

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide temporary State and local fiscal relief.

IN THE SENATE OF THE UNITED STATES—108th Cong., 1st Sess.

S. 1054

To provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2004.

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by

Viz:

1 Strike section 371 and insert the following:

2 **SEC. 371. TEMPORARY STATE AND LOCAL FISCAL RELIEF.**

3 (a) \$10,000,000,000 FOR A TEMPORARY INCREASE
4 OF THE MEDICAID FMAP.—

5 (1) PERMITTING MAINTENANCE OF FISCAL
6 YEAR 2002 FMAP FOR LAST 2 CALENDAR QUARTERS
7 OF FISCAL YEAR 2003.—Subject to paragraph (5), if
8 the FMAP determined without regard to this sub-
9 section for a State for fiscal year 2003 is less than
10 the FMAP as so determined for fiscal year 2002,

1 the FMAP for the State for fiscal year 2002 shall
2 be substituted for the State's FMAP for the third
3 and fourth calendar quarters of fiscal year 2003, be-
4 fore the application of this subsection.

5 (2) PERMITTING MAINTENANCE OF FISCAL
6 YEAR 2003 FMAP FOR FIRST 3 QUARTERS OF FISCAL
7 YEAR 2004.—Subject to paragraph (5), if the FMAP
8 determined without regard to this subsection for a
9 State for fiscal year 2004 is less than the FMAP as
10 so determined for fiscal year 2003, the FMAP for
11 the State for fiscal year 2003 shall be substituted
12 for the State's FMAP for the first, second, and third
13 calendar quarters of fiscal year 2004, before the ap-
14 plication of this subsection.

15 (3) GENERAL 2.95 PERCENTAGE POINTS IN-
16 CREASE FOR LAST 2 CALENDAR QUARTERS OF FIS-
17 CAL YEAR 2003 AND FIRST 3 CALENDAR QUARTERS
18 OF FISCAL YEAR 2004.—Subject to paragraphs (5),
19 (6), and (7), for each State for the third and fourth
20 calendar quarters of fiscal year 2003 and for the
21 first, second, and third calendar quarters of fiscal
22 year 2004, the FMAP (taking into account the ap-
23 plication of paragraphs (1) and (2)) shall be in-
24 creased by 2.95 percentage points.

1 (4) INCREASE IN CAP ON MEDICAID PAYMENTS
2 TO TERRITORIES.—Subject to paragraphs (6) and
3 (7), with respect to the third and fourth calendar
4 quarters of fiscal year 2003 and the first, second,
5 and third calendar quarters of fiscal year 2004, the
6 amounts otherwise determined for Puerto Rico, the
7 Virgin Islands, Guam, the Northern Mariana Is-
8 lands, and American Samoa under subsections (f)
9 and (g) of section 1108 of the Social Security Act
10 (42 U.S.C. 1308) shall each be increased by an
11 amount equal to 5.90 percent of such amounts.

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

16 (A) disproportionate share hospital pay-
17 ments described in section 1923 of such Act
18 (42 U.S.C. 1396r-4);

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

22 (C) any payments under XIX of such Act
23 that are based on the enhanced FMAP de-
24 scribed in section 2105(b) of such Act (42
25 U.S.C. 1397ee(b)).

1 (6) STATE ELIGIBILITY.—

2 (A) IN GENERAL.—Subject to subpara-
3 graph (B), a State is eligible for an increase in
4 its FMAP under paragraph (3) or an increase
5 in a cap amount under paragraph (4) only if
6 the eligibility under its State plan under title
7 XIX of the Social Security Act (including any
8 waiver under such title or under section 1115
9 of such Act (42 U.S.C. 1315)) is no more re-
10 strictive than the eligibility under such plan (or
11 waiver) as in effect on September 2, 2003.

