

1 ENGROSSED SENATE
2 BILL NO. 896

By: Fields and Brecheen of the
Senate

3 and

4 Echols of the House

5
6
7 [Tobacco Settlement Endowment Trust Fund - modifying
8 certain apportionment - broadening use of certain
funds - conditional effective date]

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

12 SECTION 1. AMENDATORY 62 O.S. 2011, Section 50, as
13 amended by Section 1, Chapter 370, O.S.L. 2012 (62 O.S. Supp. 2017,
14 Section 50), is amended to read as follows:

15 Section 50. A. There is hereby created in the State Treasury a
16 revolving fund to be known and designated as the Tobacco Settlement
17 Fund, into which fund shall be deposited:

18 1. All monies received by the state or any official, agency or
19 department of the state in settlement of claims by the state against
20 tobacco manufacturers during the month of April 2000;

21 2. All monies received by the state or any official, agency or
22 department of the state in settlement of claims by the state against
23 tobacco manufacturers during fiscal year 2001;

1 3. That portion of monies apportioned to the Tobacco Settlement
2 Fund pursuant to the provisions of subsection B of this section; and

3 4. Such other monies as may be appropriated or otherwise
4 directed thereto by law.

5 The Tobacco Settlement Fund shall be a continuing fund, not
6 subject to fiscal year limitations. No monies shall be paid out of
7 such fund except pursuant to appropriation by the Legislature.

8 B. ~~Monies~~ One hundred percent (100%) of monies received each
9 year by the state or any official, agency or department of the state
10 in settlement of claims by the state against tobacco manufacturers
11 ~~which is not otherwise apportioned pursuant to the provisions of~~
12 ~~Section 40 of Article X of the Oklahoma Constitution~~ shall be
13 apportioned as follows:

14 1. ~~Seventy-five percent (75%)~~ Ninety-three and seventy-five one
15 hundredths percent (93.75%) shall be apportioned to the Tobacco
16 Settlement Fund; ~~and~~

17 2. ~~Twenty-five percent (25%)~~ Six and twenty-five one hundredths
18 percent (6.25%) shall be apportioned to the Attorney General's
19 Evidence Fund.

20 C. From the monies apportioned to the Tobacco Settlement Fund
21 in subsection B of this section, the Legislature shall, by law,
22 direct a certain portion of such monies to the Oklahoma Health Care
23 Authority as may be necessary to replace federal financial
24 participation expenditures, to be distributed to Oklahoma State

1 University and to the University of Oklahoma for the benefit of the
2 Dean's Graduate Medical Education Program, in the same ratio as such
3 funds were provided for such purpose by the Oklahoma Health Care
4 Authority in the previous fiscal year.

5 SECTION 2. AMENDATORY 62 O.S. 2011, Section 2302, is
6 amended to read as follows:

7 Section 2302. The purpose of the Tobacco Settlement Endowment
8 Trust Fund Act is to further implement the provisions of Section 40
9 of Article X of the Oklahoma Constitution that:

10 1. Created the Tobacco Settlement Endowment Trust Fund, the
11 Board of Investors of the Tobacco Settlement Endowment Trust Fund,
12 and the Board of Directors of the Tobacco Settlement Endowment Trust
13 Fund;

14 2. Directs the apportionment of revenues from settlements with
15 or judgments against tobacco companies ~~between the Tobacco~~
16 ~~Settlement Endowment Trust Fund and~~ to a special fund established
17 for the purpose of receiving tobacco settlement payments not
18 deposited to the trust fund, known and designated as the Tobacco
19 Settlement Fund; and

20 3. Authorizes the Board of Directors of the Tobacco Settlement
21 Endowment Trust Fund and the Legislature to expend trust fund
22 earnings for specific purposes.

23 SECTION 3. AMENDATORY 62 O.S. 2011, Section 2303, is
24 amended to read as follows:

1 Section 2303. A. Section 40 of Article X of the Oklahoma
2 Constitution created a trust fund to be known as the "Tobacco
3 Settlement Endowment Trust Fund". The trust fund principal shall
4 consist of the portion of monies which ~~are~~ have been received by the
5 State of Oklahoma ~~on or after July 1, 2001~~ as of December 31, 2018,
6 pursuant to any settlement with or judgment against any tobacco
7 company or companies as provided by subsection B of this section,
8 the Fifty Million Dollars (\$50,000,000.00) transferred to the
9 Tobacco Settlement Endowment Trust Fund pursuant to Section 29,
10 Chapter 8, 1st Extraordinary Session, O.S.L. 2000, and any other
11 monies that may be appropriated or otherwise directed to the trust
12 fund by the Legislature.

13 B. The trust fund principal shall consist of monies which ~~are~~
14 have been received by the State of Oklahoma as of December 31, 2018,
15 and deposited to the trust fund. Notwithstanding any other
16 provisions of law, income and investment return on trust fund
17 principal shall accrue to the trust fund.

18 SECTION 4. AMENDATORY 62 O.S. 2011, Section 2309, as
19 amended by Section 1, Chapter 98, O.S.L. 2015 (62 O.S. Supp. 2017,
20 Section 2309), is amended to read as follows:

21 Section 2309. A. The Board of Directors of the Tobacco
22 Settlement Endowment Trust Fund shall be empowered to:

23 1. Appoint an executive director and other staff necessary to
24 perform the duties of the Board ~~of Directors;~~

1 2. Make and execute contracts and other instruments necessary
2 or convenient to the exercise of its powers on such terms and for
3 such period of time as the Board ~~of Directors~~ shall determine; and

4 3. Promulgate rules in accordance with the Administrative
5 Procedures Act and not inconsistent with the Tobacco Settlement
6 Endowment Trust Fund Act to implement its duties and
7 responsibilities as provided by law.

