

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 2819

To amend title XXI of the Social Security Act to permit qualifying States to use a portion of their unspent allotments under the State children's health insurance program to expand health coverage under that program or for expenditures under the medicaid program, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 30, 2002

Mr. JEFFORDS (for himself, Mr. BINGAMAN, Mrs. LINCOLN, and Mrs. MURRAY) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XXI of the Social Security Act to permit qualifying States to use a portion of their unspent allotments under the State children's health insurance program to expand health coverage under that program or for expenditures under the medicaid 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "State Children's  
5 Health Insurance Program Budget Allocation Act of  
6 2002".

1 **SEC. 2. AUTHORITY FOR QUALIFYING STATES TO USE POR-**  
 2 **TION OF SCHIP FUNDS FOR MEDICAID EX-**  
 3 **PENDITURES.**

4 (a) AUTHORITY FOR QUALIFYING STATES TO USE  
 5 PORTION OF SCHIP FUNDS FOR MEDICAID EXPENDI-  
 6 TURES.—

7 (1) IN GENERAL.—Section 2105 of the Social  
 8 Security Act (42 U.S.C. 1397ee) is amended by add-  
 9 ing at the end the following:

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

12 “(1) STATE OPTION.—

13 “(A) IN GENERAL.—Notwithstanding any  
 14 other provision of law, with respect to fiscal  
 15 years 2002 and 2003, a qualifying State (as de-  
 16 fined in paragraph (3)) may elect to use any or  
 17 all of the funds described with respect to the  
 18 State in paragraph (2) (in addition for expendi-  
 19 tures under this title) for payments for such fis-  
 20 cal years under title XIX in accordance with  
 21 subparagraph (B).

22 “(B) PAYMENTS TO STATES.—

23 “(i) IN GENERAL.—In the case of a  
 24 qualifying State that has elected the option  
 25 described in subparagraph (A), subject to  
 26 the total amount of funds described with

1           respect to the State in paragraph (2), the  
 2           Secretary shall pay the State (in addition  
 3           to payments under subsection (a)) an  
 4           amount each quarter equal to the addi-  
 5           tional amount that would have been paid  
 6           to the State under title XIX for expendi-  
 7           tures of the State for fiscal years 2002 and  
 8           2003 described in clause (ii) if the en-  
 9           hanced FMAP (as determined under sub-  
 10          section (b)) had been substituted for the  
 11          Federal medical assistance percentage (as  
 12          defined in section 1905(b)) of such expend-  
 13          itures.

14           “(ii) EXPENDITURES DESCRIBED.—  
 15          For purposes of clause (i), the expendi-  
 16          tures described in this clause are expendi-  
 17          tures for such fiscal years for providing  
 18          medical assistance under title XIX to indi-  
 19          viduals who have not attained age 19 or  
 20          who are pregnant women.

21           “(2) FUNDS DESCRIBED.—With respect to a  
 22          qualifying State, the funds described in this para-  
 23          graph are the following:

24           “(A) AMOUNTS REDISTRIBUTED TO THE  
 25          STATE FROM THE FISCAL YEARS 1998 AND 1999

1 ALLOTMENTS OF OTHER STATES.—The amount  
2 (if any) redistributed to the State from the un-  
3 expended fiscal years 1998 and 1999 allotments  
4 of other States under section 2104(g)(1) that  
5 remain available for expenditure by the State  
6 under subparagraph (B) of that section (as  
7 amended by the State Children’s Health Insur-  
8 ance Program Budget Allocation Act of 2002).

9 “(B) AMOUNTS REMAINING AVAILABLE  
10 FOR EXPENDITURE FROM THE FISCAL YEARS  
11 1998 AND 1999 ALLOTMENTS FOR THE STATE.—  
12 The portion (if any) of the unexpended fiscal  
13 years 1998 and 1999 allotments for the State  
14 that remain available for expenditure by the  
15 State under section 2104(g)(2) (as so amend-  
16 ed).

17 “(C) AMOUNTS REDISTRIBUTED TO THE  
18 STATE FROM THE FISCAL YEAR 2000 ALLOT-  
19 MENTS OF OTHER STATES.—The amount (if  
20 any) redistributed to the State from the unex-  
21 pended fiscal year 2000 allotments of other  
22 States under section 2104(h)(1) (as added by  
23 such Act).

