

106TH CONGRESS  
1ST SESSION

# S. 252

To prohibit the recoupment of medicaid-related funds recovered from one or more tobacco companies.

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IN THE SENATE OF THE UNITED STATES

JANUARY 19, 1999

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

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## A BILL

To prohibit the recoupment of medicaid-related funds recovered from one or more tobacco companies.

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. FINDINGS.**

4       Congress makes the following findings:

5               (1) A commitment to the responsibility that  
6       Governors and other State officials have for the well-  
7       being of their citizens motivated the decision by 41  
8       States, commonwealths and territories to initiate  
9       lawsuits against the tobacco industry that predicated

1 the national settlement negotiated by State Attor-  
 2 neys General in November of 1998.

3 (2) State litigation against the tobacco industry  
 4 is based on the enforcement of State laws and  
 5 rights, including consumer protection laws, antitrust  
 6 violations, and unjust enrichment, among others.  
 7 Lawsuits aimed at reducing youth smoking, securing  
 8 the public disclosure of tobacco documents, and  
 9 other goals did not seek only to recover State health  
 10 care costs.

11 (3) Some State claims do not include any  
 12 health care claims or provisions for the recovery of  
 13 health care costs.

14 (4) The States' Attorneys General carefully  
 15 crafted the November, 1998 agreement to reflect  
 16 only State costs. States sought injunctive relief, civil  
 17 penalties, disgorgement of profits, and other appro-  
 18 priate remedies.

19 **SEC. 2. PROHIBITION ON TREATING ANY FUNDS RECOV-**  
 20 **ERED FROM TOBACCO COMPANIES AS AN**  
 21 **OVERPAYMENT FOR PURPOSES OF MEDIC-**  
 22 **AID.**

23 (a) AMENDMENT TO SOCIAL SECURITY ACT.—Sec-  
 24 tion 1903(d)(3) of the Social Security Act (42 U.S.C.  
 25 1396b(d)(3)) is amended—

1 (1) by inserting “(A)” after “(3)”; and

2 (2) by adding at the end the following:

3 “(B) Subparagraph (A) and paragraph (2)(B) shall  
4 not apply to any amount recovered or paid to a State as  
5 part of the comprehensive settlement of November, 1998  
6 between the tobacco industry and State Attorneys Gen-  
7 eral, or as part of any individual settlement or judgment  
8 reached in litigation initiated or pursued by a State  
9 against one or more manufacturers of tobacco products,  
10 as defined in section 5702(d) of the Internal Revenue  
11 Code of 1986.”.

12 (b) LIMITATION.—Amounts recovered or paid to a  
13 State as part of the comprehensive settlement of Novem-  
14 ber, 1998 between the tobacco industry and State Attor-  
15 neys General, or as part of any individual settlement or  
16 judgment reached in litigation initiated or pursued by a  
17 State against one or more manufacturers of tobacco prod-  
18 ucts, as defined in section 5702(d) of the Internal Revenue  
19 Code of 1986, may not be used by a State to draw down  
20 funds under a State medical assistance plan under title  
21 XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

22 (c) EFFECTIVE DATE.—This section and the amend-  
23 ments made by this section shall apply to amounts recov-

1 ered or paid to a State prior to, on, or after the date of  
2 enactment of this Act.

