

104TH CONGRESS  
2D SESSION

# H. R. 3779

To amend title XIX of the Social Security Act to reward States for collecting Medicaid funds expended on tobacco-related illnesses, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 10, 1996

Mr. OBERSTAR (for himself, Mr. DURBIN, Mr. FRAZER, Mr. MEEHAN, Mr. MINGE, Mr. HANSEN, Mrs. MORELLA, Mr. REED, Mr. SERRANO, Mr. DELLUMS, and Ms. EDDIE BERNICE JOHNSON of Texas) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title XIX of the Social Security Act to reward States for collecting Medicaid funds expended on tobacco-related illnesses, 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 “Tobacco Medicaid Re-  
5 covery Act of 1996”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—The Congress finds the following:

1           (1) Federal taxpayers pay for approximately  
2           \$20,000,000,000 each year in Federal health ex-  
3           penditures to treat tobacco-related illnesses, includ-  
4           ing expenditures incurred under the Medicare and  
5           Medicaid programs operated under titles XVIII and  
6           XIX of the Social Security Act, health care pro-  
7           grams carried out by the Secretary of Veterans Af-  
8           fairs under chapter 17 of title 38, United States  
9           Code, and other Federal health care programs.  
10          These expenditures often contribute to an increase  
11          in the Federal budget deficit.

12          (2) According to the Centers for Disease Con-  
13          trol and Prevention, tobacco-related illnesses cost  
14          the Medicaid program under title XIX of the Social  
15          Security Act \$5,100,000,000 each year.

16          (3) The efforts of several States that are at-  
17          tempting under Federal law, including in some  
18          cases, under the Federal anti-racketeering statutes,  
19          or under State law, to recover the health care costs  
20          incurred under the Medicaid program for the treat-  
21          ment of individuals with diseases attributable to the  
22          use of tobacco products from the manufacturers of  
23          such products, are to be commended.

24          (b) PURPOSE.—The purpose of this Act is to reward  
25          States that successfully recover the Federal and State

1 health care costs incurred under the Medicaid program for  
2 the treatment of individuals with diseases attributable to  
3 the use of tobacco products by providing increased funding  
4 for their Medicaid programs and to provide increased re-  
5 sources to the National Institutes of Health.

6 **SEC. 3. INCENTIVE PAYMENTS FOR COLLECTION OF MED-**  
7 **ICAID FUNDS EXPENDED ON TOBACCO-RE-**  
8 **LATED ILLNESSES.**

9 (a) FINANCIAL REWARD FOR SUCCESSFUL RECOV-  
10 ERIES.—Section 1903(d) of the Social Security Act (42  
11 U.S.C. 1396b(d)) is amended by adding at the end the  
12 following new paragraph:

13 “(7)(A) Notwithstanding any other provision of law,  
14 if a State recovers, by judgment in, or settlement of, any  
15 suit arising under Federal or State law, amounts expended  
16 as medical assistance under the State plan for the treat-  
17 ment of individuals with diseases attributable to the use  
18 of tobacco products, from a manufacturer of tobacco prod-  
19 ucts, the State shall notify the Secretary of the amount  
20 of such recovery. Upon receipt of such a notice, the Sec-  
21 retary shall determine the amount of Federal expenditures  
22 under this title that are attributable to the amounts recov-  
23 ered, based on the Federal medical assistance percentage,  
24 as defined in section 1905(b), for such State. The Sec-  
25 retary shall treat the amount so determined as an overpay-

1 ment under this section, in accordance with paragraph  
2 (2)(A), and with respect to such amount shall do the fol-  
3 lowing:

4 “(i) Provide that the State shall retain  $\frac{1}{3}$  of  
5 such amount, for the purpose of using such funds to  
6 meet the non-Federal share of expenditures under  
7 the State plan with respect to which payments may  
8 be made under this title.

9 “(ii) Pay  $\frac{1}{3}$  of such amount to the Director of  
10 the National Institutes of Health, for the purpose of  
11 conducting disease research.

12 “(B) Any amount of new budget authority or outlays  
13 resulting from the provisions of this paragraph shall not  
14 be counted for any purpose under section 251 or 252 of  
15 the Balanced Budget and Emergency Deficit Control Act  
16 of 1985.

17 “(C) For purposes of this paragraph—

18 “(i) the term ‘manufacturer of tobacco prod-  
19 ucts’ has the meaning given such term by section  
20 5702(d) of the Internal Revenue Code of 1986; and

21 “(ii) the term ‘tobacco products’ has the mean-  
22 ing given such term by section 5702(c) of such  
23 Code.”.

24 (b) CONFORMING AMENDMENT.—Section 1902(a) of  
25 such Act (42 U.S.C. 1396a(a)) is amended—

1           (1) by striking “and” at the end of paragraph  
2           (61);

3           (2) by striking the period at the end of para-  
4           graph (62) and inserting “; and”; and

5           (3) by inserting after paragraph (62) the fol-  
6           lowing new paragraph:

7           “(63) provide that the State shall provide  
8           prompt notice to the Secretary of the amount of any  
9           recovery from a manufacturer of tobacco products,  
10          as defined in section 1903(d)(7)(C)(i), of expendi-  
11          tures for medical assistance provided under such  
12          plan for the treatment of individuals with diseases  
13          attributable to the use of tobacco products, as de-  
14          fined in section 1903(d)(7)(C)(ii).”.

15          (c) EFFECTIVE DATE.—The amendments made by  
16          subsections (a) and (b) shall apply to amounts recovered  
17          on and after the date of the enactment of this Act.

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