24 “(D) AMOUNTS REMAINING AVAILABLE  
25 FOR EXPENDITURE FROM THE FISCAL YEAR

1           2000 ALLOTMENT FOR THE STATE.—The por-  
2           tion (if any) of the unexpended fiscal year 2000  
3           allotment for the State that remains available  
4           for expenditure by the State under section  
5           2104(h)(2) (as so added).

6           “(3) QUALIFYING STATE.—In this subsection,  
7           the term ‘qualifying State’ means a State that meets  
8           the following criteria:

9                   “(A) MAINTENANCE OF EFFORT.—With  
10                  respect to a fiscal year, the State expenditures  
11                  under this title for the fiscal year are not less  
12                  than the level of such expenditures for the pre-  
13                  ceding fiscal year.

14                  “(B) INCOME ELIGIBILITY STANDARD.—

15                          “(i) ELIGIBILITY FOR ALL LOW-IN-  
16                          COME CHILDREN.—The State child health  
17                          plan (whether implemented under this title  
18                          or title XIX) has an income eligibility  
19                          standard for children under 19 years of  
20                          age that is at least 200 percent of the pov-  
21                          erty line.

22                          “(ii) COMMITMENT TO MOVE TOWARD  
23                          ELIGIBILITY FOR ALL LOW-INCOME CHIL-  
24                          DREN.—In the case of a State that is not  
25                          described in clause (i), with respect to each

1 of fiscal years 2002 and 2003, the State  
2 submits a plan amendment that increases  
3 the income eligibility standard for children  
4 under 19 years of age over the income eli-  
5 gibility standard that applied to such chil-  
6 dren for the preceding fiscal year by the  
7 lesser of—

8 “(I) 10 percentage points; or

9 “(II) the difference between such  
10 income eligibility standard for such  
11 preceding fiscal year and 200 percent.

12 “(C) NO WAITING LIST IMPOSED.—The  
13 State does not impose any numerical limitation,  
14 waiting list, or similar limitation on the eligi-  
15 bility of—

16 “(i) in the case of a State with a child  
17 health plan described in subparagraph  
18 (B)(i), children whose family income is at  
19 or below 200 percent of the poverty line  
20 for child health assistance under the plan;  
21 and

22 “(ii) in the case of a State that meets  
23 the requirements of subparagraph (B)(ii),  
24 children who are eligible for child health

1 assistance under the plan with respect to  
2 each of fiscal years 2002 and 2003.

3 “(D) MAINTENANCE OF BENEFITS.—With  
4 respect to fiscal years 2002 and 2003, the bene-  
5 fits provided for children and, if applicable,  
6 pregnant women eligible for assistance under  
7 the State child health plan (whether imple-  
8 mented under this title or title XIX), and the  
9 benefits provided for individuals eligible for  
10 medical assistance under section  
11 1902(a)(10)(A)(i), are not less in amount, du-  
12 ration, or scope than the benefits provided for  
13 such individuals for the preceding fiscal year.

14 “(E) ADDITIONAL CRITERIA FOR STATES  
15 THAT HAVE NOT EXPENDED ALL OF THEIR FIS-  
16 CAL YEAR 1998, 1999, OR 2000 ALLOTMENTS.—  
17 In the case of a State that—

18 “(i) of the amounts allotted to the  
19 State pursuant to section 2104 for fiscal  
20 year 1998, did not expend all of such  
21 amounts by the end of fiscal year 2000;

22 “(ii) of the amounts allotted to the  
23 State pursuant to section 2104 for fiscal  
24 year 1999, did not expend all of such  
25 amounts by the end of fiscal year 2001; or

1           “(iii) of the amounts allotted to a  
2           State pursuant to section 2104 for fiscal  
3           year 2000, did not expend all of such  
4           amounts by the end of fiscal year 2002,  
5           the State also satisfies the criteria described in  
6           subparagraph (F).

7           “(F) ENROLLMENT AND RETENTION PRO-  
8           CEDURES.—The State has implemented at least  
9           4 of the following policies and procedures (re-  
10          lating to coverage of children under this title  
11          and title XIX):

12          “(i) UNIFORM, SIMPLIFIED APPLICA-  
13          TION FORM.—With respect to children who  
14          are eligible for medical assistance under  
15          section 1902(a)(10)(A), the State uses the  
16          same uniform, simplified application form  
17          (including, if applicable, permitting appli-  
18          cation other than in person) for purposes  
19          of establishing eligibility for benefits under  
20          title XIX and this title.

