

110TH CONGRESS
2D SESSION

S. 2586

To provide States with fiscal relief through a temporary increase in the Federal medical assistance percentage and direct payments to States.

IN THE SENATE OF THE UNITED STATES

JANUARY 31, 2008

Mr. ROCKEFELLER introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide States with fiscal relief through a temporary increase in the Federal medical assistance percentage and direct payments to States.

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 Fiscal Relief Act
5 of 2008”.

6 **SEC. 2. TEMPORARY STATE FISCAL RELIEF.**

7 (a) TEMPORARY INCREASE OF THE MEDICAID
8 FMAP.—

9 (1) PERMITTING MAINTENANCE OF FISCAL
10 YEAR 2007 FMAP FOR LAST 3 CALENDAR QUARTERS

1 OF FISCAL YEAR 2008.—Subject to paragraph (5), if
 2 the FMAP determined without regard to this sub-
 3 section for a State for fiscal year 2008 is less than
 4 the FMAP as so determined for fiscal year 2007,
 5 the FMAP for the State for fiscal year 2007 shall
 6 be substituted for the State's FMAP for the second,
 7 third, and fourth calendar quarters of fiscal year
 8 2008, before the application of this subsection.

9 (2) PERMITTING MAINTENANCE OF FISCAL
 10 YEAR 2008 FMAP FOR FIRST 2 QUARTERS OF FISCAL
 11 YEAR 2009.—Subject to paragraph (5), if the FMAP
 12 determined without regard to this subsection for a
 13 State for fiscal year 2009 is less than the FMAP as
 14 so determined for fiscal year 2008, the FMAP for
 15 the State for fiscal year 2008 shall be substituted
 16 for the State's FMAP for the first and second cal-
 17 endar quarters of fiscal year 2009, before the appli-
 18 cation of this subsection.

19 (3) GENERAL 1.225 PERCENTAGE POINTS IN-
 20 CREASE FOR LAST 3 CALENDAR QUARTERS OF FIS-
 21 CAL YEAR 2008 AND FIRST 2 CALENDAR QUARTERS
 22 OF FISCAL YEAR 2009.—Subject to paragraphs (5),
 23 (6), and (7), for each State for the second, third,
 24 and fourth calendar quarters of fiscal year 2008 and
 25 for the first and second calendar quarters of fiscal

1 year 2009, the FMAP (taking into account the ap-
2 plication of paragraphs (1) and (2)) shall be in-
3 creased by 1.225 percentage points.

4 (4) INCREASE IN CAP ON MEDICAID PAYMENTS
5 TO TERRITORIES.—Subject to paragraphs (6) and
6 (7), with respect to the second, third, and fourth cal-
7 endar quarters of fiscal year 2008 and the first and
8 second calendar quarters of fiscal year 2009, the
9 amounts otherwise determined for Puerto Rico, the
10 Virgin Islands, Guam, the Northern Mariana Is-
11 lands, and American Samoa under subsections (f)
12 and (g) of section 1108 of the Social Security Act
13 (42 U.S.C. 1308) shall each be increased by an
14 amount equal to 2.45 percent of such amounts.

15 (5) SCOPE OF APPLICATION.—The increases in
16 the FMAP for a State under this subsection shall
17 apply only for purposes of title XIX of the Social Se-
18 curity Act and shall not apply with respect to—

19 (A) disproportionate share hospital pay-
20 ments described in section 1923 of such Act
21 (42 U.S.C. 1396r–4);

22 (B) payments under title IV or XXI of
23 such Act (42 U.S.C. 601 et seq. and 1397aa et
24 seq.); or

1 (C) any payments under XIX of such Act
2 that are based on the enhanced FMAP de-
3 scribed in section 2105(b) of such Act (42
4 U.S.C. 1397ee(b)).

