

108TH CONGRESS  
1ST SESSION

# H. R. 2854

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IN THE SENATE OF THE UNITED STATES

JULY 28 (legislative day, JULY 21), 2003

Received

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## AN ACT

To amend title XXI of the Social Security Act to extend the availability of allotments for fiscal years 1998 through 2001 under the State Children's Health Insurance Program, and for other purposes.

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

1 **SECTION 1. EXTENSION OF AVAILABILITY OF SCHIP ALLOT-**  
2 **MENTS FOR FISCAL YEARS 1998 THROUGH**  
3 **2001.**

4 (a) **EXTENDING AVAILABILITY OF SCHIP ALLOT-**  
5 **MENTS FOR FISCAL YEARS 1998 THROUGH 2001.—**

6 (1) **RETAINED AND REDISTRIBUTED ALLOT-**  
7 **MENTS FOR FISCAL YEARS 1998 AND 1999.—**Para-  
8 **graphs (2)(A)(i) and (2)(A)(ii) of section 2104(g) of**  
9 **the Social Security Act (42 U.S.C. 1397dd(g)) are**  
10 **each amended by striking “fiscal year 2002” and in-**  
11 **serting “fiscal year 2004”.**

12 (2) **EXTENSION AND REVISION OF RETAINED**  
13 **AND REDISTRIBUTED ALLOTMENTS FOR FISCAL**  
14 **YEAR 2000.—**

15 (A) **PERMITTING AND EXTENDING RETEN-**  
16 **TION OF PORTION OF FISCAL YEAR 2000 ALLOT-**  
17 **MENT.—**Paragraph (2) of such section 2104(g)  
18 **is amended—**

19 (i) **in the heading, by striking “AND**  
20 **1999” and inserting “THROUGH 2000”; and**

21 (ii) **by adding at the end of subpara-**  
22 **graph (A) the following:**

23 “(iii) **FISCAL YEAR 2000 ALLOT-**  
24 **MENT.—**Of the amounts allotted to a State  
25 **pursuant to this section for fiscal year**  
26 **2000 that were not expended by the State**

1 by the end of fiscal year 2002, 50 percent  
2 of that amount shall remain available for  
3 expenditure by the State through the end  
4 of fiscal year 2004.”.

5 (B) REDISTRIBUTED ALLOTMENTS.—Para-  
6 graph (1) of such section 2104(g) is amended—

7 (i) in subparagraph (A), by inserting  
8 “or for fiscal year 2000 by the end of fis-  
9 cal year 2002,” after “fiscal year 2001,”;

10 (ii) in subparagraph (A), by striking  
11 “1998 or 1999” and inserting “1998,  
12 1999, or 2000”;

13 (iii) in subparagraph (A)(i)—

14 (I) by striking “or” at the end of  
15 subclause (I),

16 (II) by striking the period at the  
17 end of subclause (II) and inserting “;  
18 or”; and

19 (III) by adding at the end the  
20 following new subclause:

21 “(III) the fiscal year 2000 allot-  
22 ment, the amount specified in sub-  
23 paragraph (C)(i) (less the total of the  
24 amounts under clause (ii) for such fis-  
25 cal year), multiplied by the ratio of

1 the amount specified in subparagraph  
2 (C)(ii) for the State to the amount  
3 specified in subparagraph (C)(iii).”;

4 (iv) in subparagraph (A)(ii), by strik-  
5 ing “or 1999” and inserting “, 1999, or  
6 2000”;

7 (v) in subparagraph (B), by striking  
8 “with respect to fiscal year 1998 or 1999”;

9 (vi) in subparagraph (B)(ii)—

10 (I) by inserting “with respect to  
11 fiscal year 1998, 1999, or 2000,”  
12 after “subsection (e),”; and

13 (II) by striking “2002” and in-  
14 serting “2004”; and

15 (vii) by adding at the end the fol-  
16 lowing new subparagraph:

17 “(C) AMOUNTS USED IN COMPUTING RE-  
18 DISTRIBUTIONS FOR FISCAL YEAR 2000.—For  
19 purposes of subparagraph (A)(i)(III)—