21          “(ii) ELIMINATION OF ASSETS  
22          TEST.—The State does not apply any as-  
23          sets test for children who are eligible for  
24          medical assistance under section

1 1902(a)(10)(A) or for child health assist-  
2 ance under this title.

3 “(iii) ADOPTION OF 12-MONTH CON-  
4 TINUOUS ENROLLMENT.—The State pro-  
5 vides that eligibility shall not be regularly  
6 redetermined more often than once every  
7 year for children under this title or under  
8 title XIX for children eligible for medical  
9 assistance under section 1902(a)(10)(A).

10 “(iv) PRESUMPTIVE ELIGIBILITY FOR  
11 CHILDREN.—The State provides presump-  
12 tive eligibility for children under sections  
13 1920A and section 2107(e)(1)(D).

14 “(v) SAME VERIFICATION AND REDE-  
15 TERMINATION POLICIES; AUTOMATIC REAS-  
16 SEMENT OF ELIGIBILITY.—With respect  
17 to children who are eligible for medical as-  
18 sistance under section 1902(a)(10)(A), the  
19 State provides for initial eligibility deter-  
20 minations and redeterminations of eligi-  
21 bility using the same verification policies  
22 (including with respect to face-to-face  
23 interviews), forms, and frequency as the  
24 State uses for such purposes under this  
25 title, and, as part of such redetermina-

1            tions, provides for the automatic reassess-  
 2            ment of the eligibility of such children for  
 3            assistance under title XIX and this title.

4            “(vi) OUTSTATIONING ENROLLMENT  
 5            STAFF.—The State provides for the receipt  
 6            and initial processing of applications for  
 7            benefits under this title and for children  
 8            under title XIX at facilities defined as dis-  
 9            proportionate share hospitals under section  
 10           1923(a)(1)(A) and Federally-qualified  
 11           health centers described in section  
 12           1905(l)(2)(B) consistent with section  
 13           1902(a)(55).”.

14 **SEC. 3. EXTENSION OF AVAILABILITY OF 1998 AND 1999 AL-**  
 15 **LOTMENTS.**

16           (a) EXTENSION OF AVAILABILITY OF REDISTRIB-  
 17           UTED AMOUNTS; AUTHORITY FOR QUALIFYING STATES  
 18           TO USE REDISTRIBUTED AMOUNTS FOR MEDICAID EX-  
 19           PENDITURES.—Section 2104(g)(1)(B) of the Social Secu-  
 20           rity Act (42 U.S.C. 1397dd(g)(1)(B)) is amended—

21                (1) in clause (ii)—

22                        (A) by inserting “subject to clause (iv),”  
 23                        after “subsection (e),”; and

24                        (B) by striking “and” at the end;

1           (2) in clause (iii), by striking the period and in-  
2           serting “; and”; and

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

4                   “(iv) if the State is a qualifying State  
5                   (as defined in section 2105(g)(3)), shall re-  
6                   main available for expenditure by the State  
7                   through the end of fiscal year 2003 and  
8                   may be used in accordance with section  
9                   2105(g)(1).”.

10           (b) EXTENSION OF AVAILABILITY OF FUNDS UNEX-  
11           PENDED FROM 1998 AND 1999 ALLOTMENTS.—Section  
12           2104(g)(2)(A) of the Social Security Act (42 U.S.C.  
13           1397dd(g)(2)) is amended by adding at the end the fol-  
14           lowing:

15                   “(iii) SPECIAL RULE FOR FISCAL  
16                   YEARS 2002 AND 2003 FOR QUALIFYING  
17                   STATES.—In the case of a State that is a  
18                   qualifying State (as defined in section  
19                   2105(g)(3)), clauses (i) and (ii) shall each  
20                   be applied by substituting ‘2003, in ac-  
21                   cordance with section 2105(g)(1)’ for  
22                   ‘2002’.

23                   “(iv) EXTENDED AVAILABILITY OF  
24                   CERTAIN OTHER FUNDS.—The following  
25                   amounts shall remain available for expend-

1           iture by the Secretary to carry out the pur-  
2           poses of this title through the end of fiscal  
3           year 2004:

4                   “(I) NON-QUALIFYING STATES.—

5           In the case of a State that is not a  
6           qualifying State (as defined in section  
7           2105(g)(3)), any amounts described  
8           in paragraph (1) or clause (i) or (ii)  
9           of this subparagraph that are not ex-  
10          pended by the State as of September  
11          30, 2002.

