

107TH CONGRESS  
2D SESSION

# S. 3013

To amend the Balanced Budget Act of 1997 to extend and modify the reimbursement of State and local funds expended for emergency health services furnished to undocumented aliens.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 26, 2002

Mr. KYL (for himself, Mr. McCAIN, Mr. DOMENICI, and Mr. BINGAMAN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To amend the Balanced Budget Act of 1997 to extend and modify the reimbursement of State and local funds expended for emergency health services furnished to undocumented aliens.

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 “Local Emergency  
5 Health Services Reimbursement Act of 2002”.

1 **SEC. 2. FEDERAL REIMBURSEMENT OF EMERGENCY**  
 2 **HEALTH SERVICES FURNISHED TO UNDOCU-**  
 3 **MENTED ALIENS.**

4 Section 4723 of the Balanced Budget Act of 1997  
 5 (8 U.S.C. 1611 note) is amended to read as follows:

6 **“SEC. 4723. FEDERAL REIMBURSEMENT OF EMERGENCY**  
 7 **HEALTH SERVICES FURNISHED TO UNDOCU-**  
 8 **MENTED ALIENS.**

9 “(a) TOTAL AMOUNT AVAILABLE FOR ALLOT-  
 10 MENT.—There is appropriated, out of any funds in the  
 11 Treasury not otherwise appropriated, \$200,000,000 for  
 12 each of fiscal years 2003 through 2007, for the purpose  
 13 of making allotments under this section to States de-  
 14 scribed in paragraph (1) or (2) of subsection (b).

15 “(b) STATE ALLOTMENTS.—

16 “(1) BASED ON HIGHEST NUMBER OF UNDOCU-  
 17 MENTED ALIENS.—

18 “(A) DETERMINATION OF ALLOTMENTS.—

19 “(i) IN GENERAL.—Out of the amount  
 20 appropriated under subsection (a) for a fis-  
 21 cal year, the Secretary shall use  
 22 \$134,000,000 of such amount to compute  
 23 an allotment for each such fiscal year for  
 24 each of the 17 States with the highest  
 25 number of undocumented aliens.

1           “(ii) FORMULA.—The amount of such  
2 allotment for each such State for a fiscal  
3 year shall bear the same ratio to the total  
4 amount available for allotments under this  
5 paragraph for the fiscal year as the ratio  
6 of the number of undocumented aliens in  
7 the State in the fiscal year bears to the  
8 total of such numbers for all such States  
9 for such fiscal year.

10           “(iii) AVAILABILITY OF FUNDS.—The  
11 amount of an allotment provided to a State  
12 under this paragraph for a fiscal year that  
13 is not paid out under subsection (c) shall  
14 be available for payment during the subse-  
15 quent fiscal year.

16           “(B) DATA.—For purposes of subpara-  
17 graph (A), the number of undocumented aliens  
18 in a State shall be determined based on esti-  
19 mates of the resident undocumented alien popu-  
20 lation residing in each State prepared by the  
21 Statistics Division of the Immigration and Nat-  
22 uralization Service as of October 1992 (or as of  
23 such later date if such date is at least 1 year  
24 before the beginning of the fiscal year involved).

1           “(2) BASED ON NUMBER OF UNDOCUMENTED  
2 ALIEN APPREHENSION STATES.—

3           “(A) IN GENERAL.—Out of the amount  
4 appropriated under subsection (a) for a fiscal  
5 year, the Secretary shall use \$66,000,000 of  
6 such amount to compute an allotment for each  
7 such fiscal year for each of the 6 States with  
8 the highest number of undocumented alien ap-  
9 prehensions for such fiscal year.

10           “(B) DETERMINATION OF ALLOTMENTS.—  
11 The amount of such allotment for each such  
12 State for a fiscal year shall bear the same ratio  
13 to the total amount available for allotments  
14 under this paragraph for the fiscal year as the  
15 ratio of the number of undocumented alien ap-  
16 prehensions in the State in the fiscal year bears  
17 to the total of such numbers for all such States  
18 for such fiscal year.

19           “(C) DATA.—For purposes of this para-  
20 graph, the highest number of undocumented  
21 alien apprehensions for a fiscal year shall be  
22 based on the 4 most recent quarterly apprehen-  
23 sion rates for undocumented aliens in such  
24 States, as reported by the Immigration and  
25 Naturalization Service.

1           “(D) AVAILABILITY OF FUNDS.—The  
2           amount of an allotment provided to a State  
3           under this paragraph for a fiscal year that is  
4           not paid out under subsection (c) shall be avail-  
5           able for payment during the subsequent fiscal  
6           year.

7           “(3) RULE OF CONSTRUCTION.—Nothing in  
8           this section shall be construed as prohibiting a State  
9           that is described in both of paragraphs (1) and (2)  
10          from receiving an allotment under both such para-  
11          graphs for a fiscal year.

12          “(c) USE OF FUNDS.—The Secretary shall pay, from  
13          the allotments made for a State under paragraphs (1) and,  
14          if applicable, (2) of subsection (b) for a fiscal year, to each  
15          State and directly to local governments, hospitals, or other  
16          providers located in the State (including providers of serv-  
17          ices received through an Indian Health Service facility  
18          whether operated by the Indian Health Service or by an  
19          Indian tribe or tribal organization (as defined in section  
20          4 of the Indian Health Care Improvement Act)) that pro-  
21          vide uncompensated emergency health services furnished  
22          to undocumented aliens during that fiscal year, such  
23          amounts (subject to the total amount available from such  
24          allotments) as the State, local governments, hospitals, or

1 providers demonstrate were incurred for the provision of  
2 such services during that fiscal year.

3 “(d) DEFINITIONS.—In this section:

4 “(1) HOSPITAL.—The term ‘hospital’ has the  
5 meaning given such term in section 1861(e) of the  
6 Social Security Act (42 U.S.C. 1395x(e)).

7 “(2) PROVIDER.—The term ‘provider’ includes  
8 a physician, any other health care professional li-  
9 censed under State law, and any other entity that  
10 furnishes emergency health services, including ambu-  
11 lance services.

12 “(3) SECRETARY.—The term ‘Secretary’ means  
13 the Secretary of Health and Human Services.

14 “(4) STATE.—The term ‘State’ means the 50  
15 States and the District of Columbia.

16 “(e) ENTITLEMENT.—This section constitutes budget  
17 authority in advance of appropriations Acts and rep-  
18 resents the obligation of the Federal Government to pro-  
19 vide for the payment of amounts provided under this sec-  
20 tion.”.

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