8 B. Funding for capital expenditures and operating expenses
9 incurred by the University of Oklahoma Health Sciences Center and
10 the Oklahoma State University College of Osteopathic Medicine, for
11 educational programs and residency training to maintain or improve
12 the health of Oklahomans or to enhance the provision of health care
13 services to Oklahomans, is hereby deemed to be an allowable purpose
14 for which earnings from the trust fund may be expended pursuant to
15 the provisions of paragraph 3 of subsection E of Section 40 of
16 Article X of the Oklahoma Constitution. Pursuant to its authority
17 as set forth in subsection G of Section 40 of Article X of the
18 Oklahoma Constitution, the Legislature hereby authorizes the Board
19 to expend earnings from the trust fund for such purposes, in
20 addition to other purposes provided by law.

21 C. Financial support as may be necessary to replace federal
22 financial participation expenditures for Oklahoma State University
23 and for the University of Oklahoma for the benefit of the Dean's
24 Graduate Medical Education Program and financial support for the

1 Oklahoma Medicaid program are hereby deemed to be allowable purposes
2 for which earnings from the trust fund may be expended pursuant to
3 the provisions of paragraphs 7 and 8 of subsection E of Section 40
4 of Article X of the Oklahoma Constitution.

5 D. The Board shall develop a multiyear strategy by January 1,
6 2002, and annually update it in order to guide the Board's funding
7 for those programs set forth in Section 40 of Article X of the
8 Oklahoma Constitution. The strategy shall be used to maximize the
9 outcomes of the grants awarded by the Board of Directors.

10 ~~D.~~ E. The Board of Directors shall develop grant programs for
11 private, nonprofit, and public entities for the purposes set forth
12 in Section 40 of Article X of the Oklahoma Constitution.

13 1. The selection and awarding of grants, whether in the form of
14 professional service contracts or any other funding mechanism
15 developed by the Board of Directors, awarded pursuant to grant
16 programs developed under this subsection, shall be exempt from the
17 requirements of The Oklahoma Central Purchasing Act.

18 2. The Board of Directors shall develop competitive processes
19 for awarding grants under programs developed under this subsection.
20 Such competitive processes for selection shall not be required for
21 contracts awarded for program support services, including, but not
22 limited to, professional service contracts to evaluate, audit or
23 provide budgeting, accounting, auditing or legal services for
24 specific programs or program grantees, contractors or participants.

1 3. The Board of Directors may promulgate rules to assist in the
2 implementation and administration of grant programs developed under
3 this subsection.

4 4. The terms of any request for proposals, request for
5 applications, invitation for bid, bid notice, or grant proposal or
6 any other solicitation issued by the Board of Directors to solicit
7 or invite applications, proposals, bids or responses to obtain
8 funding under grant programs developed under this subsection shall
9 be confidential until the date and time at which the solicitation is
10 to be made equally and uniformly known to all prospective applicants
11 and the public, at which point all such documents and information
12 shall be uniformly known to all prospective applicants and the
13 public, at which point all such documents and information shall be
14 subject to the Oklahoma Open Records Act and Oklahoma Open Meeting
15 Act. Any application, proposal, bid, or any other document to
16 obtain funding responsive to any solicitation of the Board of
17 Directors under grant programs developed under this subsection shall
18 be confidential until the date and time of award of the grant or
19 contract, at which point all such documents and information shall be
20 subject to the Oklahoma Open Records Act and Oklahoma Open Meeting
21 Act. Any unsolicited application, proposal, bid, or any other
22 document to obtain funding shall not be considered to be
23 confidential and shall be subject to the Oklahoma Open Records Act
24 and Oklahoma Open Meeting Act at all times.

1 ~~E.~~ F. The Board of Directors shall encourage grantees to match
2 grant monies awarded with monetary commitments and in-kind matches.

3 ~~F.~~ G. The Board of Directors shall be required to develop a
4 performance evaluation component for the Board of Directors'
5 activities and those of its grantees so that the performance of
6 grantees can be measured by their attainment of outcomes.

7 ~~G.~~ H. The Board of Directors shall contract periodically for
8 performance evaluations. Copies of the evaluations shall be filed
9 with the Governor, the Speaker of the House of Representatives, and
10 the President Pro Tempore of the Senate.

11 ~~H.~~ I. The Board of Directors shall prepare an annual report
12 detailing the Board of Directors' activities and reporting its
13 expenditures and the outcomes achieved by the expenditures. A copy
14 of the report shall be submitted to the Governor, the Speaker of the
15 House of Representatives, and the President Pro Tempore of the
16 Senate.

17 ~~I.~~ J. All records associated with the expenditure of monies
18 received by the Board of Directors or its grantees pursuant to the
19 Tobacco Settlement Endowment Trust Fund Act shall be subject to the
20 Oklahoma Open Records Act.

21 SECTION 5. This act shall become effective upon certification
22 of election returns favoring passage of the Constitutional Amendment
23 proposed in Senate Joint Resolution No. 45 of the 2nd Session of the
24 56th Oklahoma Legislature.

