

Calendar No. 100

110TH CONGRESS
1ST SESSION

S. 624

To amend the Public Health Service Act to provide waivers relating to grants for preventive health measures with respect to breast and cervical cancers.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 15, 2007

Ms. MIKULSKI (for herself, Mrs. HUTCHISON, Mr. HARKIN, Mr. DODD, Mr. KERRY, Mr. MENENDEZ, Mr. SCHUMER, Ms. COLLINS, Mr. BAYH, Mr. BIDEN, Mrs. CLINTON, Mrs. BOXER, Ms. SNOWE, Ms. STABENOW, Mr. ENZI, Mr. HATCH, and Mr. KENNEDY) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

MARCH 29, 2007

Reported by Mr. KENNEDY, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To amend the Public Health Service Act to provide waivers relating to grants for preventive health measures with respect to breast and cervical cancers.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “National Breast and
3 Cervical Cancer Early Detection Program Reauthorization
4 Act of 2007”.

5 **SEC. 2. NATIONAL BREAST AND CERVICAL CANCER EARLY**
6 **DETECTION PROGRAM.**

7 Title XV of the Public Health Service Act (42 U.S.C.
8 300k et seq.) is amended—

9 (1) in section 1501(d)—

10 (A) in the heading, by striking “2000” and
11 inserting “2020”; and

12 (B) by striking “by the year 2000” and in-
13 serting “by the year 2020”;

14 (2) in section 1503, by adding at the end the
15 following:

16 “(d) WAIVER OF SERVICES REQUIREMENT ON DIVI-
17 SION OF FUNDS.—

18 “(1) IN GENERAL.—The Secretary shall estab-
19 lish a demonstration project under which the Sec-
20 retary, acting through the Director of the Centers
21 for Disease Control and Prevention, may waive the
22 requirements of paragraphs (1) and (4) of sub-
23 section (a) for not more than 5 States, if—

24 “(A)(i) the State involved will use the
25 waiver to leverage private funds to supplement

1 each of the services or activities described in
2 paragraphs (1) and (2) of section 1501(a); or

3 “(ii) the application of such requirement
4 would result in a barrier to the enrollment of
5 qualifying women;

6 “(B) the State involved provides assur-
7 ances that the State will, on an annual basis,
8 demonstrate to the Secretary the manner in
9 which the State will use such waiver to main-
10 tain or expand the level of screening and follow-
11 up services provided immediately prior to the
12 waiver, and provide documentation of compli-
13 ance with such maintenance or expansion re-
14 quirement;

15 “(C) the State involved submits to the Sec-
16 retary a plan for maintaining the level of activi-
17 ties carried out under the waiver after the expi-
18 ration of the waiver;

19 “(D) the Secretary finds that granting
20 such a waiver to a State will not reduce the
21 number of women in the State that receive each
22 of the services or activities described in para-
23 graphs (1) and (2) of section 1501(a), including
24 making available screening procedures for both
25 breast and cervical cancers; and

1 “(E) the Secretary finds that granting
 2 such a waiver to a State will not adversely af-
 3 fect the quality of each of the services or activi-
 4 ties described in paragraphs (1) and (2) of sec-
 5 tion 1501(a).

6 ~~“(2) DURATION OF WAIVER.—~~

7 ~~“(A) IN GENERAL.—~~In granting waivers
 8 under paragraph (1), the Secretary—

9 ~~“(i) shall grant such waivers for a pe-~~
 10 ~~riod of 2 years; and~~

11 ~~“(ii) upon request of a State, may ex-~~
 12 ~~tend a waiver for an additional 2-year pe-~~
 13 ~~riod in accordance with subparagraph (B).~~

14 ~~“(B) ADDITIONAL PERIOD.—~~The Sec-
 15 retary, upon the request of a State that has re-
 16 ceived a waiver under paragraph (1), shall, at
 17 the end of the 2-year waiver period described in
 18 subparagraph (A), review performance under
 19 the waiver and may extend the waiver for an
 20 additional 2-year period if the Secretary deter-
 21 mines that—

22 ~~“(i)(I) without an extension of the~~
 23 ~~waiver, there will be a barrier to the enroll-~~
 24 ~~ment of qualifying women; or~~

1 “(H) the State requesting such ex-
2 tended waiver will use the waiver to lever-
3 age private funds to supplement the serv-
4 ices or activities described in paragraphs
5 (1) and (2) of section 1501(a);

6 “(ii) the waiver has not, and will not,
7 reduce the number of women in the State
8 that receive the services or activities de-
9 scribed in paragraphs (1) and (2) of sec-
10 tion 1501(a);

11 “(iii) the waiver has not, and will not,
12 result in lower quality in the State of the
13 services or activities described in para-
14 graphs (1) and (2) of section 1501(a); and

15 “(iv) the State has maintained the av-
16 erage annual level of State fiscal expendi-
17 tures for the services and activities de-
18 scribed in paragraphs (1) and (2) of sec-
19 tion 1501(a) for the 2 years for which the
20 waiver was granted at a level that is not
21 less than the level of the State fiscal ex-
22 penditures for such services and activities
23 for the year preceding the first year for
24 which the waiver is granted.

