

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2423

By: Askins

COMMITTEE SUBSTITUTE

(Tobacco - Tobacco Settlement Act of 2000 - Tobacco
Settlement Endowment Trust Fund - codification -
emergency)

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 600.13 of Title 37, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 6 of this act shall be known and may be cited as the "Tobacco Settlement Act of 2000".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 600.14 of Title 37, unless there is created a duplication in numbering, reads as follows:

Effective June 30, 2000, all monies received by the State of Oklahoma after the effective date of this act pursuant to any settlement with or judgment against any tobacco company or companies shall be subject to the provisions of the Tobacco Settlement Act of 2000, except for monies deposited to the Attorney General's Evidence Fund pursuant to Section 19 of Title 74 of the Oklahoma Statutes.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 600.15 of Title 37, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created a trust fund to be known as the "Tobacco Settlement Endowment Trust Fund". The Trust Fund principal shall consist of monies which are deposited to the Trust Fund

pursuant to the Oklahoma Tobacco Settlement Act of 2000, designated for the purposes set forth in subsection K of this section, which are not specifically designated for any other purpose. The Trust Fund principal shall not be diminished. Notwithstanding other provisions of law, income and investment return on Trust Fund principal shall accrue to the Trust Fund.

B. The Trust Fund shall be managed by a Board of Trustees. The Board of Trustees shall consist of five (5) members, as follows:

1. The State Treasurer or designee;
2. The State Auditor and Inspector or designee;
3. One citizen member appointed by the Governor who shall have a demonstrated expertise in public or private investment finance;
4. One citizen member appointed by the President Pro Tempore of the Senate who shall have a demonstrated expertise in public or private investment funds management; and
5. One citizen member appointed by the Speaker of the House of Representatives who shall have a demonstrated expertise in public or private investment funds management.

All appointed Trustees serve at the pleasure of the appointing authority or the appointing authority's successor in office.

C. The Trustees shall receive no salary for serving on the Board. All Trustees shall receive necessary travel expenses in accordance with the provisions of the State Travel Reimbursement Act from funds of the Trust Fund.

D. The Board of Trustees shall hold its first meeting by August 1, 2000.

E. The Trustees shall discharge their duties as trustees of the Trust Fund:

1. With the care, skill, prudence, and diligence, under the circumstances then prevailing, that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

2. By diversifying the investments in the Trust Fund so as to minimize the risk of large losses, unless, under the circumstances, it is clearly prudent not to do so; and

3. In accordance with the laws, documents and instruments governing the Trust Fund.

F. The Board of Trustees shall retain qualified investment managers to provide for the investment of the monies of the Trust Fund. The investment managers shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the Board of Trustees. The investment managers shall have full discretion in the management of those monies of the Trust Fund allocated to the investment managers, subject to the overall investment guidelines set by the Board of Trustees. The monies of the Trust Fund allocated to the investment managers shall be managed by the investment managers. The investment managers may sell investments and realize losses if such action is considered advantageous to longer-term return maximization. Because of the total return objective, no distinction shall be made for management and performance evaluation purposes between realized and unrealized capital gains and losses. The Board of Trustees shall have the State Treasurer manage those monies not specifically allocated to the investment managers.

G. The Trust Fund may be invested in securities, including but not limited to, the stock of corporations, the equity interests of limited liability companies, the equity interests of partnerships or such other equity interests in private business enterprises, however denominated or classified, as may be consistent with the duty imposed upon the Trustees pursuant to subsection E of this section.

H. The Board of Trustees shall select a custodial bank to settle transactions involving the investment of funds in the Trust Fund and to hold custody of the securities in the Trust Fund portfolio. The custodian shall be a bank or trust company offering

pension fund master trustee and master custodial services. The custodian shall be chosen by a solicitation of proposals on a competitive basis pursuant to standards set by the Board of Trustees.

I. The Board of Trustees shall choose the custodians and managers of the assets of the Trust Fund, shall establish investment and fund management guidelines, and shall adopt an investment policy. The selection of investment managers and a custodian bank shall be exempt from the provisions of the Oklahoma Central Purchasing Act.

J. The State Treasurer shall provide any necessary staff support to the Board of Trustees. The cost of up to one full-time-equivalent employee for the Office of the State Treasurer may be considered as an administrative expense of the Trust Fund. However, the amount provided to the State Treasurer for this purpose shall be determined by the Board of Trustees.

K. On or before February 1 of each calendar year, the Board of Trustees shall determine the annual net income of the Trust Fund for the previous twelve-month period ending December 31 of the previous calendar year, which shall include all additions to the Trust Fund, except any payments to the Trust Fund pursuant to the tobacco settlement entered into on November 13, 1998, by the State of Oklahoma and leading United States tobacco product manufacturers; all future settlement or judgment payments received pursuant to the Tobacco Settlement Act of 2000; all earnings, including interest, dividends, and capital gains from investment of the Trust Fund which shall be credited to the corpus of the Trust Fund; and any other monies which may be added thereto by law. A maximum of ninety-five percent (95%) of the annual net income, less the amount of reasonable expenses for administration from that year, shall be deposited into the Tobacco Settlement Fund created by Section 4 of

this act for the purposes set forth in that section. No part of the Trust Fund shall ever be diverted.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 600.16 of Title 37, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created in the State Treasury a special fund to be known and designated as the Tobacco Settlement Fund, into which fund shall be deposited all monies received by the state or any official, agency or department of the state in settlement of claims by the state against tobacco manufacturers.

B. Monies appropriated from this fund shall be expended for the following purposes:

1. Comprehensive tobacco prevention, control, and enforcement programs with particular emphasis on community-based early intervention, cessation and counter-marketing programs directed at young persons, the uninsured, and senior adults;

2. Multidisciplinary team programs to address child abuse;

3. Before and after school care programs;

4. Early childhood education programs;

5. Teen counseling and violence prevention programs;

6. Clinical or basic research or treatment efforts in Oklahoma for the purpose of enhancing efforts to prevent and combat cancer and other tobacco-related diseases;

7. Neighborhood and community grants designed to address neighborhood and community health concerns and well-being;

8. Programs designed to promote a healthy lifestyle for young people; and

9. Programs designed to enhance state alternatives to nursing home care for senior adults.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 600.17 of Title 37, unless there is created a duplication in numbering, reads as follows:

Any monies received by the State of Oklahoma as a result of a federal tobacco settlement or judgment, except undesignated funds received through a settlement or judgment referred to in subsection A of Section 3 of this act, shall be subject to the provisions of Section 41.13a of Title 62 of the Oklahoma Statutes.

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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