20 “(i) the amount specified in this  
21 clause is the amount specified in para-  
22 graph (2)(B)(i)(I) for fiscal year 2000, less  
23 the total amount remaining available pur-  
24 suant to paragraph (2)(A)(iii);

1           “(ii) the amount specified in this  
2           clause for a State is the amount by which  
3           the State’s expenditures under this title in  
4           fiscal years 2000, 2001, and 2002 exceed  
5           the State’s allotment for fiscal year 2000  
6           under subsection (b); and

7           “(iii) the amount specified in this  
8           clause is the sum, for all States entitled to  
9           a redistribution under subparagraph (A)  
10          from the allotments for fiscal year 2000, of  
11          the amounts specified in clause (ii).”.

12          (C) CONFORMING AMENDMENTS.—Such  
13          section 2104(g) is further amended—

14                 (i) in its heading, by striking “AND  
15                 1999” and inserting “, 1999, AND 2000”;  
16                 and

17                 (ii) in paragraph (3)—

18                         (I) by striking “or fiscal year  
19                         1999” and inserting “, fiscal year  
20                         1999, or fiscal year 2000”; and

21                         (II) by striking “or November  
22                         30, 2001” and inserting “November  
23                         30, 2001, or November 30, 2002”, re-  
24                         spectively.

1           (3) EXTENSION AND REVISION OF RETAINED  
2           AND REDISTRIBUTED ALLOTMENTS FOR FISCAL  
3           YEAR 2001.—

4           (A) PERMITTING AND EXTENDING RETEN-  
5           TION OF PORTION OF FISCAL YEAR 2001 ALLOT-  
6           MENT.—Paragraph (2) of such section 2104(g),  
7           as amended in paragraph (2)(A)(ii), is further  
8           amended—

9                   (i) in the heading, by striking “2000”  
10                   and inserting “2001”; and

11                   (ii) by adding at the end of subpara-  
12                   graph (A) the following:

13                           “(iv) FISCAL YEAR 2001 ALLOT-  
14                           MENT.—Of the amounts allotted to a State  
15                           pursuant to this section for fiscal year  
16                           2001 that were not expended by the State  
17                           by the end of fiscal year 2003, 50 percent  
18                           of that amount shall remain available for  
19                           expenditure by the State through the end  
20                           of fiscal year 2005.”.

21           (B) REDISTRIBUTED ALLOTMENTS.—Para-  
22           graph (1) of such section 2104(g), as amended  
23           in paragraph (2)(B), is further amended—

1 (i) in subparagraph (A), by inserting  
2 “or for fiscal year 2001 by the end of fis-  
3 cal year 2003,” after “fiscal year 2002,”;

4 (ii) in subparagraph (A), by striking  
5 “1999, or 2000” and inserting “1999,  
6 2000, or 2001”;

7 (iii) in subparagraph (A)(i)—

8 (I) by striking “or” at the end of  
9 subclause (II),

10 (II) by striking the period at the  
11 end of subclause (III) and inserting “;  
12 or”; and

13 (III) by adding at the end the  
14 following new subclause:

15 “(IV) the fiscal year 2001 allot-  
16 ment, the amount specified in sub-  
17 paragraph (D)(i) (less the total of the  
18 amounts under clause (ii) for such fis-  
19 cal year), multiplied by the ratio of  
20 the amount specified in subparagraph  
21 (D)(ii) for the State to the amount  
22 specified in subparagraph (D)(iii).”;

23 (iv) in subparagraph (A)(ii), by strik-  
24 ing “or 2000” and inserting “2000, or  
25 2001”;

1 (v) in subparagraph (B)—

2 (I) by striking “and” at the end  
3 of clause (ii);

4 (II) by redesignating clause (iii)  
5 as clause (iv); and

6 (III) by inserting after clause (ii)  
7 the following new clause:

