

109TH CONGRESS
2^D SESSION

S. 3972

To amend title XXI of the Social Security Act to reduce funding shortfalls for the State Children's Health Insurance Program (SCHIP) for fiscal year 2007.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 28, 2006

Mr. GRASSLEY (for himself, Mr. ISAKSON, Mr. CHAMBLISS, Mr. BURR, and Ms. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XXI of the Social Security Act to reduce funding shortfalls for the State Children's Health Insurance Program (SCHIP) for fiscal year 2007.

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 "Fiscal Accountability,
5 Integrity, and Responsibility in SCHIP Act of 2006" or
6 the "FAIR-SCHIP Act of 2006".

1 **SEC. 2. FUNDING OF THE SCHIP ALLOTMENT SHORTFALLS**
2 **FOR FISCAL YEAR 2007.**

3 (a) IN GENERAL.—Section 2104 of the Social Secu-
4 rity Act (42 U.S.C. 1397dd) is amended by adding at the
5 end the following new subsection:

6 “(h) SPECIAL RULES TO ADDRESS FISCAL YEAR
7 2007 SHORTFALLS.—

8 “(1) INITIAL DOWN PAYMENT ON SHORTFALL
9 FOR FISCAL YEAR 2007.—The provisions of sub-
10 section (d) shall apply with respect to fiscal year
11 2007 in the same manner as they apply to fiscal
12 year 2006, except that, for purposes of this para-
13 graph—

14 “(A) any reference to ‘fiscal year 2006’,
15 ‘December 16, 2005’, ‘2005’, ‘2004’, ‘Sep-
16 tember 30, 2006’ and ‘October 1, 2006’ shall
17 be deemed a reference to ‘fiscal year 2007’,
18 ‘December 16, 2006’, ‘2006’, ‘2005’, ‘Sep-
19 tember 30, 2007’ and ‘October 1, 2007’ respec-
20 tively;

21 “(B) there shall be substituted for the dol-
22 lar amount specified in subsection (d)(1), and
23 shall be treated as the amount appropriated
24 under such subsection, \$450,000,000;

25 “(C) paragraphs (3)(B) and (4) of sub-
26 section (d) shall not apply (and paragraph (4)

1 of this subsection shall apply in lieu of para-
2 graph (4) of such subsection);

3 “(D) if the dollar amount specified in sub-
4 paragraph (B) is not at least equal to the total
5 of the shortfalls described in subsection (d)(2)
6 (as applied under this paragraph), the amounts
7 under subsection (d)(3) (as applied under this
8 paragraph) shall be ratably reduced.

9 “(2) FUNDING REMAINDER OF SHORTFALL FOR
10 FISCAL YEAR 2007 THROUGH REDISTRIBUTION OF
11 CERTAIN UNUSED FISCAL YEAR 2005 ALLOT-
12 MENTS.—

13 “(A) IN GENERAL.—Subject to subpara-
14 graph (C), the Secretary shall provide for a re-
15 distribution under subsection (f) from amounts
16 made available for redistribution under para-
17 graph (3), to each shortfall State described in
18 subparagraph (B) that is one of the 50 States
19 or District of Columbia, such amount as the
20 Secretary determines will eliminate the esti-
21 mated shortfall described in such subparagraph
22 for the State.

23 “(B) SHORTFALL STATE DESCRIBED.—For
24 purposes of this paragraph, a shortfall State
25 described in this subparagraph is a State with

1 a State child health plan approved under this
2 title for which the Secretary estimates, on the
3 basis of the most recent data available to the
4 Secretary as of March 31, 2007, that the pro-
5 jected expenditures under such plan for such
6 State for fiscal year 2007 will exceed the sum
7 of—

8 “(i) the amount of the State’s allot-
9 ments for each of fiscal years 2005 and
10 2006 that will not be expended by the end
11 of fiscal year 2006;

12 “(ii) the amount, if any, that is to be
13 redistributed to the State during fiscal
14 year 2007 in accordance with subsection
15 (f) (other than under this paragraph);

16 “(iii) the amount of the State’s allot-
17 ment for fiscal year 2007; and

18 “(iv) the amount of any additional al-
19 lotment to the State under paragraph (1).

20 “(C) PRORATION RULE.—If the amounts
21 available for redistribution under paragraph (3)
22 are less than the total amounts computed under
23 subparagraph (A), the amount computed under
24 subparagraph (A) for each shortfall State shall
25 be reduced proportionally.

