

109TH CONGRESS
2D SESSION

S. 2792

To revise and extend certain provisions of the Public Health Security and
Bioterrorism Preparedness and Response Act of 2002.

IN THE SENATE OF THE UNITED STATES

MAY 11, 2006

Mr. GREGG introduced the following bill; which was read twice and referred
to the Committee on Health, Education, Labor, and Pensions

A BILL

To revise and extend certain provisions of the Public Health
Security and Bioterrorism Preparedness and Response
Act of 2002.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Emergency Prepared-
5 ness and Response Security, Accountability, and Flexi-
6 bility Enhancement Act” or the “SAFE Act”.

7 **SEC. 2. ACCOUNTABILITY WITH RESPECT TO PREPARED-**
8 **NESS FUNDING.**

9 (a) IN GENERAL.—Section 319C–1 of the Public
10 Health Service Act (42 U.S.C. 247d–3a) is amended—

1 (1) in subsection (b)—

2 (A) in paragraph (1)—

3 (i) in subparagraph (A), by striking
4 “or” at the end;

5 (ii) in subparagraph (B), by striking
6 the period and inserting “; or”; and

7 (iii) by adding at the end the fol-
8 lowing:

9 “(C) a consortium of States that, with re-
10 spect to the States that make up the consor-
11 tium, comply with the requirements of subpara-
12 graph (A) individually or as part of the consor-
13 tium.”; and

14 (B) by adding at the end the following:

15 “(3) ACHIEVEMENT OF MEASURABLE CRITICAL
16 BENCHMARKS AND PERFORMANCE MEASURES.—In
17 making awards under subsection (a), the Secretary
18 shall develop and require the application of measur-
19 able critical benchmarks and performance standards
20 so that grantees can demonstrate achievement with
21 respect to such benchmarks and measures in a rea-
22 sonable timeframe, as determined by the Secretary.
23 Such benchmarks and measures shall require grant-
24 ees to—

“(A) annually report grant expenditures to the Secretary and the Secretary of Homeland Security who shall ensure that such information is included on the Federal-Internet based point of access developed under section 2(b) of the SAFE Act; and

“(B) at a minimum, annually test and exercise the emergency preparedness capabilities of the grantee, acting in coordination with the applicable State readiness plan under subsection (c), based on criteria established by the Secretary and the Secretary of Homeland Security.

“(4) REGIONAL COORDINATION.—In making awards under subsection (a), the Secretary shall give preference to eligible entities that submit applications that, in the determination of the Secretary will—

“(A) enhance coordination—

“(i) among one or more health care institutions, including but not limited to Federal Government medical facilities, academic medical centers, clinics, health centers, primary care facilities, or nursing homes; and

1 “(ii) between entities described in
 2 clause (i) and one or more States, sub-
 3 State regions of States or other sub-State
 4 groups, or any combination of States and
 5 sub-State regions; and

6 “(B) serve the needs of a defined geo-
 7 graphic area.”;

8 (2) in subsection (h)—

9 (A) in paragraph (1), by striking “and” at
 10 the end;

11 (B) in paragraph (2), by striking the pe-
 12 riod and inserting “; and”; and

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

14 “(3) coordinate with the Secretary of Homeland
 15 Security to prevent the duplicative funding of pro-
 16 grams or activities and to ensure that the use of
 17 awards is in compliance with State plans.”;

18 (3) by striking subsection (j) and inserting the
 19 following:

20 “(j) FUNDING.—

21 “(1) IN GENERAL.—For the purpose of car-
 22 rying out this section, there is authorized to be ap-
 23 propriated, \$1,300,000,000 for fiscal year 2007, and
 24 such sums as may be necessary for each of fiscal
 25 years 2008 through 2010, of which—

“(A) not to exceed \$875,000,000 shall be made available in each fiscal year for making awards under subsection (a) to States, notwithstanding the eligibility conditions under subsection (j) (as such subsection existed on the day before the date of enactment of the Emergency Preparedness and Response Security, Accountability, and Flexibility Enhancement Act, for the purpose of enhancing the all-hazards emergency preparedness and medical response capabilities of States; and

“(B) not to exceed 5 percent of the amount made available under subparagraph (A) for each fiscal year shall be made available for Federal, State, and local planning and administrative activities related to awards described in such subparagraph.