8 “(iii) notwithstanding subsection (e),  
9 with respect to fiscal year 2001, shall re-  
10 main available for expenditure by the State  
11 through the end of fiscal year 2005; and”;  
12 and

13 (vi) by adding at the end the following  
14 new subparagraph:

15 “(D) AMOUNTS USED IN COMPUTING RE-  
16 DISTRIBUTIONS FOR FISCAL YEAR 2001.—For  
17 purposes of subparagraph (A)(i)(IV)—

18 “(i) the amount specified in this  
19 clause is the amount specified in para-  
20 graph (2)(B)(i)(I) for fiscal year 2001, less  
21 the total amount remaining available pur-  
22 suant to paragraph (2)(A)(iv);

23 “(ii) the amount specified in this  
24 clause for a State is the amount by which  
25 the State’s expenditures under this title in



1 fiscal years 2001, 2002, and 2003 exceed  
2 the State's allotment for fiscal year 2001  
3 under subsection (b); and

4 “(iii) the amount specified in this  
5 clause is the sum, for all States entitled to  
6 a redistribution under subparagraph (A)  
7 from the allotments for fiscal year 2001, of  
8 the amounts specified in clause (ii).”.

9 (C) CONFORMING AMENDMENTS.—Such  
10 section 2104(g) is further amended—

11 (i) in its heading, by striking “AND  
12 2000” and inserting “2000, AND 2001”;  
13 and

14 (ii) in paragraph (3)—

15 (I) by striking “or fiscal year  
16 2000” and inserting “fiscal year  
17 2000, or fiscal year 2001”; and

18 (II) by striking “or November  
19 30, 2002,” and inserting “November  
20 30, 2002, or November 30, 2003,”,  
21 respectively.

22 (4) EFFECTIVE DATE.—This subsection, and  
23 the amendments made by this subsection, shall be  
24 effective as if this subsection had been enacted on  
25 September 30, 2002, and amounts under title XXI

1 of the Social Security Act (42 U.S.C. 1397aa et  
2 seq.) from allotments for fiscal years 1998 through  
3 2000 are available for expenditure on and after Oc-  
4 tober 1, 2002, under the amendments made by this  
5 subsection as if this subsection had been enacted on  
6 September 30, 2002.

7 (b) AUTHORITY FOR QUALIFYING STATES TO USE  
8 PORTION OF SCHIP FUNDS FOR MEDICAID EXPENDI-  
9 TURES.—Section 2105 of the Social Security Act (42  
10 U.S.C. 1397ee) is amended by adding at the end the fol-  
11 lowing:

12 “(g) AUTHORITY FOR QUALIFYING STATES TO USE  
13 CERTAIN FUNDS FOR MEDICAID EXPENDITURES.—

14 “(1) STATE OPTION.—

15 “(A) IN GENERAL.—Notwithstanding any  
16 other provision of law, a qualifying State (as  
17 defined in paragraph (2)) may elect to use not  
18 more than 20 percent of any allotment under  
19 section 2104 for fiscal year 1998, 1999, 2000,  
20 or 2001 (insofar as it is available under sub-  
21 sections (e) and (g) of such section) for pay-  
22 ments under title XIX in accordance with sub-  
23 paragraph (B), instead of for expenditures  
24 under this title.

25 “(B) PAYMENTS TO STATES.—

1           “(i) IN GENERAL.—In the case of a  
2           qualifying State that has elected the option  
3           described in subparagraph (A), subject to  
4           the availability of funds under such sub-  
5           paragraph with respect to the State, the  
6           Secretary shall pay the State an amount  
7           each quarter equal to the additional  
8           amount that would have been paid to the  
9           State under title XIX with respect to ex-  
10          penditures described in clause (ii) if the  
11          enhanced FMAP (as determined under  
12          subsection (b)) had been substituted for  
13          the Federal medical assistance percentage  
14          (as defined in section 1905(b)).

