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1 STATE OF OKLAHOMA

2 2nd Session of the 47th Legislature (2000)

3 HOUSE JOINT

4 RESOLUTION HJR1039

By: Pettigrew

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6 AS INTRODUCED

7
8 A Joint Resolution directing the Secretary of State
9 to refer to the people for their approval or
10 rejection proposed statutes relating to tobacco;
11 enacting the Tobacco Settlement Act of 2000; making
12 certain monies subject to the act; directing deposit
13 of certain monies; exempting certain payments from
14 the provisions of certain laws; creating the Tobacco
15 Settlement Endowment Trust Fund; providing for
16 administration of the Fund; authorizing retainment of
17 qualified investment managers; directing investments;
18 authorizing annual appropriation of a portion of the
19 Fund; specifying requirements for appropriation from
20 the Fund; creating the Tobacco Settlement Special
21 Cash Fund; making the Fund subject to legislative
22 appropriation; providing for codification; providing
23 ballot title; and directing filing.

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1 leading United States tobacco product manufacturers shall be subject
2 to the provisions of the Tobacco Settlement Act of 2000.

3 B. Payments received by the State of Oklahoma pursuant to the
4 1998 Master Settlement Agreement shall be equally divided and
5 deposited in the Tobacco Settlement Endowment Trust Fund created by
6 Section 4 of this act and the Tobacco Settlement Special Cash Fund
7 created by Section 6 of this act.

8 C. Payments received by the State of Oklahoma from the Tobacco
9 Master Settlement Agreement are exempt from the provisions of
10 Section 19 of Title 74 of the Oklahoma Statutes. The only attorney
11 fees that shall be paid resulting from the Tobacco Master Settlement
12 Agreement shall be those paid directly by the tobacco companies
13 pursuant to the agreement.

14 SECTION 4. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 600.15 of Title 37, unless there
16 is created a duplication in numbering, reads as follows:

17 A. There is hereby created a trust fund to be known as the
18 "Tobacco Settlement Endowment Trust Fund". The Trust Fund principal
19 shall consist of monies which are deposited to the Trust Fund
20 pursuant to Section 3 of this act. The Trust Fund principal shall
21 not be diminished, except as provided by paragraph H of this
22 section. Notwithstanding other provisions of law, income and
23 investment return on Trust Fund principal shall accrue to the Trust
24 Fund.

25 B. The Trust Fund shall be managed by the State Treasurer. The
26 State Treasurer shall discharge duties as the trustee of the Trust
27 Fund:

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

32

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

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

6 C. The State Treasurer shall retain qualified investment
7 managers to provide for the investment of the monies of the Trust
8 Fund. The investment managers shall be chosen by a solicitation of
9 proposals on a competitive bid basis pursuant to standards set by
10 the State Treasurer. The investment managers shall have full
11 discretion in the management of those monies of the Trust Fund
12 allocated to the investment managers, subject to the overall
13 investment guidelines set by the State Treasurer. The monies of the
14 Trust Fund allocated to the investment managers shall be managed by
15 the investment managers. The investment managers may sell
16 investments and realize losses if such action is considered
17 advantageous to longer term return maximization. Because of the
18 total return objective, no distinction shall be made for management
19 and performance evaluation purposes between realized and unrealized
20 capital gains and losses. The State Treasurer shall manage those
21 monies not specifically allocated to the investment managers.

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

28 E. The State Treasurer shall select a custodial bank to settle
29 transactions involving the investment of funds in the Trust Fund and
30 to hold custody of the securities in the Trust Fund portfolio. The
31 custodian shall be a bank or trust company offering pension fund
32 master trustee and master custodial services. The custodian shall

1 be chosen by a solicitation of proposals on a competitive basis
2 pursuant to standards set by the State Treasurer.

3 F. The State Treasurer shall choose the custodians and managers
4 of the assets of the Trust Fund, shall establish investment and fund
5 management guidelines, and shall adopt an investment policy. The
6 selection of investment managers and a custodian bank shall be
7 exempt from the provisions of the Oklahoma Central Purchasing Act.

