for each fiscal year, the Secretary shall use the greater of \$20,000,000 or 3 percent of such amount appropriated under each such part, but not to exceed \$25,000,000, to administer a special projects of national significance program to award direct grants to public and nonprofit private entities including community-based organizations to fund special programs for the care and treatment of individuals with HIV disease.

“(b) GRANTS.--The Secretary shall award grants under subsection (a) based on--

“(1) the need to assess the effectiveness of a particular model for the care and treatment of individuals with HIV disease;

“(2) the innovative nature of the proposed activity; and

“(3) the potential replicability of the proposed activity in other similar localities or nationally.

“(c) SPECIAL PROJECTS.--Special projects of national significance shall include the development and assessment of innovative service delivery models that are designed to--

“(1) address the needs of special populations;

“(2) assist in the development of essential community-based service delivery infrastructure; and

“(3) ensure the ongoing availability of services for Native American communities to enable such communities to care for Native Americans with HIV disease.

“(d) SPECIAL POPULATIONS.--Special projects of national significance may include the delivery of HIV health care and support services to traditionally underserved populations including--

“(1) individuals and families with HIV disease living in rural communities;

“(2) adolescents with HIV disease;

“(3) Indian individuals and families with HIV disease;

“(4) homeless individuals and families with HIV disease;

“(5) hemophiliacs with HIV disease; and

“(6) incarcerated individuals with HIV disease.

“(e) SERVICE DEVELOPMENT GRANTS.--Special projects of national significance may include the development of model approaches to delivering HIV care and support services including--

“(1) programs that support family-based care networks and programs that build organizational capacity critical to the delivery of care in minority communities;

“(2) programs designed to prepare AIDS service organizations and grantees under this title for operation within the changing health care environment; and

“(3) programs designed to integrate the delivery of mental health and substance abuse treatment with HIV services.

“(f) COORDINATION.--The Secretary may not make a grant under this section unless the applicant submits evidence that the proposed program is consistent with the Statewide coordinated statement of need, and the applicant agrees to participate in the ongoing revision process of such statement of need.

“(g) REPLICATION.--The Secretary shall make information concerning successful models developed under this part available to grantees under this title for the purpose of coordination, replication, and integration. To facilitate efforts under this subsection, the Secretary may provide for peer-based technical assistance from grantees funded under this part.”

#### “SUBPART II-AIDS EDUCATION AND TRAINING CENTERS

#### “SEC. 2692. HIV/AIDS COMMUNITIES, SCHOOLS, AND CENTERS“.

##### “(a) SCHOOLS; CENTERS.--

“(1) The Secretary may make grants and enter into contracts to assist public and nonprofit entities and schools and academic health science centers in meeting the costs and projects--

“(A) training health personnel, including practitioners in title XXVI programs and other community providers, in the diagnosis, treatment, and prevention of HIV infection and disease, including the prevention of the perinatal transmission of the disease and including measures for the prevention and treatment of opportunistic infections;“

“(B) to train the faculty of schools of, and graduate departments and programs of medicine, nursing, osteopathic medicine, dentistry, public health, allied health and mental health practice to teach health professions students to provide for the health care needs of individuals with HIV disease; and

“(C) to develop and disseminate curricula and resource materials relating to the care and treatment of individuals with such disease and the prevention of the disease among individuals who are at risk for contracting the disease.

“(2) PREFERENCE IN MAKING GRANTS.--In making grants under

paragraph (1), the Secretary shall give preference to qualified applicants which will--

“(A) train, or result in the training of, health professionals who will provide treatment for minority individuals with HIV disease and other individuals who are at high risk of contracting such disease; and

“(B) train, or result in the training of, minority health professionals and minority allied health professionals to provide treatment for individuals with such disease.

“(3) APPLICATION.--No grant or contract may be made under paragraph (1) unless the application is submitted to the Secretary in such form, at such time, and containing information, as the Secretary may prescribe.

“(b) DENTAL SCHOOLS.--

“(1) IN GENERAL.--The Secretary may make grants to assist dental schools and programs described in section 777(b)(4)(B) with respect to oral health care to patients with HIV disease.

“(2) APPLICATION.--Each dental school or program described in section 777(b)(4)(B) may annually submit an application documenting the unreimbursed costs of oral health care provided to patients with HIV disease by that school or hospital during the prior year.

“(3) DISTRIBUTION.--The Secretary shall distribute the available funds among all eligible applicants, taking into account the number of patients with HIV served and the unreimbursed oral health care costs incurred by each institution as compared to the total number of patients served and costs incurred by eligible applicants.