5 (6) STATE ELIGIBILITY.—

6 (A) IN GENERAL.—Subject to subpara-
7 graph (B), a State is eligible for an increase in
8 its FMAP under paragraph (3) or an increase
9 in a cap amount under paragraph (4) only if
10 the eligibility under its State plan under title
11 XIX of the Social Security Act (including any
12 waiver under such title or under section 1115
13 of such Act (42 U.S.C. 1315)) is no more re-
14 strictive than the eligibility under such plan (or
15 waiver) as in effect on December 31, 2007.

16 (B) STATE REINSTATEMENT OF ELIGI-
17 BILITY PERMITTED.—A State that has re-
18 stricted eligibility under its State plan under
19 title XIX of the Social Security Act (including
20 any waiver under such title or under section
21 1115 of such Act (42 U.S.C. 1315)) after De-
22 cember 31, 2007 is eligible for an increase in
23 its FMAP under paragraph (3) or an increase
24 in a cap amount under paragraph (4) in the
25 first calendar quarter (and subsequent calendar

1 quarters) in which the State has reinstated eli-
2 gibility that is no more restrictive than the eli-
3 gibility under such plan (or waiver) as in effect
4 on December 31, 2007.

5 (C) RULE OF CONSTRUCTION.—Nothing in
6 subparagraph (A) or (B) shall be construed as
7 affecting a State’s flexibility with respect to
8 benefits offered under the State medicaid pro-
9 gram under title XIX of the Social Security Act
10 (42 U.S.C. 1396 et seq.) (including any waiver
11 under such title or under section 1115 of such
12 Act (42 U.S.C. 1315)).

13 (7) REQUIREMENT FOR CERTAIN STATES.—In
14 the case of a State that requires political subdivi-
15 sions within the State to contribute toward the non-
16 Federal share of expenditures under the State med-
17 icaid plan required under section 1902(a)(2) of the
18 Social Security Act (42 U.S.C. 1396a(a)(2)), the
19 State shall not require that such political subdivi-
20 sions pay a greater percentage of the non-Federal
21 share of such expenditures for the second, third, and
22 fourth calendar quarters of fiscal year 2008 and the
23 first and second calendar quarters of fiscal year
24 2009, than the percentage that was required by the

1 State under such plan on December 31, 2007, prior
 2 to application of this subsection.

3 (8) DEFINITIONS.—In this subsection:

4 (A) FMAP.—The term “FMAP” means
 5 the Federal medical assistance percentage, as
 6 defined in section 1905(b) of the Social Secu-
 7 rity Act (42 U.S.C. 1396d(b)).

8 (B) STATE.—The term “State” has the
 9 meaning given such term for purposes of title
 10 XIX of the Social Security Act (42 U.S.C. 1396
 11 et seq.).

12 (9) REPEAL.—Effective as of October 1, 2009,
 13 this subsection is repealed.

14 (b) PAYMENTS TO STATES FOR ASSISTANCE WITH
 15 PROVIDING GOVERNMENT SERVICES.—The Social Secu-
 16 rity Act (42 U.S.C. 301 et seq.) is amended by inserting
 17 after title V the following:

18 **“TITLE VI—TEMPORARY STATE**
 19 **FISCAL RELIEF**

20 **“SEC. 601. TEMPORARY STATE FISCAL RELIEF.**

21 “(a) APPROPRIATION.—There is authorized to be ap-
 22 propriated and is appropriated for making payments to
 23 States under this section—

24 “(1) \$3,600,000,000 for fiscal year 2008; and

25 “(2) \$2,400,000,000 for fiscal year 2009.

1 “(b) PAYMENTS.—

2 “(1) FISCAL YEAR 2008.—From the amount ap-
3 propriated under subsection (a)(1) for fiscal year
4 2008, the Secretary of the Treasury shall, not later
5 than the later of the date that is 45 days after the
6 date of enactment of this Act or the date that a
7 State provides the certification required by sub-
8 section (e) for fiscal year 2008, pay each State the
9 amount determined for the State for fiscal year
10 2008 under subsection (c).