12 (B) STATE REINSTATEMENT OF ELIGI-
13 BILITY PERMITTED.—A State that has re-
14 stricted eligibility under its State plan under
15 title XIX of the Social Security Act (including
16 any waiver under such title or under section
17 1115 of such Act (42 U.S.C. 1315)) after Sep-
18 tember 2, 2003, is eligible for an increase in its
19 FMAP under paragraph (3) or an increase in
20 a cap amount under paragraph (4) in the first
21 calendar quarter (and subsequent calendar
22 quarters) in which the State has reinstated eli-
23 gibility that is no more restrictive than the eli-
24 gibility under such plan (or waiver) as in effect
25 on September 2, 2003.

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

9 (7) REQUIREMENT FOR CERTAIN STATES.—In
10 the case of a State that requires political subdivi-
11 sions within the State to contribute toward the non-
12 Federal share of expenditures under the State med-
13 icaid plan required under section 1902(a)(2) of the
14 Social Security Act (42 U.S.C. 1396a(a)(2)), the
15 State shall not require that such political subdivi-
16 sions pay a greater percentage of the non-Federal
17 share of such expenditures for the third and fourth
18 calendar quarters of fiscal year 2003 and the first,
19 second and third calendar quarters of fiscal year
20 2004, than the percentage that was required by the
21 State under such plan on April 1, 2003, prior to ap-
22 plication of this subsection.

23 (8) DEFINITIONS.—In this subsection:

24 (A) FMAP.—The term “FMAP” means
25 the Federal medical assistance percentage, as

1 defined in section 1905(b) of the Social Secu-
2 rity Act (42 U.S.C. 1396d(b)).

3 (B) STATE.—The term “State” has the
4 meaning given such term for purposes of title
5 XIX of the Social Security Act (42 U.S.C. 1396
6 et seq.).

7 (9) REPEAL.—Effective as of October 1, 2004,
8 this subsection is repealed.

9 (b) \$10,000,000,000 FOR ASSISTANCE IN PROVIDING
10 GOVERNMENT SERVICES.—

11 (1) ESTABLISHMENT.—

12 (A) IN GENERAL.—Not later than 45 days
13 after the date of enactment of this Act, the Sec-
14 retary shall establish a program under which
15 the Secretary shall make a payment to each
16 State in accordance with paragraph (2) and
17 each unit of general local government which
18 qualifies for a payment under paragraph (3).

19 (B) REQUIREMENT.—In making payments
20 under this subsection, the Secretary shall en-
21 sure that not more than 72.70 percent of the
22 amount appropriated under subparagraph (C)
23 is paid in fiscal year 2003.

24 (C) APPROPRIATION.—There is authorized
25 to be appropriated and is appropriated for mak-

1 (II) PRO RATA ADJUSTMENTS.—

2 The Secretary shall adjust on a pro
3 rata basis the amount of the pay-
4 ments to States determined under this
5 subparagraph to the extent necessary
6 to comply with the requirements of
7 subclause (I).

8 (iii) RELATIVE POPULATION PROPOR-
9 TION AMOUNT.—The relative population
10 proportion amount described in this clause
11 is the product of—

12 (I) \$6,000,000,000; and

13 (II) the relative State population
14 proportion (defined in clause (iv)).

15 (iv) RELATIVE STATE POPULATION
16 PROPORTION DEFINED.—For purposes of
17 clause (iii)(II), the term “relative State
18 population proportion” means, with respect
19 to a State, the amount equal to the
20 quotient of—

21 (I) the population of the State
22 (as reported in the most recent decen-
23 nial census); and

1 (II) the total population of all
2 States (as reported in the most recent
3 decennial census).

4 (B) USE OF PAYMENT.—

5 (i) IN GENERAL.—Subject to clause
6 (ii), a State shall use the funds provided
7 under a payment made under this para-
8 graph to fund 1 or more of the following
9 activities:

10 (I) Education or job training.

11 (II) Health care or other social
12 services.

13 (III) Transportation or other in-
14 frastructure.