“(2) CONTINGENT ADDITIONAL AUTHORIZATION.—If a significant change in circumstances warrants an increase in this amount authorized to be appropriated under paragraph (1) for fiscal year 2007, there are authorized to be appropriated such sums as may be necessary for such year for carrying out this section, in addition to the amount authorized under paragraph (1).

1 “(3) SUPPLEMENT NOT SUPPLANT.—Amounts
2 appropriated under paragraph (1) shall be used to
3 supplement and not supplant other State and local
4 public funds provided for activities under this sec-
5 tion.

6 “(4) DEGREE OF RISK.—

7 “(A) IN GENERAL.—For fiscal year 2006
8 and any subsequent fiscal year, the Secretary,
9 in coordination with the Secretary of Homeland
10 Security, shall, before making awards pursuant
11 to subsection (a) for such year—

12 “(i) reserve from the amount appro-
13 priated under paragraph (1) for the fiscal
14 year an amount determined necessary by
15 the Secretary to make awards under sub-
16 section (a) to eligible entities that face a
17 particularly high degree of risk of such a
18 threat, as determined by the Secretary in
19 coordination with the Secretary of Home-
20 land Security; and

21 “(ii) after making the reservation re-
22 quired under clause (i), provide funds to
23 eligible entities that have a significant
24 unmet need, as determined by the Sec-
25 retary, in coordination with the Secretary

1 of Homeland Security, to build capacity to
2 identify, detect, monitor, and respond to a
3 public health emergency, which need will
4 not otherwise be met by awards pursuant
5 to subsection (a).

6 “(B) RECIPIENTS OF GRANTS.—Awards
7 pursuant to subparagraph (A) may be supple-
8 mental awards to States that receive awards
9 pursuant to subsection (a), or may be awards to
10 eligible entities described in subsection
11 (b)(1)(B) within such States.

12 “(5) MATCHING REQUIREMENT.—The Sec-
13 retary may not make a grant to a State under this
14 section unless the State agrees that, with respect to
15 the costs to be incurred by the State in carrying out
16 the activities for which the grant was awarded, the
17 State will make available (directly or through dona-
18 tions from public or private entities) non-Federal
19 contributions toward such costs in an amount equal
20 to—

21 “(A) with respect to a State with a popu-
22 lation of more than 2,000,000, not less than \$1
23 for each \$1 of Federal funds provided in the
24 grant; and

1 “(B) with respect to a State with a popu-
 2 lation of 2,000,000 or less, not less than \$1 for
 3 each \$4 of Federal funds provided in the
 4 grant.”; and

5 (4) by adding at the end the following:

6 “(k) RETURN OF UNOBLIGATED FUNDS.—Any por-
 7 tion of an award under subsection (a) that remains unobli-
 8 gated after the expiration of the 3-year period beginning
 9 on the date on which the award is made shall be returned
 10 to the Secretary.”.

11 (b) SINGLE POINT OF ACCESS.—The Secretary of
 12 Health and Human Services and the Secretary of Home-
 13 land Security shall jointly establish a single Federal Inter-
 14 net-based point of access to enable States and other enti-
 15 ties to apply for available Federal assistance for public
 16 health and hospital preparedness and response to bioter-
 17 rorism and other public health threats, including applying
 18 for awards under section 319C–1 of the Public Health
 19 Service Act (42 U.S.C. 247d–3a).

20 **SEC. 3. NATIONAL NOTIFIABLE DISEASE SURVEILLANCE**
 21 **PROGRAM.**

22 Part B of title III of the Public Health Service Act
 23 (42 U.S.C. 243 et seq.) is amended—

24 (1) by striking section 314; and

25 (2) by inserting after section 311, the following:

1 **“SEC. 311A. NATIONAL NOTIFIABLE DISEASE SURVEIL-**
2 **LANCE PROGRAM.**

3 “(a) IN GENERAL.—The Secretary is authorized to
4 develop a real-time surveillance program for collecting and
5 reporting information on notifiable diseases and condi-
6 tions.