8 G. The cost of up to one full-time-equivalent employee for the
9 Office of the State Treasurer may be considered as an administrative
10 expense of the Trust Fund.

11 H. On or before February 1 of each calendar year, the State
12 Treasurer shall determine the annual net income of the Trust Fund
13 for the previous twelve-month period ending December 31 of the
14 previous calendar year, which shall include all additions to the
15 Trust Fund, except any payments to the Trust Fund pursuant to
16 Section 3 of this act, including interest, dividends, and capital
17 gains from investment of the Trust Fund which shall be credited to
18 the corpus of the Trust Fund, and any other monies which may be
19 added thereto by law. At a maximum ninety-five percent (95%) of the
20 annual net income, less the amount of reasonable expenses for
21 administration from that year, plus five percent (5%) of the
22 principal of the Trust Fund for the fiscal year ending June 30,
23 shall be available for appropriation pursuant to Section 5 of this
24 act.

25 SECTION 5. NEW LAW A new section of law to be codified
26 in the Oklahoma Statutes as Section 600.16 of Title 37, unless there
27 is created a duplication in numbering, reads as follows:

28 A. Monies of the Tobacco Settlement Endowment Trust Fund
29 determined to be available for appropriation by the State Treasurer
30 pursuant to subsection H of Section 4 of this act may be
31 appropriated upon:
32

1 1. A declaration by the Governor for the appropriation with a
2 two-thirds (2/3) vote each by the House of Representatives and the
3 Senate for the appropriation; or

4 2. A three-fourths (3/4) vote each by the House of
5 Representatives and the Senate for the appropriation if the Governor
6 has not issued a declaration.

7 B. Fifty percent (50%) of the monies from the Tobacco
8 Settlement Endowment Trust Fund pursuant to subsection A of this
9 section shall be used for the following purposes:

10 1. Providing nonstate matching grants for cancer and lung
11 disease research conducted in Oklahoma under the direction of the
12 University of Oklahoma's health sciences center campuses in Oklahoma
13 or Tulsa;

14 2. Rural health provider assistance;

15 3. Tobacco cessation programs;

16 4. Pharmaceutical reimbursement to senior citizens enrolled in
17 Oklahoma's Medicaid program; and

18 5. State infrastructure projects.

19 SECTION 6. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 600.17 of Title 37, unless there
21 is created a duplication in numbering, reads as follows:

22 There is hereby created in the State Treasury a special fund to
23 be designated the "Tobacco Settlement Special Cash Fund". Monies
24 shall be deposited from the 1998 Tobacco Master Settlement Agreement
25 pursuant to Section 3 of this act. The Fund shall be an
26 appropriated fund.

27 SECTION 7. The Ballot Title for the proposed statutes as set
28 forth in SECTIONS 2 through 6 of this resolution shall be in the
29 following form:

30 BALLLOT TITLE

31 Legislative Referendum No. _____ State Question No. _____

32 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

1 This measure creates the Tobacco Settlement Act of 2000. It
2 applies to all monies received by the state from the tobacco
3 settlement. The monies would be deposited in two funds. The
4 monies would be equally divided between the two funds. Monies
5 in one of the funds would be invested. The net income and five
6 percent of the principal of the fund would be available for use
7 by the Legislature under certain conditions. Half of such
8 monies may only be used for certain purposes. Those purposes
9 include health-related programs and state infrastructure
10 projects. The monies in the other fund can be used by the
11 Legislature for any purposes permitted by law.

12 SHALL THESE PROPOSED STATUTES BE APPROVED BY THE PEOPLE?

13

YES, FOR THE PROPOSED STATUTES

14

NO, AGAINST THE PROPOSED STATUTES

15 SECTION 8. The Chief Clerk of the House of Representatives,
16 immediately after the passage of this resolution, shall prepare and
17 file one copy thereof, including the Ballot Title set forth in
18 SECTION 7 hereof, with the Secretary of State and one copy with the
19 Attorney General.

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