1 “(3) REPORTING REQUIREMENTS.—The Sec-
 2 retary shall include as part of the evaluations and
 3 reports required under section 1508, the following:

4 “(A) A description of the total amount of
 5 dollars leveraged annually from private entities
 6 in States receiving a waiver under paragraph
 7 (1) and how these amounts were used.

8 “(B) With respect to States receiving a
 9 waiver under paragraph (1), a description of
 10 the percentage of the grant that is expended on
 11 providing each of the services or activities de-
 12 scribed in—

13 “(i) paragraphs (1) and (2) of section
 14 1501(a); and

15 “(ii) paragraphs (3) through (6) of
 16 section 1501(a).

17 “(C) A description of the number of States
 18 receiving waivers under paragraph (1) annually.

19 “(D) With respect to States receiving a
 20 waiver under paragraph (1), a description of—

21 “(i) the number of women receiving
 22 services under paragraphs (1), (2), and (3)
 23 of section 1501(a) in programs before and
 24 after the granting of such waiver; and

1 “(ii) the average annual level of State
 2 fiscal expenditures for the services and ac-
 3 tivities described in paragraphs (1) and (2)
 4 of section 1501(a) for the year preceding
 5 the first year for which the waiver was
 6 granted.

7 “(4) LIMITATION.—Amounts to which a waiver
 8 applies under this subsection shall not be used to in-
 9 crease the number of salaried employees.

10 “(5) DEFINITIONS.—In this subsection:

11 “(A) INDIAN TRIBE.—The term ‘Indian
 12 tribe’ has the meaning given the term in section
 13 4 of the Indian Health Care Improvement Act
 14 (25 U.S.C. 1603).

15 “(B) TRIBAL ORGANIZATION.—The term
 16 ‘tribal organization’ has the meaning given the
 17 term in section 4 of the Indian Health Care Im-
 18 provement Act.

19 “(C) STATE.—The term ‘State’ means
 20 each of the several States of the United States,
 21 the District of Columbia, the Commonwealth of
 22 Puerto Rico, American Samoa, the Common-
 23 wealth of the Northern Mariana Islands, the
 24 Republic of the Marshall Islands, the Federated

1 States of Micronesia; the Republic of Palau, an
 2 Indian tribe, and a tribal organization.”;
 3 ~~(3) in section 1508—~~

4 (A) in subsection (a), by striking “evalua-
 5 tions of the extent to which” and all that fol-
 6 lows through the period and inserting: “evalua-
 7 tions of—

8 “(1) the extent to which States carrying out
 9 such programs are in compliance with section
 10 1501(a)(2) and with section 1504(c); and

11 “(2) the extent to which each State receiving a
 12 grant under this title is in compliance with section
 13 1502, including identification of—

14 “(A) the amount of the non-Federal con-
 15 tributions by the State for the preceding fiscal
 16 year, disaggregated according to the source of
 17 the contributions; and

18 “(B) the proportion of such amount of
 19 non-Federal contributions relative to the
 20 amount of Federal funds provided through the
 21 grant to the State for the preceding fiscal
 22 year.”; and

23 (B) in subsection (b), by striking “not
 24 later than 1 year after the date on which
 25 amounts are first appropriated pursuant to sec-

tion 1509(a), and annually thereafter” and inserting “not later than 1 year after the date of the enactment of the National Breast and Cervical Cancer Early Detection Program Reauthorization of 2007, and annually thereafter”; and

(4) in section 1510(a)—

(A) by striking “and” after “\$150,000,000 for fiscal year 1994,”; and

(B) by inserting “, \$225,000,000 for fiscal year 2008, \$245,000,000 for fiscal year 2009, \$250,000,000 for fiscal year 2010, \$255,000,000 for fiscal year 2011, and \$275,000,000 for fiscal year 2012” before the period at the end.

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Breast and Cervical Cancer Early Detection Program Reauthorization Act of 2007”.

SEC. 2. NATIONAL BREAST AND CERVICAL CANCER EARLY DETECTION PROGRAM.

