

As Introduced

**125th General Assembly
Regular Session
2003-2004**

H. B. No. 434

Representative Calvert

A BILL

To amend sections 183.04 and 183.18 of the Revised Code to provide for the distribution of money received by the state pursuant to the Tobacco Master Settlement Agreement by making operating and capital appropriations for the biennium beginning July 1, 2004, and ending June 30, 2006, and to provide authorization and conditions for the operation of state programs.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 183.04 and 183.18 of the Revised Code be amended to read as follows:

Sec. 183.04. There is hereby created the tobacco use prevention and control foundation, the general management of which is vested in a board of trustees of twenty-four members as follows:

(A) Eight members who are health professionals, health researchers, or representatives of health organizations. Two of these members shall be appointed by the governor, two by the speaker of the house of representatives, one by the minority leader of the house of representatives, two by the president of the senate, and one by the minority leader of the senate.

(B) Two members, one of whom has experience in financial 21
planning and accounting and one of whom has experience in media 22
and mass marketing, who shall be appointed by the governor; 23

(C) One member, who shall be appointed by the governor from a 24
list of at least three individuals recommended by the American 25
cancer society; 26

(D) One member, who shall be appointed by the governor from a 27
list of at least three individuals recommended by the American 28
heart association; 29

(E) One member, who shall be appointed by the governor from a 30
list of at least three individuals recommended by the American 31
lung association; 32

(F) One member, who shall be appointed by the governor from a 33
list of at least three individuals recommended by the association 34
of hospitals and health systems; 35

(G) One member, who shall be appointed by the governor from a 36
list of at least three individuals recommended by the Ohio state 37
medical association; 38

(H) One member, who shall be appointed by the governor from a 39
list of at least three individuals recommended by the association 40
of Ohio health commissioners; 41

(I) One member, who shall be appointed by the governor from a 42
list of at least three individuals recommended by the Ohio dental 43
association; 44

(J) One nonvoting member, who shall be a member of the house 45
of representatives of the political party of which the speaker of 46
the house of representatives is a member and who shall be 47
appointed by the speaker; 48

(K) One nonvoting member, who shall be a member of the house 49
of representatives of the major political party of which the 50

speaker of the house of representatives is not a member and who 51
shall be appointed by the speaker; 52

(L) One nonvoting member, who shall be a member of the senate 53
of the political party of which the president of the senate is a 54
member and who shall be appointed by the president; 55

(M) One nonvoting member, who shall be a member of the senate 56
of the major political party of which the president of the senate 57
is not a member and who shall be appointed by the president; 58

(N) The director of health, the executive director of the 59
commission on minority health, or the executive director's 60
designee, and the attorney general, who shall serve as ex officio 61
members. 62

The appointments of the governor shall be with the advice and 63
consent of the senate. 64

Terms of office for the non-legislative members appointed by 65
the governor, president, speaker, and minority leaders shall be 66
for five years. The terms of legislative members shall be for the 67
biennial session of the general assembly in which they are 68
appointed. Each member shall hold office from the date of 69
appointment until the end of the term for which the member was 70
appointed. Any member appointed to fill a vacancy occurring prior 71
to the expiration of the term for which the member's predecessor 72
was appointed shall hold office for the remainder of that term. 73
Any member shall continue in office subsequent to the expiration 74
date of the member's term until the member's successor takes 75
office, or until a period of sixty days has elapsed, whichever 76
occurs first. A vacancy in an unexpired term shall be filled in 77
the same manner as the original appointment. The governor may 78
remove any non-legislative member for malfeasance, misfeasance, or 79
nonfeasance after a hearing in accordance with Chapter 119. of the 80
Revised Code. 81

The members of the board shall serve without compensation but 82
shall receive their reasonable and necessary expenses incurred in 83
the conduct of foundation business. 84

Sections 101.82 to 101.87 of the Revised Code do not apply to 85
the foundation. 86

