

ENROLLED HOUSE JOINT RESOLUTION 1036
ENACTED BY THE SECOND REGULAR SESSION OF THE
48TH LEGISLATURE OF THE STATE OF OKLAHOMA
NUMBERED BY THE SECRETARY OF STATE
STATE QUESTION NUMBER 701
LEGISLATIVE REFERENDUM NUMBER 326

RECEIVED: April 29, 2002

Resolution

ENROLLED HOUSE
JOINT
RESOLUTION NO. 1036

By: Adair of the House

and

Taylor of the Senate

A Joint Resolution directing the Secretary of State to refer to the people for their approval or rejection a proposed amendment to Section 40 of Article X of the Constitution of the State of Oklahoma; modifying expenditures from the Tobacco Settlement Endowment Trust Fund; providing ballot title; and directing filing.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE 2ND SESSION OF THE 48TH OKLAHOMA LEGISLATURE:

SECTION 1. The Secretary of State shall refer to the people for their approval or rejection, as and in the manner provided by law, the following proposed amendment to Section 40 of Article X of the Constitution of the State of Oklahoma to read as follows:

Section 40. 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 the portion of monies which are received by the State of Oklahoma on or after July 1, 2001, pursuant to any settlement with or judgment against any tobacco company or companies as provided by subsection B of this section, and any other monies that may be appropriated or otherwise directed to the trust fund by the Legislature.

B. 1. Deposits into the trust fund from monies which are received by the State of Oklahoma pursuant to any settlement with or judgment against any tobacco company or companies shall be based on the following schedule:

<u>Fiscal Year</u>	<u>Minimum Percentage of Payments</u>
Ending June 30, 2002	50%
Ending June 30, 2003	55%
Ending June 30, 2004	60%
Ending June 30, 2005	65%
Ending June 30, 2006	70%
Ending June 30, 2007	75%

2. Deposits into the trust fund in subsequent fiscal years shall never be less than seventy-five percent (75%) of the payments.

3. The monies received by the State of Oklahoma pursuant to any settlement with or judgment against any tobacco company or companies after June 30, 2001, not deposited into the trust fund as provided in this section, shall be deposited into a special fund established by the Legislature solely for the purpose of receiving the payments; provided, the Legislature may, by law, direct a certain portion of such monies to the Office of the Attorney General. The special fund shall be subject to legislative appropriations.

C. There is hereby created the Board of Investors of the Tobacco Settlement Endowment Trust Fund. The Board of Investors shall have the duty of investing monies in the trust fund, subject to restrictions and limitations provided by law for and in accordance with laws applicable to the investment of monies in state retirement funds.

The Board of Investors shall consist of five (5) members as follows:

1. The State Treasurer who shall be the chair;
2. An appointee of the Governor;
3. An appointee of the Speaker of the House of Representatives;
4. An appointee of the President Pro Tempore of the Senate; and
5. An appointee of the State Auditor and Inspector.

The initial appointees shall serve staggered terms of office as provided for by law. Thereafter, appointees shall serve four-year terms of office. No more than two appointees shall be appointed from any single congressional district. All appointed members shall have demonstrated expertise in public or private investment funds management.

D. There is hereby created the Board of Directors of the Tobacco Settlement Endowment Trust Fund. The Board of Directors shall consist of seven (7) members, one appointed by each of the following appointing authorities:

1. The Governor;
2. The President Pro Tempore of the Senate;
3. The Speaker of the House of Representatives;
4. The Attorney General;
5. The State Treasurer;
6. The State Auditor and Inspector; and
7. The State Superintendent of Public Instruction.

The initial appointed members shall serve staggered terms of office as provided for by law. Thereafter, the appointed members of the Board of Directors shall serve seven-year terms of office. At least one appointee shall be appointed from each congressional district, and not more than two appointees shall be appointed from any single congressional district. Not more than four appointees shall be members of the same political party. An appointee shall have been a member of the political party to which the appointee belongs for at least one (1) year prior to the date of appointment. Appointees shall have demonstrated expertise in public or private health care or programs related to or for the benefit of children or senior adults.

The Board of Directors shall meet at least one time each calendar quarter.