1 “(3) TREATMENT OF CERTAIN STATES WITH
2 FISCAL YEAR 2005 ALLOTMENTS UNEXPENDED AT
3 THE END OF THE FIRST HALF OF FISCAL YEAR
4 2007.—

5 “(A) IDENTIFICATION OF STATES.—The
6 Secretary—

7 “(i) shall identify those States that re-
8 ceived an allotment for fiscal year 2005
9 under subsection (b) which have not ex-
10 pended all of such allotment by March 31,
11 2007; and

12 “(ii) for each such State shall deter-
13 mine—

14 “(I) the portion of such allotment
15 that was not so expended by such
16 date; and

17 “(II) whether the State is a de-
18 scribed in subparagraph (B).

19 “(B) STATES WITH FUNDS IN EXCESS OF
20 200 PERCENT OF NEED.—A State described in
21 this subparagraph is a State for which the Sec-
22 retary determines, as of March 31, 2007, the
23 total of all available allotments under this title
24 as of such date, is at least equal to 200 percent

1 of the total projected expenditures under this
2 title for the State for fiscal year 2007.

3 “(C) REDISTRIBUTION AND LIMITATION
4 ON AVAILABILITY.—

5 “(i) APPLICATION TO PORTION OF UN-
6 USED ALLOTMENTS FOR CERTAIN
7 STATES.—In the case of a State identified
8 under subparagraph (A)(i) that is also de-
9 scribed in subparagraph (B), notwith-
10 standing subsection (e), the percentage
11 specified by the Secretary in clause (ii) of
12 the amount described in subparagraph
13 (A)(ii)(I) shall not be available for expendi-
14 ture on or after April 1, 2007.

15 “(ii) PERCENTAGE SPECIFIED.—The
16 Secretary shall specify a percentage
17 which—

18 “(I) does not exceed 75 percent;

19 and

20 “(II) when applied under clause
21 (i) results in the total of the amounts
22 under such clause equaling the total
23 of the amounts under paragraph
24 (2)(A).

1 “(4) USE OF ADDITIONAL ALLOTMENT.—Addi-
2 tional allotments provided under this subsection are
3 only available for amounts expended under a State
4 plan approved under this title for child health assist-
5 ance for targeted low-income children or child health
6 assistance or other health benefits coverage for preg-
7 nant women.

8 “(5) RETROSPECTIVE ADJUSTMENT.—The Sec-
9 retary may adjust the determinations made under
10 paragraphs (2) and (3) as necessary on the basis of
11 the amounts reported by States not later than No-
12 vember 30, 2007, on CMS Form 64 or CMS Form
13 21, as the case may be and as approved by the Sec-
14 retary, but in no case may the percentage specified
15 in paragraph (3)(C)(ii) exceed 75 percent.

16 “(6) 1-YEAR AVAILABILITY; NO REDISTRIBU-
17 TION OF UNEXPENDED ADDITIONAL ALLOTMENTS.—

18 “(A) IN GENERAL.—Notwithstanding sub-
19 sections (e) and (f), amounts allotted or redis-
20 tributed to a State pursuant to this subsection
21 for fiscal year 2007 shall only remain available
22 for expenditure by the State through September
23 30, 2007, and any amounts of such allotments
24 or redistributions that remain unexpended as of
25 such date, shall not be subject to redistribution

1 under subsection (f). Nothing in the preceding
2 sentence shall be construed as limiting the abil-
3 ity of the Secretary to adjust the determina-
4 tions made under paragraphs (2) and (3) in ac-
5 cordance with paragraph (5).

6 “(B) REVERSION UPON TERMINATION OF
7 RETROSPECTIVE ADJUSTMENT PERIOD.—Any
8 amounts of such allotments or redistributions
9 that remain unexpended as of September 30,
10 2007, shall revert to the Treasury on December
11 31, 2007.”.

12 (b) EXTENDING AUTHORITY FOR QUALIFYING
13 STATES TO USE CERTAIN FUNDS FOR MEDICAID EX-
14 PENDITURES.—Section 2105(g)(1)(A) of such Act (42
15 U.S.C. 1397ee(g)(1)(A)) is amended by striking “or
16 2005” and inserting “2005, 2006, or 2007”.

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