12                   “(II) UNEXPENDED FUNDS OF

13          QUALIFYING STATES AT THE END OF  
14          FISCAL YEAR 2003.—In the case of a  
15          State that is a qualifying State (as so  
16          defined), any amounts described in  
17          paragraph (1) (after the application of  
18          subparagraph (B)(iv) of that para-  
19          graph) and any amounts described in  
20          clause (i) or (ii) of this subparagraph  
21          (after the application of clause (iii) of  
22          this subparagraph), that are not ex-  
23          pended by the State as of September  
24          30, 2003.”.

1           (c) AUTHORITY FOR QUALIFYING STATES TO USE  
2 UP TO 10 PERCENT OF 1998 AND 1999 UNEXPENDED  
3 ALLOTMENTS FOR OUTREACH ACTIVITIES.—Section  
4 2104(g)(2)(C) of the Social Security Act (42 U.S.C.  
5 1397dd(g)(2)(C)) is amended—

6           (1) by striking “Notwithstanding” and insert-  
7           ing the following:

8                           “(i) IN GENERAL.—Notwithstanding”;  
9                           and

10           (2) by adding at the end the following:

11                           “(ii) SPECIAL RULE FOR FISCAL  
12                           YEARS 2002 AND 2003 FOR QUALIFYING  
13                           STATES.—In the case of a State that is a  
14                           qualifying State (as defined in section  
15                           2105(g)(3)), clause (i) shall be applied by  
16                           substituting—

17                                   “(I) in the heading, ‘1998 AND  
18                                   1999’ for ‘1998’; and

19                                   “(II) ‘each of fiscal years 1998  
20                                   and 1999’ for ‘fiscal year 1998’.”.

1 **SEC. 4. APPLICATION OF BIPA RULE FOR REDISTRIBUTION**  
2 **AND EXTENDED AVAILABILITY OF UNUSED**  
3 **ALLOTMENTS TO FISCAL YEAR 2000 ALLOT-**  
4 **MENTS.**

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

8 “(h) RULE FOR REDISTRIBUTION AND EXTENDED  
9 AVAILABILITY OF FISCAL YEAR 2000 ALLOTMENTS.—

10 “(1) AMOUNT REDISTRIBUTED.—

11 “(A) IN GENERAL.—In the case of a State  
12 that expends all of its allotment under sub-  
13 section (b) or (c) for fiscal year 2000 by the  
14 end of fiscal year 2002, the Secretary shall re-  
15 distribute to the State under subsection (f)  
16 (from the fiscal year 2000 allotments of other  
17 States, as determined by the application of  
18 paragraphs (2) and (3)) the following amount:

19 “(i) STATE.—In the case of one of the  
20 50 States or the District of Columbia, with  
21 respect to the fiscal year 2000 allotment,  
22 the amount by which the State’s expendi-  
23 tures under this title in fiscal years 2000,  
24 2001, and 2002 exceed the State’s allot-  
25 ment for fiscal year 2000 under subsection  
26 (b).

1           “(ii) TERRITORY.—In the case of a  
2           commonwealth or territory described in  
3           subsection (c)(3), an amount that bears  
4           the same ratio to 1.05 percent of the total  
5           amount described in paragraph (2)(B)(i)(I)  
6           as the ratio of the commonwealth’s or ter-  
7           ritory’s fiscal year 2000 allotment under  
8           subsection (c) bears to the total of all such  
9           allotments for that fiscal year under such  
10          subsection.

11          “(B) EXPENDITURE RULES.—An amount  
12          redistributed to a State under this paragraph  
13          with respect to fiscal year 2000—

14               “(i) shall not be included in the deter-  
15               mination of the State’s allotment for any  
16               fiscal year under this section;

17               “(ii) notwithstanding subsection (e),  
18               shall remain available for expenditure by  
19               the State under this title through the end  
20               of fiscal year 2003;

21               “(iii) shall be counted as being ex-  
22               pended with respect to a fiscal year allot-  
23               ment in accordance with applicable regula-  
24               tions of the Secretary; and

1           “(iv) with respect to fiscal years 2002  
2           and 2003, if the State is a qualifying State  
3           (as defined in section 2105(g)(3)), may be  
4           used in accordance with section  
5           2105(g)(1).