11 “(2) FISCAL YEAR 2009.—From the amount ap-
12 propriated under subsection (a)(2) for fiscal year
13 2009, the Secretary of the Treasury shall, not later
14 than the later of October 1, 2008, or the date that
15 a State provides the certification required by sub-
16 section (e) for fiscal year 2009, pay each State the
17 amount determined for the State for fiscal year
18 2009 under subsection (c).

19 “(c) PAYMENTS BASED ON POPULATION.—

20 “(1) IN GENERAL.—Subject to paragraph (2),
21 the amount appropriated under subsection (a) for
22 each of fiscal years 2008 and 2009 shall be used to
23 pay each State an amount equal to the relative pop-
24 ulation proportion amount described in paragraph
25 (3) for such fiscal year.

1 “(2) MINIMUM PAYMENT.—

2 “(A) IN GENERAL.—No State shall receive
3 a payment under this section for a fiscal year
4 that is less than—

5 “(i) in the case of 1 of the 50 States
6 or the District of Columbia, $\frac{1}{2}$ of 1 per-
7 cent of the amount appropriated for such
8 fiscal year under subsection (a); and

9 “(ii) in the case of the Commonwealth
10 of Puerto Rico, the United States Virgin
11 Islands, Guam, the Commonwealth of the
12 Northern Mariana Islands, or American
13 Samoa, $\frac{1}{10}$ of 1 percent of the amount ap-
14 propriated for such fiscal year under sub-
15 section (a).

16 “(B) PRO RATA ADJUSTMENTS.—The Sec-
17 retary of the Treasury shall adjust on a pro
18 rata basis the amount of the payments to
19 States determined under this section without
20 regard to this subparagraph to the extent nec-
21 essary to comply with the requirements of sub-
22 paragraph (A).

23 “(3) RELATIVE POPULATION PROPORTION
24 AMOUNT.—The relative population proportion

1 amount described in this paragraph is the product
2 of—

3 “(A) the amount described in subsection
4 (a) for a fiscal year; and

5 “(B) the relative State population propor-
6 tion (as defined in paragraph (4)).

7 “(4) RELATIVE STATE POPULATION PROPOR-
8 TION DEFINED.—For purposes of paragraph (3)(B),
9 the term ‘relative State population proportion’
10 means, with respect to a State, the amount equal to
11 the quotient of—

12 “(A) the population of the State (as re-
13 ported in the most recent decennial census);
14 and

15 “(B) the total population of all States (as
16 reported in the most recent decennial census).

17 “(d) USE OF PAYMENT.—

18 “(1) IN GENERAL.—Subject to paragraph (2), a
19 State shall use the funds provided under a payment
20 made under this section for a fiscal year to—

21 “(A) provide essential government services;

22 “(B) cover the costs to the State of com-
23 plying with any Federal intergovernmental
24 mandate (as defined in section 421(5) of the
25 Congressional Budget Act of 1974) to the ex-

1 tent that the mandate applies to the State, and
2 the Federal Government has not provided funds
3 to cover the costs; or

4 “(C) compensate for a decline in Federal
5 funding to the State.

6 “(2) LIMITATION.—A State may only use funds
7 provided under a payment made under this section
8 for types of expenditures permitted under the most
9 recently approved budget for the State.

10 “(e) CERTIFICATION.—In order to receive a payment
11 under this section for a fiscal year, the State shall provide
12 the Secretary of the Treasury with a certification that the
13 State’s proposed uses of the funds are consistent with sub-
14 section (d).

15 “(f) DEFINITION OF STATE.—In this section, the
16 term ‘State’ means the 50 States, the District of Colum-
17 bia, the Commonwealth of Puerto Rico, the United States
18 Virgin Islands, Guam, the Commonwealth of the Northern
19 Mariana Islands, and American Samoa.

20 “(g) REPEAL.—Effective as of October 1, 2009, this
21 title is repealed.”.

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