7 “(b) NOTIFIABLE DISEASES.—Not later than 180
8 days after the date of enactment of the Emergency Pre-
9 paredness and Response Security, Accountability, and
10 Flexibility Enhancement Act, and annually thereafter, the
11 Secretary, in consultation with State and local health au-
12 thorities and appropriate private professional societies,
13 shall certify a list of infectious diseases, environmental ex-
14 posures or poisons, and other conditions, the real-time sur-
15 veillance and control of which, in each State and territory
16 of the United States, constitute a critical public health
17 need. For purposes of this part, the term ‘notifiable dis-
18 ease’ means a disease, exposures or poison, or other condi-
19 tion that appears on the list under this section.

20 “(c) FEDERAL INFORMATICS ACTIVITIES.—

21 “(1) IN GENERAL.—In order to meet the urgent
22 need for critical electronic surveillance of notifiable
23 diseases, the Director of the Centers for Disease
24 Control and Prevention, in consultation with State
25 and local health authorities, shall, not later than 1
26 year after the date of enactment of the Emergency

1 Preparedness and Response Security, Accountability,
2 and Flexibility Enhancement Act, establish and
3 maintain a national electronic surveillance program
4 that includes the following components:

5 “(A) Procedures to provide for the collec-
6 tion (in a standardized form) and analysis of
7 data on all notifiable diseases and on certain
8 other conditions that States or regions elect to
9 report to the program.

10 “(B) A procedure to enable all major pub-
11 lic and private clinical laboratories to automati-
12 cally report data, in compliance with the regula-
13 tions promulgated under section 264(c) of the
14 Health Insurance Portability and Accountability
15 Act of 1996, to the program concerning
16 notifiable diseases, antimicrobial resistance test-
17 ing, and other data determined appropriate by
18 the Director.

19 “(C) A procedure to provide for syndromic
20 and disease-specific surveillance by monitoring,
21 in compliance with the regulations promulgated
22 under section 264(c) of the Health Insurance
23 Portability and Accountability Act of 1996, of
24 private sector health-related electronic data

1 (such as pharmaceutical purchase data and
2 health insurance claims data).

3 “(D) A procedure to enable States to re-
4 port data on suspicious cases of conditions that
5 are not on the notifiable disease list but that
6 may warrant further investigation.

7 “(E) A procedure to enable the program to
8 automatically identify certain trends and sus-
9 picious patterns with respect to data reported
10 to the program.

11 “(F) A procedure to enable the program to
12 provide regular reports to regional, State, and
13 local government entities concerning disease
14 trends, suspicious disease patterns, incidence
15 and prevalence of diseases, laboratory data, and
16 other information determined appropriate. Such
17 information shall include data on comparative
18 national disease trends.

19 “(G) A procedure to enable the program to
20 collect and analyze data from certain seminal
21 veterinary and environmental sources where ap-
22 propriate.

23 “(H) A procedure to enable the program to
24 export data in a form appropriate for aggrega-
25 tion, statistical analysis, and reporting.

1 “(I) A procedure to enable the program to
2 receive and report data relating to non-
3 notifiable diseases, including vital records, reg-
4 istries, chronic disease, and maternal and child
5 health data.

6 “(2) TIMELINESS OF REPORTING.—The proce-
7 dures developed under paragraph (1) for the report-
8 ing of data shall ensure that such data are reported
9 in a timely manner.

10 “(3) PRIVATE SECTOR RESOURCES.—To meet
11 the deadline described in paragraph (1), the Director
12 of the Centers for Disease Control and Prevention
13 may, on a temporary or permanent basis, implement
14 systems or products developed by the private sector.

15 “(4) AUTHORITY FOR CONTRACTS.—In carrying
16 out this subsection, the Director of the Centers for
17 Disease Control and Prevention may enter into con-
18 tracts with public and private entities.

