

104TH CONGRESS
2D SESSION

S. 1892

To reward States for collecting medicaid funds expended on tobacco-related illnesses, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 19, 1996

Mr. LAUTENBERG (for himself and Mr. WELLSTONE) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

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:

8 (1) Federal taxpayers pay for approximately
9 \$20,000,000,000 each year in Federal health ex-
10 penditures to treat tobacco-related illnesses, includ-

1 ing expenditures incurred under the medicare and
2 medicaid programs operated under titles XVIII and
3 XIX of the Social Security Act, health care pro-
4 grams carried out by the Secretary of Veterans Af-
5 fairs under chapter 17 of title 38, United States
6 Code, and other Federal health care programs.
7 These expenditures often contribute to an increase
8 in the Federal budget deficit.

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

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

21 (b) PURPOSE.—The purpose of this Act is to reward
22 States that successfully recover the Federal and State
23 health care costs incurred under the medicaid program for
24 the treatment of individuals with diseases attributable to
25 the use of tobacco products by providing increased funding

1 for their medicaid programs and to provide increased re-
2 sources to the National Institutes of Health.

3 **SEC. 3. INCENTIVE PAYMENTS FOR COLLECTION OF MED-**
4 **ICAID FUNDS EXPENDED ON TOBACCO-RE-**
5 **LATED ILLNESSES.**

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

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

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

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

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

14 “(C) For purposes of this paragraph—

15 “(i) the term ‘manufacturer of tobacco prod-
16 ucts’ has the meaning given such term by section
17 5702(d) of the Internal Revenue Code of 1986; and

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

21 (b) CONFORMING AMENDMENT.—Section 1902(a)
22 (42 U.S.C. 1396a(a)) is amended—

23 (1) by striking “and” at the end of paragraph
24 (61);

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

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

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

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

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