E. Earnings from the trust fund, including but not limited to interest, dividends, and realized capital gains from investments of the trust fund shall be credited to the principal of the trust fund. Distributions from the trust fund may be expended as provided in subsection F of this section for the following purposes:

1. Clinical and basic research and treatment efforts in Oklahoma for the purpose of enhancing efforts to prevent and combat cancer and other tobacco-related diseases;
2. Cost-effective tobacco prevention and cessation programs;
3. Programs other than those specified in paragraph 1 of this subsection designed to maintain or improve the health of Oklahomans or to enhance the provision of health care services to Oklahomans, with particular emphasis on such programs for children;
4. Programs and services for the benefit of the children of Oklahoma, with particular emphasis on common and higher education, before- and after-school and pre-school programs, substance abuse prevention and treatment programs and other programs and services designed to improve the health and quality of life of children;
5. Programs designed to enhance the health and well-being of senior adults; and
6. Authorized administrative expenses of the Office of the State Treasurer and the Board of Directors including, but not limited to, fees paid to outside vendors or providers of financial management services.

F. ~~Each fiscal year, the Board of Directors may expend the amount of earnings which actually accrued to the trust fund during the preceding fiscal year~~ an amount of the trust fund equal to not more than five and one-half percent (5 1/2%) of the average market value of the fund measured at the end of the immediately preceding sixteen (16) calendar quarters; provided that until the trust fund has sixteen (16) quarters of experience, the average shall be based on the average market value of the trust fund at the end of all calendar quarters since the trust fund was created. The percentage of the trust fund expended by the Board of Directors each fiscal year shall be annually set by the Board of Investors, provided that it shall not exceed the percentage cap set forth in this subsection. The Board of Investors shall determine the annual percentage with

the objectives of ensuring both adequate funding of programs set forth in subsection E of this section and of ensuring the long-term real growth of the Tobacco Settlement Endowment Trust Fund. Any amount not so expended shall remain in the trust fund. The Board shall direct specific expenditures to be made for the purposes specified in subsection E of this section.

G. The Legislature may enact laws to further implement the provisions of this section.

SECTION 2. The Ballot Title for the proposed Constitutional amendment as set forth in SECTION 1 of this resolution shall be in the following form:

BALLOT TITLE

Legislative Referendum No. _____ State Question No. _____

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure amends the Oklahoma Constitution. It amends Section 40 of Article 10. This measure changes certain procedures related to the tobacco trust fund. It changes the way it is determined how much money in the fund may be spent each year. Now only earnings of the fund may be spent. This measure would base spending from the fund on the average market value of the fund. Each year an amount not to exceed 5 1/2 percent of the average market value of the fund may be spent. The actual percentage amount to be expended is set by the Board of Investors. It cannot exceed 5 1/2 percent. Monies from the fund may be used to pay outside vendors and for financial management services.

SHALL THIS AMENDMENT BE APPROVED BY THE PEOPLE?

YES, FOR THE AMENDMENT

NO, AGAINST THE AMENDMENT

SECTION 3. The Chief Clerk of the House of Representatives, immediately after the passage of this resolution, shall prepare and file one copy thereof, including the Ballot Title set forth in SECTION 2 hereof, with the Secretary of State and one copy with the Attorney General.

Passed the House of Representatives the 6th day of March, 2002.

Jerry Matlock
Presiding Officer of the House of
Representatives

Passed the Senate the 22nd day of April, 2002.

Charles Fisher
Presiding Officer of the Senate

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this 29th
day of April 20 02,
at 3:34, o'clock P. M.

By: *John Hunter*



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

May 2, 2002

Mr. Mike Hunter, Secretary of State
Office of the Secretary of State
101 State Capitol Building
Oklahoma City, Oklahoma 73105

FILED

MAY 3 2002

**OKLAHOMA SECRETARY
OF STATE**

The Honorable Stratton Taylor
President Pro Tempore
422 State Capitol Building
Oklahoma City, Oklahoma 73105

The Honorable Larry E. Adair
Speaker of the House of Representatives
401 State Capitol Building
Oklahoma City, Oklahoma 73105

RE: Ballot Title for State Question No. 701, Legislative Referendum No. 326

Gentlemen:

We have, in accordance with 34 O.S. 2001, § 9 (C), reviewed the Ballot Title for the above-referenced State Question and conclude that it is in harmony with the law. We point out, however, that the bold language following the actual language of the Ballot Title does not fully comply with the requirements of 26 O.S. 2001, § 6-113, which requires the following language to follow the substantive language of the Ballot Title:

SHALL THE PROPOSAL BE APPROVED?
FOR THE PROPOSAL - YES
AGAINST THE PROPOSAL - NO

As a Title 34 Ballot Title review, this letter does not constitute an Attorney General Opinion on the merits or constitutionality of the underlying proposed changes in the law.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "W.A. Edmondson". The signature is fluid and cursive, with a long horizontal stroke at the end.

W.A. DREW EDMONDSON
ATTORNEY GENERAL

WAE:dec