19 “(d) NATIONAL BIOINTELLIGENCE UNIT.—The Di-
20 rector of the Centers for Disease Control and Prevention
21 shall analyze data maintained by the national electronic
22 surveillance program under subsection (b), and data from
23 other sources, to report on the prevalence and incidence
24 of notifiable diseases and conditions, trends and patterns
25 in public health, emerging health problems, regional dif-

1 ferences, and other analyses determined appropriate by
2 the Director of the Centers for Disease Control and Pre-
3 vention.

4 “(e) FEDERAL TECHNICAL ASSISTANCE, COMMU-
5 NICATION, AND COORDINATION.—

6 “(1) IN GENERAL.—In carrying out this sec-
7 tion, the Secretary shall provide technical assistance
8 to, and provide for appropriate communications to
9 the public, scientific, public health and medical com-
10 munities, and other key stakeholders, and to provide
11 for the coordination of the activities of—

12 “(A) State and local health authorities to
13 integrate State and local surveillance activities
14 and systems with the national notifiable disease
15 surveillance program developed under this sec-
16 tion and to generally improve State and local
17 notifiable disease reporting and communica-
18 tions; and

19 “(B) private corporations, professional as-
20 sociations, or other entities that may have
21 sources of surveillance data or access to health
22 care providers, health officials, or other individ-
23 uals who would need to participate in a surveil-
24 lance program.

1 “(2) FINANCIAL ASSISTANCE.—Assistance pro-
2 vided under paragraph (1)(B) may include financial
3 assistance for the purpose of formatting or trans-
4 lating data into a form that is most compatible and
5 appropriate for use in the national notifiable disease
6 surveillance program developed under this section.

7 “(3) HEALTH ALERT REGISTRATION AND IN-
8 FORMATION.—

9 “(A) REGISTRATION.—Each health care
10 provider and facility that receives funds under
11 title XVIII of the Social Security Act (42
12 U.S.C. 1395 et seq.) or that receives funds
13 under a State program under title XIX of such
14 Act (42 U.S.C. 1396 et seq.) shall annually
15 submit to the Secretary a registration that con-
16 tains the e-mail address or fax number of the
17 provider or facility for purposes of enabling the
18 Secretary to provide health alerts in the case of
19 a public health emergency or other cir-
20 cumstance requiring active surveillance.

21 “(B) ESTABLISHMENT OF SYSTEM.—The
22 Secretary shall establish a system to maintain
23 the information provided by providers and fa-
24 cilities under subparagraph (A). Such system
25 shall be designed—

1 “(i) to enable providers and facili-
2 ties—

3 “(I) to provide and update infor-
4 mation contained in the system; and

5 “(II) to request information or to
6 elect to receive additional types of
7 non-emergency health alerts or com-
8 munications; and

9 “(ii) to enable the Director of the
10 Centers for Disease Control and Preven-
11 tion to provide updated contact informa-
12 tion for providers and facilities to State
13 and local health authorities for the purpose
14 of emergency health communications.

15 “(f) GRANTS TO STATES FOR DISEASE REPORT-
16 ING.—

17 “(1) GRANTS.—The Secretary shall award
18 grants to States to enable such States to conduct
19 passive, active, and when appropriate syndromic sur-
20 veillance, and timely reporting activities with respect
21 to notifiable diseases.

22 “(2) ELIGIBILITY.—To be eligible to receive a
23 grant under paragraph (1), a State shall prepare
24 and submit to the Secretary an application at such

1 time, in such manner, and containing such informa-
2 tion as the Secretary may require, including—

3 “(A) a description of the manner in which
4 grants funds will be used to enhance the timeli-
5 ness and comprehensiveness of the State’s ef-
6 fort to report notifiable diseases to the program
7 under subsection (c); and

8 “(B) a plan for identifying and reporting
9 to the Secretary the identity of health care pro-
10 viders and facilities that consistently fail to re-
11 port to the State instances of notifiable diseases
12 in a timely manner.