“(4) MAINTENANCE OF EFFORT.--The Secretary shall not make a grant under this subsection if doing so would result in any reduction in State funding allotted for such purposes.

“(c) DEFINITION.--For purposes of this section--

“(1) The term HIV disease means infection with the human immunodeficiency virus, and includes any condition arising from such infection.

“(2) The term human immunodeficiency virus means the etiological agent for acquired immune deficiency syndrome.

“(d) AUTHORIZATION OF APPROPRIATIONS.--There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1996 through 2000.“.

#### SEC. 422. PROHIBITION ON USE OF FUNDS.

None of the funds made available under this Act, or an amendment made by this Act, shall be used to provide individuals with hypodermic needles or syringes so that such individuals may use illegal drugs.

#### SEC. 7. PERINATAL TRANSMISSION OF HIV DISEASE.

(a) FINDINGS.--The Congress finds as follows:

(1) Research studies and Statewide clinical experiences have demonstrated that administration of anti-retroviral medication during pregnancy can significantly reduce the transmission of the human immunodeficiency virus (commonly known as HIV) from an infected mother to her baby.

(2) The Centers for Disease Control and Prevention have recommended that all pregnant women receive HIV counseling; voluntary, confidential HIV testing; and appropriate medical treatment (including anti-retroviral therapy) and support services.

(3) The provision of such testing without access to such counseling, treatment, and services will not improve the health of the woman or the child.

(4) The provision of such counseling, testing, treatment, and services can reduce the number of pediatric cases of acquired immune deficiency syndrome, can improve access to and provision of medical care for the woman, and can provide opportunities for counseling to reduce transmission among adults, and from mother to child.

(5) The provision of such counseling, testing, treatment, and services can reduce the overall cost of pediatric cases of acquired immune deficiency syndrome.

(6) The cancellation or limitation of health insurance or other health coverage on the basis of HIV status should be impermissible under applicable law. Such cancellation or limitation could result in disincentives for appropriate counseling, testing, treatment, and services.

(7) For the reasons specified in paragraphs (1) through (6)--

(A) routine HIV counseling and voluntary testing of pregnant women should become the standard of care; and

(B) The relevant medical organizations as well as public health officials should issue guidelines making such counseling and testing the standard of care.

**SEC. 8. SPOUSAL NOTIFICATION.**

(a) **IN GENERAL.**--The Secretary of Health and Human Services shall not make a grant under part B of title XXVI of the Public Health Service Act (42 U.S.C. 300ff-21 et. seq.) to any State unless such State takes administrative or legislative action to require that a good faith effort be made to notify a spouse of a known HIV-infected patient that such spouse may have been exposed to HIV and should seek testing.

(b) **DEFINITIONS.**--For purposes of this section:

(1) **SPOUSE.**--The term 'spouse' means any individual who is the marriage partner of an HIV-infected patient, or who has been the marriage partner of that patient at any time within the 10 year period prior to the diagnosis of HIV infection.

(2) **HIV-INFECTED PATIENT.**--The term 'HIV-infected patient' means any individual who has been diagnosed to be infected with the human immunodeficiency virus.

(3) **STATE.**--The term 'State' means any of the 50 States, the District of Columbia, or any territory of the United States.

**SEC. 9. OPTIONAL PARTICIPATION OF FEDERAL EMPLOYEES IN AIDS TRAINING PROGRAMS.**

(a) **IN GENERAL.**--Notwithstanding any other provision of law, a Federal employee may not be required to attend or participate in an AIDS or HIV training program if such employee refuses to consent to such attendance or participation except for training necessary to protect the health and safety of the Federal employee and the individuals served by such employees. An employer may not retaliate in any manner against such an employee because of the refusal of such employee to consent to such attendance or participation.

(b) **DEFINITION.**--As used in subsection (a), the term "Federal employee" has the same meaning given the term "employee" in section 2105 of title 5, United States Code, and such term shall include members of the armed forces.

**SEC. 11. LIMITATION ON APPROPRIATIONS.**

Notwithstanding any other provision of law, the total amounts of Federal funds expended in any fiscal year for AIDS and HIV activities may not exceed the total amounts expended in such fiscal year for activities related to cancer.

**SECTION 13. EFFECTIVE DATE.**

**"(a) IN GENERAL.**--Except as provided in subsection (b), this Act, and the amendments made by this Act, shall become effective October 1, 1996.

**"(b) EXCEPTION.**--The amendments made by sections 3(a), 5, 6, and 7 of this Act to sections 2601(c), 2601(d), 2603(a), 2618(b), 2626, 2677, and 2691 of the Public Health Service Act, shall become effective on the date of enactment of this Act.