Title XV of the Public Health Service Act (42 U.S.C. 300k et seq.) is amended—

(1) in section 1501(d)—

1 (A) in the heading, by striking “2000” and
2 inserting “2020”; and

3 (B) by striking “by the year 2000” and in-
4 serting “by the year 2020”;

5 (2) in section 1503, by adding at the end the fol-
6 lowing:

7 “(d) *WAIVER OF SERVICES REQUIREMENT ON DIVI-*
8 *SION OF FUNDS.—*

9 “(1) *IN GENERAL.—The Secretary shall establish*
10 *a demonstration project under which the Secretary*
11 *may waive the requirements of paragraphs (1) and*
12 *(4) of subsection (a) for not more than 5 States, if—*

13 “(A) *the State involved will use the waiver*
14 *to leverage non-Federal funds to supplement each*
15 *of the services or activities described in para-*
16 *graphs (1) and (2) of section 1501(a);*

17 “(B) *the application of such requirement*
18 *would result in a barrier to the enrollment of*
19 *qualifying women;*

20 “(C) *the State involved—*

21 “(i) *demonstrates, to the satisfaction of*
22 *the Secretary, the manner in which the*
23 *State will use such waiver to expand the*
24 *level of screening and follow-up services pro-*

1 *vided immediately prior to the date on*
2 *which the waiver is granted; and*

3 “(ii) *provides assurances, satisfactory*
4 *to the Secretary, that the State will, on an*
5 *annual basis, demonstrate, through such*
6 *documentation as the Secretary may re-*
7 *quire, that the State has used such waiver*
8 *as described in clause (i);*

9 “(D) *the State involved submits to the Sec-*
10 *retary—*

11 “(i) *assurances, satisfactory to the Sec-*
12 *retary, that the State will maintain the av-*
13 *erage annual level of State fiscal year ex-*
14 *penditures for the services and activities de-*
15 *scribed in paragraphs (1) and (2) of section*
16 *1501(a) for the period for which the waiver*
17 *is granted, and for the period for which any*
18 *extension of such wavier is granted, at a*
19 *level that is not less than—*

20 “(I) *the level of the State fiscal*
21 *year expenditures for such services and*
22 *activities for the fiscal year preceding*
23 *the first fiscal year for which the waiv-*
24 *er is granted; or*

1 “(II) at the option of the State
 2 and upon approval by the Secretary,
 3 the average level of the State expendi-
 4 tures for such services and activities
 5 for the 3-fiscal year period preceding
 6 the first fiscal year for which the waiv-
 7 er is granted; and

8 “(ii) a plan, satisfactory to the Sec-
 9 retary, for maintaining the level of activi-
 10 ties carried out under the waiver after the
 11 expiration of the waiver and any extension
 12 of such waiver;

13 “(E) the Secretary finds that granting such
 14 a waiver to a State will increase the number of
 15 women in the State that receive each of the serv-
 16 ices or activities described in paragraphs (1) and
 17 (2) of section 1501(a), including making avail-
 18 able screening procedures for both breast and cer-
 19 vical cancers; and

20 “(F) the Secretary finds that granting such
 21 a waiver to a State will not adversely affect the
 22 quality of each of the services or activities de-
 23 scribed in paragraphs (1) and (2) of section
 24 1501(a).

25 “(2) DURATION OF WAIVER.—

1 “(A) *IN GENERAL.*—*In granting waivers*
2 *under paragraph (1), the Secretary—*

3 “(i) *shall grant such waivers for a pe-*
4 *riod that is not less than 1 year but not*
5 *more than 2 years; and*

6 “(ii) *upon request of a State, may ex-*
7 *tend a waiver for an additional period that*
8 *is not less than 1 year but not more than*
9 *2 years in accordance with subparagraph*
10 *(B).*

11 “(B) *ADDITIONAL PERIOD.*—*The Secretary,*
12 *upon the request of a State that has received a*
13 *waiver under paragraph (1), shall, at the end of*
14 *the waiver period described in subparagraph*
15 *(A)(i), review performance under the waiver and*
16 *may extend the waiver for an additional period*
17 *if the Secretary determines that—*

18 “(i) *without an extension of the waiv-*
19 *er, there will be a barrier to the enrollment*
20 *of qualifying women;*

21 “(ii) *the State requesting such extended*
22 *waiver will use the waiver to leverage non-*
23 *Federal funds to supplement the services or*
24 *activities described in paragraphs (1) and*
25 *(2) of section 1501(a);*

1 “(iii) the waiver has increased, and
2 will continue to increase, the number of
3 women in the State that receive the services
4 or activities described in paragraphs (1)
5 and (2) of section 1501(a);

6 “(iv) the waiver has not, and will not,
7 result in lower quality in the State of the
8 services or activities described in para-
9 graphs (1) and (2) of section 1501(a); and

10 “(v) the State has maintained the av-
11 erage annual level of State fiscal expendi-
12 tures for the services and activities described
13 in paragraphs (1) and (2) of section
14 1501(a) for the period for which the waiver
15 was granted at a level that is not less
16 than—