13 “(3) ENHANCED GRANT.—In the case of a
14 State that submits a plan, as part of the application
15 under paragraph (2), to transition State and local
16 reporting of notifiable diseases to an electronic sys-
17 tem that is compatible with the program under sub-
18 section (c), the amount of the grant awarded to a
19 State under paragraph (1) shall be increased by an
20 amount determined by the Secretary to be necessary
21 to complete such transition.

22 “(4) SUPPLEMENT NOT SUPPLANT FUNDS FOR
23 ACTIVITIES.—A State shall use amounts received
24 under a grant under this subsection to supplement
25 and not supplant other funds made available by the

1 State for the conduct of reporting activities with re-
2 spect to notifiable diseases.

3 “(5) REDUCTION IN BLOCK GRANT FUNDING.—
4 For fiscal year beginning with fiscal year 2008, if
5 the Secretary determines that a State is not report-
6 ing all notifiable diseases to the program established
7 under subsection (c) in a timely manner through the
8 use of an electronic system that is compatible with
9 the program, the State shall not be eligible to receive
10 a grant under part A of title XIX for such fiscal
11 year.

12 “(6) FAILURE TO REPORT.—A health care pro-
13 vider or facility shall not be eligible to receive funds
14 under title XVIII of the Social Security Act (42
15 U.S.C. 1395 et seq.) or under a State program
16 under title XIX of such Act (42 U.S.C. 1396 et
17 seq.) if the Secretary determines, based on a State
18 notification received under the plan described in
19 paragraph (2)(B), that such provider or facility has
20 consistently failed to report, in a timely manner, in-
21 stances of notifiable diseases to the State for sub-
22 mission to the program under subsection (c).

23 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated such sums as may be
25 necessary to carry out this section.”.

1 **SEC. 4. ENHANCING CRITICAL CAPACITY FOR ILLNESS DE-**
 2 **TECTION.**

3 Section 319C(e) of the Public Health Service Act (42
 4 U.S.C. 247d–3(c)) is amended—

5 (1) in paragraph (3), by striking “and” at the
 6 end;

7 (2) in paragraph (4), by striking the period and
 8 inserting “; and”; and

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

10 “(5) develop benchmarks for meeting critical
 11 capacity for food or water borne disease detection
 12 and response.”.

13 **SEC. 5. EVALUATION OF PUBLIC HEALTH CAPACITY OUT-**
 14 **COMES.**

15 Section 319C–1(b) of the Public Health Service Act
 16 (42 U.S.C. 247d–3a(b)), as amended by section 2(a), is
 17 further amended by adding at the end the following:

18 “(5) EVALUATION OF PUBLIC HEALTH CAPAC-
 19 ITY OUTCOMES.—The Director of the Centers for
 20 Disease Control and Prevention shall enter into con-
 21 tracts with independent entities for the periodic eval-
 22 uation of the progress made by State and local gov-
 23 ernments in meeting the benchmarks established in
 24 the plan under paragraph (1)(A)(ii)(V).”.

1 **SEC. 6. INSPECTION, SCREENING, AND QUARANTINING OF**
2 **LIVE ANIMALS.**

3 Section 362 of the Public Health Service Act (42
4 U.S.C. 265) is amended by adding at the end the fol-
5 lowing: “The Secretary shall establish procedures for the
6 appropriate inspection, screening, and quarantine of live
7 animals entering the United States for commercial pur-
8 poses, including procedures to protect domestic animal
9 and human populations from diseases carried by imported
10 live animals”.

11 **SEC. 7. NATIONAL DISASTER MEDICAL SYSTEM.**

12 (a) COORDINATION.—Section 2811(b) of the Public
13 Health Service Act (42 U.S.C. 300hh–11) is amended by
14 adding at the end the following:

15 “(4) COORDINATION OF PLANNING AND PRE-
16 PAREDNESS ACTIVITIES.—

17 “(A) IN GENERAL.—The Federal agency
18 partners of the National Disaster Medical Sys-
19 tem shall coordinate all planning and prepared-
20 ness activities of the National Disaster Medical
21 System with the Secretary of Homeland Secu-
22 rity in a manner that ensures that such activi-
23 ties are consistent with the National Response
24 Plan, the National Incident Management Sys-
25 tem, and Homeland Security Presidential Di-
26 rectives #5 and #8.