15          “(ii) EXPENDITURES DESCRIBED.—  
16          For purposes of this subparagraph, the ex-  
17          penditures described in this clause are ex-  
18          penditures, made after the date of the en-  
19          actment of this subsection and during the  
20          period in which funds are available to the  
21          qualifying State for use under subpara-  
22          graph (A), for medical assistance under  
23          title XIX to individuals who have not at-  
24          tained age 19 and whose family income ex-  
25          ceeds 150 percent of the poverty line.

1                   “(iii) NO IMPACT ON DETERMINATION  
2                   OF BUDGET NEUTRALITY FOR WAIVERS.—  
3                   In the case of a qualifying State that uses  
4                   amounts paid under this subsection for ex-  
5                   penditures described in clause (ii) that are  
6                   incurred under a waiver approved for the  
7                   State, any budget neutrality determina-  
8                   tions with respect to such waiver shall be  
9                   determined without regard to such  
10                  amounts paid.

11                  “(2) QUALIFYING STATE.—In this subsection,  
12                  the term ‘qualifying State’ means a State that, on  
13                  and after April 15, 1997, has an income eligibility  
14                  standard that is at least 185 percent of the poverty  
15                  line with respect to any 1 or more categories of chil-  
16                  dren (other than infants) who are eligible for med-  
17                  ical assistance under section 1902(a)(10)(A) or, in  
18                  the case of a State that has a statewide waiver in  
19                  effect under section 1115 with respect to title XIX  
20                  that was first implemented on July 1, 1995, has an  
21                  income eligibility standard under such waiver for  
22                  children that is at least 185 percent of the poverty  
23                  line, or, in the case of a State that has a statewide  
24                  waiver in effect under section 1115 with respect to  
25                  title XIX that was first implemented on January 1,

1 1994, has an income eligibility standard under such  
2 waiver for children who lack health insurance that is  
3 at least 185 percent of the poverty line.

4 “(3) CONSTRUCTION.—Nothing in paragraphs  
5 (1) and (2) shall be construed as modifying the re-  
6 quirements applicable to States implementing State  
7 child health plans under this title.”.

8 **SEC. 2. TECHNICAL CORRECTION.**

9 (a) TEMPORARY INCREASE OF THE MEDICAID  
10 FMAP.—Subparagraphs (A) and (B) of section 401(a)(6)  
11 of the Jobs and Growth Tax Relief Reconciliation Act of  
12 2003 (Public Law 108–27) are amended to read as fol-  
13 lows:

14 “(A) IN GENERAL.—Subject to subpara-  
15 graph (B), a State is eligible for an increase in  
16 its FMAP under paragraph (3) or an increase  
17 in a cap amount under paragraph (4) for any  
18 date after September 2, 2003, only if the eligi-  
19 bility under its State plan under title XIX of  
20 the Social Security Act (including any waiver  
21 under such title or under section 1115 of such  
22 Act (42 U.S.C. 1315)) applied as of such date  
23 is no more restrictive than the eligibility under  
24 such plan (or waiver) as in effect on September  
25 2, 2003.

1           “(B) STATE REINSTATEMENT OF ELIGI-  
2           BILITY PERMITTED.—A State that has re-  
3           stricted eligibility under its State plan under  
4           title XIX of the Social Security Act (including  
5           any waiver under such title or under section  
6           1115 of such Act (42 U.S.C. 1315)) for any  
7           date after September 2, 2003, is eligible for an  
8           increase in its FMAP under paragraph (3) or  
9           an increase in a cap amount under paragraph  
10          (4) for subsequent dates in which the State has  
11          reinstated eligibility that is no more restrictive  
12          than the eligibility under such plan (or waiver)  
13          as in effect on September 2, 2003.”.

14          (b) RETROACTIVE EFFECTIVE DATE.—The amend-  
15          ment made by subsection (a) shall take effect as if in-  
16          cluded in the enactment of section 401 of the Jobs and  
17          Growth Tax Relief Reconciliation Act of 2003 (Public Law  
18          108–27).

Passed the House of Representatives July 25, 2003.

Attest:

JEFF TRANDAHL,

*Clerk.*

By DAN STRODEL,

*Assistant to the Clerk.*