17 “(I) the level of the State fiscal
18 year expenditures for such services and
19 activities for the fiscal year preceding
20 the first fiscal year for which the waiv-
21 er is granted; or

22 “(II) at the option of the State
23 and upon approval by the Secretary,
24 the average level of the State expendi-
25 tures for such services and activities

1 *for the 3-fiscal year period preceding*
2 *the first fiscal year for which the waiv-*
3 *er is granted.*

4 “(3) *REPORTING REQUIREMENTS.—The Sec-*
5 *retary shall include as part of the evaluations and re-*
6 *ports required under section 1508, the following:*

7 “(A) *A description of the total amount of*
8 *dollars leveraged annually from Non-Federal en-*
9 *tities in States receiving a waiver under para-*
10 *graph (1) and how these amounts were used.*

11 “(B) *With respect to States receiving a*
12 *waiver under paragraph (1), a description of the*
13 *percentage of the grant that is expended on pro-*
14 *viding each of the services or activities described*
15 *in—*

16 “(i) *paragraphs (1) and (2) of section*
17 *1501(a); and*

18 “(ii) *paragraphs (3) through (6) of sec-*
19 *tion 1501(a).*

20 “(C) *A description of the number of States*
21 *receiving waivers under paragraph (1) annually.*

22 “(D) *With respect to States receiving a*
23 *waiver under paragraph (1), a description of—*

24 “(i) *the number of women receiving*
25 *services under paragraphs (1), (2), and (3)*

1 of section 1501(a) in programs before and
2 after the granting of such waiver; and

3 “(ii) the average annual level of State
4 fiscal expenditures for the services and ac-
5 tivities described in paragraphs (1) and (2)
6 of section 1501(a) for the year preceding the
7 first year for which the waiver was granted.

8 “(4) *LIMITATION.*—Amounts to which a waiver
9 applies under this subsection shall not be used to in-
10 crease the number of salaried employees.

11 “(5) *DEFINITIONS.*—In this subsection:

12 “(A) *INDIAN TRIBE.*—The term ‘Indian
13 tribe’ has the meaning given the term in section
14 4 of the Indian Health Care Improvement Act
15 (25 U.S.C. 1603).

16 “(B) *TRIBAL ORGANIZATION.*—The term
17 ‘tribal organization’ has the meaning given the
18 term in section 4 of the Indian Health Care Im-
19 provement Act.

20 “(C) *STATE.*—The term ‘State’ means each
21 of the several States of the United States, the
22 District of Columbia, the Commonwealth of
23 Puerto Rico, American Samoa, the Common-
24 wealth of the Northern Mariana Islands, the Re-
25 public of the Marshall Islands, the Federated

1 *States of Micronesia, the Republic of Palau, an*
 2 *Indian tribe, and a tribal organization.*

3 “(6) *SUNSET.*—*The Secretary may not grant a*
 4 *waiver or extension under this subsection after Sep-*
 5 *tember 30, 2012.”;*

6 (3) *in section 1508—*

7 (A) *in subsection (a), by striking “evalua-*
 8 *tions of the extent to which” and all that follows*
 9 *through the period and inserting: “evaluations*
 10 *of—*

11 “(1) *the extent to which States carrying out such*
 12 *programs are in compliance with section 1501(a)(2)*
 13 *and with section 1504(c); and*

14 “(2) *the extent to which each State receiving a*
 15 *grant under this title is in compliance with section*
 16 *1502, including identification of—*

17 “(A) *the amount of the non-Federal con-*
 18 *tributions by the State for the preceding fiscal*
 19 *year, disaggregated according to the source of the*
 20 *contributions; and*

21 “(B) *the proportion of such amount of non-*
 22 *Federal contributions relative to the amount of*
 23 *Federal funds provided through the grant to the*
 24 *State for the preceding fiscal year.”; and*

1 *(B) in subsection (b), by striking “not later*
2 *than 1 year after the date on which amounts are*
3 *first appropriated pursuant to section 1509(a),*
4 *and annually thereafter” and inserting “not*
5 *later than 1 year after the date of the enactment*
6 *of the National Breast and Cervical Cancer*
7 *Early Detection Program Reauthorization of*
8 *2007, and annually thereafter”; and*
9 *(4) in section 1510(a)—*

10 *(A) by striking “and” after “\$150,000,000*
11 *for fiscal year 1994,”; and*

12 *(B) by inserting “, \$225,000,000 for fiscal*
13 *year 2008, \$245,000,000 for fiscal year 2009,*
14 *\$250,000,000 for fiscal year 2010, \$255,000,000*
15 *for fiscal year 2011, and \$275,000,000 for fiscal*
16 *year 2012” before the period at the end.*

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A BILL

To amend the Public Health Service Act to provide
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