1 “(B) DEFINITION.—In this section, the
 2 term ‘Federal agency partners of the National
 3 Disaster Medical System’ means the Depart-
 4 ment of Homeland Security, the Department of
 5 Health and Human Services, the Department of
 6 Defense, and the Department of Veterans Af-
 7 fairs.”;

8 (b) JOINT REVIEW.—Section 2811 of the Public
 9 Health Service Act (42 U.S.C. 300hh–11) is amended—

10 (1) by redesignating subsection (h) as sub-
 11 section (i); and

12 (2) by inserting after subsection (g), the fol-
 13 lowing:

14 “(h) JOINT REVIEW.—

15 “(1) IN GENERAL.—Not later than December
 16 31, 2007, the Federal agency partners of the Na-
 17 tional Disaster Medical System in coordination with
 18 the Secretary of Homeland Security shall conduct a
 19 joint review of the National Disaster Medical System
 20 infrastructure including organization, various teams,
 21 staffing levels, training programs, equipment and
 22 supplies, supply chain management and interoper-
 23 ability, and the role of each of the Federal agency
 24 partners of the National Disaster Medical System,
 25 and any other applicable issues.

1 “(2) MODIFICATIONS.—Based on the results of
2 the review conducted under paragraph (1), the Sec-
3 retary of Homeland Security shall, with respect to
4 the National Disaster Medical System—

5 “(A) modify the policies of the System for
6 the deployment of System assets during a na-
7 tional emergency, including command and co-
8 ordination, licensure, credentialing or privi-
9 leging, resource typing and allocation, supplies
10 and logistics, and inter-agency and public com-
11 munications;

12 “(B) refine, standardize, and implement
13 training curricula for System participants based
14 on the modifications made under subparagraph
15 (A), including planning for continuing edu-
16 cational programs to ensure that System par-
17 ticipants are aware of programmatic changes
18 within the System; and

19 “(C) refine, implement, and maintain
20 standards for System staffing, equipment, and
21 supply-chain management to ensure the ade-
22 quacy of available assets in the System.”.

23 (c) MISCELLANEOUS PROVISIONS.—Section 2811 of
24 the Public Health Service Act (42 U.S.C. 300hh–11) is
25 amended—

1 (1) in subsection (b)(3)—

2 (A) in subparagraph (A)—

3 (i) by redesignating clauses (i) and
4 (ii) as clauses (ii) and (iii), respectively;
5 and

6 (ii) by inserting before clause (ii) (as
7 so redesignated), the following:

8 “(i) provide an initial rapid Federal
9 medical response, consistent with the Na-
10 tional Response Plan and National Inci-
11 dent Management System, to an emer-
12 gency and to maintain capability to sustain
13 disaster medical operations through an es-
14 tablished transition period as determined
15 by the Federal agency partners of the Na-
16 tional Disaster Medical System;”; and

17 (B) by adding at the end the following:

18 “(D) CONTINUED MONITORING OF PER-
19 FORMANCE.—The Secretary of Homeland Secu-
20 rity, acting through the Chief Medical Officer,
21 shall design, develop, and implement quan-
22 titative standards and metrics under which pro-
23 grammatic changes with respect to the National
24 Disaster Medical System may be isolated, meas-
25 ured, validated, and revised if needed on a real-

1 time basis as determined by the performance of
2 the System in drills and exercises or actual de-
3 ployments.

4 “(E) NONDUPLICATION OF ACTIVITIES.—
5 The National Disaster Medical System shall
6 carry out activities in coordination with Depart-
7 ment of Health and Human Services emergency
8 response teams (including the uniformed corps
9 of the United States Public Health Service and
10 the Medical Reserve Corps) to minimize dupli-
11 cative activities.”; and

12 (2) in subsection (i) (as so redesignated), by
13 striking “2002 through 2006” and inserting “2006
14 through 2010”.

○