15 (IV) Law enforcement or public
16 safety.

17 (V) Essential government serv-
18 ices.

19 (ii) LIMITATION.—A State may only
20 use funds provided under a payment made
21 under this paragraph for types of expendi-
22 tures permitted under the most recently
23 approved budget for the State.

24 (C) CERTIFICATION.—In order to receive a
25 payment under this paragraph for a fiscal year,

1 the State shall provide the Secretary with a cer-
2 tification that the State's proposed uses of the
3 funds are consistent with subparagraph (B).

4 (3) \$4,000,000,000 PAID TO UNITS OF GEN-
5 ERAL LOCAL GOVERNMENT.—

6 (A) ELIGIBILITY.—The Secretary shall, by
7 regulation, establish procedures under which
8 units of general local government may qualify
9 for the payments provided under this para-
10 graph. Such procedures shall include a require-
11 ment that no unit of general local government
12 shall be eligible for a payment under this para-
13 graph unless the unit provides the Secretary
14 with a certification that the unit's proposed
15 uses of the funds are consistent with subpara-
16 graph (C).

17 (B) AMOUNT OF PAYMENT.—

18 (i) IN GENERAL.—Subject to clause
19 (ii), the Secretary shall pay each unit of
20 general local government that qualifies for
21 a payment under the regulation required
22 under subparagraph (A), an amount equal
23 to the same ratio to \$4,000,000,000 as the
24 population of such unit of general local
25 government (as reported in the most recent

1 decennial census) bears to the total popu-
2 lation of all such units that qualify for a
3 payment under this paragraph (as so re-
4 ported).

5 (ii) ADJUSTMENTS.—The Secretary
6 may adjust the amount of the payment
7 otherwise determined for a unit of general
8 local government under this subparagraph
9 to the extent the Secretary determines nec-
10 essary to ensure that all such units that
11 would qualify for a payment under this
12 paragraph receive a payment.

13 (C) USE OF PAYMENT.—

14 (i) IN GENERAL.—Subject to clause
15 (ii), a unit of general local government
16 shall use the funds provided under a pay-
17 ment made under this paragraph to fund
18 1 or more of the following activities:

19 (I) Education or job training.

20 (II) Health care or other social
21 services.

22 (III) Transportation or other in-
23 frastructure.

24 (IV) Law enforcement or public
25 safety.

1 (V) Essential government serv-
2 ices.

3 (ii) LIMITATION.—A unit of general
4 local government may only use funds pro-
5 vided under a payment made under this
6 paragraph for types of expenditures per-
7 mitted under the most recently approved
8 budget for the unit.

9 (4) DEFINITIONS.—In this subsection:

10 (A) SECRETARY.—The term “Secretary”
11 means the Secretary of the Treasury.

12 (B) STATE.—The term “State” means the
13 50 States, the District of Columbia, the Com-
14 monwealth of Puerto Rico, the United States
15 Virgin Islands, Guam, the Commonwealth of
16 the Northern Mariana Islands, and American
17 Samoa.

18 (C) UNIT OF GENERAL LOCAL GOVERN-
19 MENT.—

20 (i) IN GENERAL.—The term “unit of
21 general local government” means—

22 (I) a county, parish, township,
23 city, or political subdivision of a coun-
24 ty, parish, township, or city, that is a
25 unit of general local government as

1 determined by the Secretary of Com-
2 merce for general statistical purposes;
3 and

4 (II) the recognized governing
5 body of an Indian tribe or Alaskan
6 native village that carries out substan-
7 tial governmental duties and powers.

8 (ii) TREATMENT OF SUBSUMED
9 AREAS.—For purposes of determining a
10 unit of general local government under this
11 subsection, the rules under section 6720(c)
12 of title 31, United States Code, shall
13 apply.

14 (5) REPEAL.—Effective as of October 1, 2004,
15 this subsection is repealed.