

Tobacco Settlement Endowment Trust

State QUESTION 814

BALLOT TITLE

This measure seeks to amend Article 10, Section 40 of the Oklahoma Constitution (Section 40), which directs proceeds from the State's settlements with or judgments against tobacco companies. Currently, Section 40 directs 75% of proceeds to the Tobacco Settlement Endowment Trust Fund (TSET Fund), where earnings may only be used for tobacco prevention programs, cancer research, and other such programs to maintain or improve the health of Oklahomans. Meanwhile, the remaining 25% of proceeds are directed to a separate fund for the Legislature (Legislative Fund). The Legislature can also direct some of that 25% to the Attorney General.

This measure amends Section 40 to reduce the percentage of proceeds that go into the TSET Fund from 75% to 25%. As a result, the remaining 75% will go to the Legislative Fund and the Legislature may continue to direct a portion to the Attorney General.

The measure would also restrict the use of the Legislative Fund. Section 40 currently states only that the Legislative Fund is subject to legislative appropriation. If this measure passes, money from the Legislative Fund must be used to get federal matching funds for Oklahoma's Medicaid Program.

Shall The Proposal Be Approved?

FOR THE PROPOSAL – YES

AGAINST THE PROPOSAL – NO

SUMMARY

In 2000, Oklahoma voters approved the Tobacco Settlement Endowment Trust by a vote of 69 percent in favor and 31 percent against. The vote followed an agreement two years earlier that Oklahoma and 45 other states reached with tobacco companies.

The annual payments the state receives from Big Tobacco are deposited into two buckets: 75 percent to TSET, a state agency, for investment, and 25 percent to the legislature for appropriation. A fourth of the legislature's share goes to the attorney general's office for ongoing enforcement of the agreement. In fiscal year 2019, tobacco companies paid Oklahoma nearly \$70 million; the TSET fund received more than \$52 million of it.

TSET's fund now totals about \$1.3 billion, but only its investment earnings can be spent by the agency. In fiscal year 2020, TSET allocated \$47.4 million to fund a range of health, education, and tobacco prevention programs.

SQ 814 would change how tobacco funds are allocated. Instead of 75 percent, TSET would get

25 percent. The other 75 percent would go into a special tobacco settlement fund; 91.67 percent of that would be spent by the legislature to help unlock federal matching funds for Medicaid, which provides subsidized health insurance to low-income residents. The other 8.33 percent would go to the attorney general's evidence fund, which is used "by the Attorney General for necessary expenses relative to any pending case or other matter within the official responsibility of the Attorney General."

In June 2020, Oklahoma voters approved State Question 802 to expand Medicaid to an estimated 215,000 adults, and the expansion will take effect on July 1, 2021. The state must pay 10 percent of expansion costs to secure a 90 percent federal match.

If SQ 814 passes, tobacco settlement funds would likely cover a portion, but not all, of the state's share, estimated at about \$164 million annually. The rest might come from a fee paid by hospitals and from other sources.

FOR MORE INFORMATION

<https://okpolicy.org/possible-paths-to-fund-medicaid-expansion-capitol-update/>

<https://oklahomawatch.org/2018/01/29/tset-proves-a-target-for-cash-strapped-lawmakers/>

<https://insuranceneutral.com/oarticle/editorial-opinion-should-tset-fund-part-of-oklahoma-medicaid-expansion-bill#>

PROPOSERS SAY: YES

BOTH SIDES

OPPOSERS SAY: NO

- Oklahoma has the second-highest uninsured rate in the nation, at 14.3 percent. Spending TSET funds on Medicaid will improve the health outcomes of many Oklahomans.
- TSET's prime mission is to fight cancer and other tobacco-related diseases, but constitutional language that created TSET allows a broader role: "to maintain or improve the health of Oklahomans."
- TSET spends too much on advertising campaigns for tobacco prevention, health and obesity – a sign that its investment fund has grown too large for the original purpose. More should be spent on related core services.
- Many states have underestimated the cost of expanding Medicaid. Raising taxes will be politically difficult, so it's prudent to tap tobacco funds to help pay for the higher costs.

- Oklahoma needs more public investment in prevention and research. Slashing TSET spending will hurt progress on crucial fronts: lung cancer, heart disease, obesity, addiction, fitness and healthy behavior, and medical loans to bring more primary care doctors to rural communities.
- Growth of the endowment and earnings will slow, hampering TSET's ability to start new programs or grow existing ones.
- TSET's programs have saved 42,000 lives and \$1.24 billion in health-care spending. Its Oklahoma Tobacco Helpline has served nearly 400,000 people and is a national model.
- The state continues to have alarmingly high rates of lung cancer and other tobacco-related illnesses. The Centers for Disease Control and Prevention ranks chronic lower respiratory disease as the third leading cause of death in Oklahoma.