6           “(2) EXTENSION OF AVAILABILITY OF PORTION  
7           OF UNEXPENDED FISCAL YEAR 2000 ALLOTMENTS.—

8           “(A) IN GENERAL.—Notwithstanding sub-  
9           section (e):

10           “(i) FISCAL YEAR 2000 ALLOTMENT  
11           OF QUALIFYING STATE.—In the case of a  
12           State that is a qualifying State (as defined  
13           in section 2105(g)(3)), of the amounts al-  
14           lotted to a State pursuant to this section  
15           for fiscal year 2000 that were not ex-  
16           pended by the State by the end of fiscal  
17           year 2002, the amount specified in sub-  
18           paragraph (B) for fiscal year 2000 for the  
19           State shall remain available for expendi-  
20           ture by the State through the end of fiscal  
21           year 2003, in accordance with section  
22           2105(g)(1).

23           “(ii) EXTENDED AVAILABILITY OF  
24           CERTAIN OTHER FUNDS.—The following  
25           amounts shall remain available for expend-

1           iture by the Secretary to carry out the pur-  
2           poses of this title through the end of fiscal  
3           year 2004:

4                   “(I) NON-QUALIFYING STATES.—

5           In the case of a State that is not a  
6           qualifying State (as defined in section  
7           2105(g)(3)), any amounts allotted to  
8           the State pursuant to this section for  
9           fiscal year 2000 that are not expended  
10          by the State as of September 30,  
11          2002, and that are not redistributed  
12          under paragraph (1)(A).

13                   “(II) UNEXPENDED FUNDS OF  
14           QUALIFYING STATES AND STATES RE-  
15           CEIVING REDISTRIBUTED FUNDS AT  
16           THE END OF FISCAL YEAR 2003.—In  
17           the case of a State that is a qualifying  
18           State (as so defined), or in the case of  
19           a State receiving a redistributed  
20           amount under paragraph (1)(A), any  
21           amounts described in paragraph  
22           (1)(A) and any amounts described in  
23           clause (i) of this subparagraph that  
24           are not expended by such a State as  
25           of September 30, 2003.

1           “(B) AMOUNT REMAINING AVAILABLE FOR  
2 EXPENDITURE.—The amount specified in this  
3 subparagraph for a qualifying State (as so de-  
4 fined) for fiscal year 2000 is equal to—

5           “(i) the amount by which (I) the total  
6 amount available for redistribution under  
7 subsection (f) from the allotments for that  
8 fiscal year, exceeds (II) the total amounts  
9 redistributed under paragraph (1) for that  
10 fiscal year; multiplied by

11           “(ii) the ratio of the amount of the  
12 State’s unexpended allotment for that fis-  
13 cal year to the total amount described in  
14 clause (i)(I) for that fiscal year.

15           “(C) EXPENDITURE RULES.—

16           “(i) IN GENERAL.—Any amount with  
17 respect to fiscal year 2000 that remains  
18 available for expenditure by a qualifying  
19 State (as so defined) under this  
20 paragraph—

21           “(I) shall not be included in the  
22 determination of the State’s allotment  
23 for any fiscal year under this section;  
24 and

1                   “(III) shall be counted as being  
2                   expended with respect to a fiscal year  
3                   allotment in accordance with applica-  
4                   ble regulations of the Secretary.

5                   “(ii) USE OF UP TO 10 PERCENT OF  
6                   RETAINED ALLOTMENTS FOR OUTREACH  
7                   ACTIVITIES.—Notwithstanding section  
8                   2105(c)(2)(A), up to 10 percent of the  
9                   amount specified in subparagraph (B) with  
10                  respect to a qualifying State (as so de-  
11                  fined) for fiscal year 2000 may be used for  
12                  expenditures for outreach activities ap-  
13                  proved by the Secretary.

14                  “(3) DETERMINATION OF AMOUNTS.—For pur-  
15                  poses of calculating the amounts described in para-  
16                  graphs (1) and (2) relating to the allotments for fis-  
17                  cal year 2000, the Secretary shall use the amounts  
18                  reported by the States not later than November 30  
19                  of calendar year 2002 on HCFA Form 64 or HCFA  
20                  Form 21, as approved by the Secretary.”.

21 **SEC. 5. EVALUATION AND REPORT.**

22                  Not later than June 30, 2003, the Secretary of  
23                  Health and Human Services shall submit a report to Con-  
24                  gress evaluating the impact of the amendments made by  
25                  this Act on the medicaid and State children’s health insur-

1 ance programs under titles XIX and XXI of the Social  
2 Security Act (42 U.S.C. 1396 et seq., 1397aa et seq.),  
3 particularly with respect to the enrollment of children in  
4 such programs and Federal and State expenditures under  
5 the programs.

○