Sec. 183.18. Ohio's public health priorities trust fund is 87
hereby created in the state treasury. Money credited to the fund 88
shall be used for the following purposes: 89

(A) Minority health programs, on which not less than 90
twenty-five per cent of the annual appropriations from the trust 91
fund shall be expended; 92

(B) Enforcing section 2927.02 of the Revised Code; 93

(C) Alcohol and drug abuse treatment and prevention programs, 94
including programs for adult and juvenile offenders in state 95
institutions and aftercare programs; 96

(D) A non-entitlement program funded through the department 97
of health to provide emergency assistance consisting of 98
medication, oxygen, or both to seniors whose health has been 99
adversely affected by tobacco use and whose income does not exceed 100
one hundred per cent of the federal poverty guidelines, on which 101
five per cent of the annual appropriations from the trust fund 102
shall be expended. However, if federal funding becomes available 103
for this purpose, the department shall utilize the federal funding 104
and the appropriations from the trust fund shall be used for the 105
other purposes authorized by this section. If the federal program 106
requires seniors described by this division to pay a premium or 107
copayment to obtain medication or oxygen, the director of health 108
shall recommend to the general assembly whether this division's 109
set-aside of five per cent of the appropriations from the trust 110
fund should be used to pay such premiums or copayments. As used in 111

this division, "federal poverty guidelines" has the same meaning 112
as in section 5101.46 of the Revised Code. 113

(E) Partial reimbursement, on a county basis, of hospitals, 114
free medical clinics, and similar organizations or programs that 115
provide free, uncompensated care to the general public, and of 116
counties that pay private entities to provide such care using 117
revenue from a property tax levied at least in part for that 118
purpose. 119

All investment earnings of the fund shall be credited to the 120
fund. 121

Section 2. That existing sections 183.04 and 183.18 of the 122
Revised Code are hereby repealed. 123

Section 3. All items in Sections 4 to 13 of this act are 124
hereby appropriated as designated out of any moneys in the state 125
treasury to the credit of the designated fund that are not 126
otherwise appropriated. For all appropriations made in this 127
section, those in the first column are for fiscal year 2005 and 128
those in the second column are for fiscal year 2006. 129

Section 4. ADA DEPARTMENT OF ALCOHOL AND DRUG ADDICTION 130
SERVICES 131

Tobacco Master Settlement Agreement Fund Group 132

L87 038-403 Urban Minority \$ 500,000 \$ 500,000 133

Alcoholism and Drug

Abuse Outreach

Programs

L87 038-405 Juvenile Offender \$ 3,000,000 \$ 3,000,000 134

Aftercare Program

TOTAL TSF Tobacco Master Settlement \$ 3,500,000 \$ 3,500,000 135

Agreement Fund Group

TOTAL ALL BUDGET FUND GROUPS \$ 3,500,000 \$ 3,500,000 136

Section 5. AGO ATTORNEY GENERAL				138	
Tobacco Master Settlement Agreement Fund Group				139	
J87 055-635 Law Enforcement	\$	8,647,000	\$	3,000,000	140
Technology, Training, and Facility Enhancements					
U87 055-402 Tobacco Settlement	\$	562,546	\$	573,797	141
Oversight, Administration, and Enforcement					
TOTAL TSF Tobacco Master Settlement	\$	9,209,546	\$	3,573,797	142
Agreement Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	9,209,546	\$	3,573,797	143
Section 6. DEV DEPARTMENT OF DEVELOPMENT				145	
Tobacco Master Settlement Agreement Fund Group				146	
M87 195-435 Biomedical Research	\$	24,079,558	\$	23,896,239	147
and Technology Transfer					
TOTAL TSF Tobacco Master Settlement	\$	24,079,558	\$	23,896,239	148
Agreement Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	24,079,558	\$	23,896,239	149
Section 7. DOH DEPARTMENT OF HEALTH				151	
Tobacco Master Settlement Agreement Fund Group				152	
L87 440-404 Minority Health Care	\$	350,000	\$	350,000	153
Data Development					
L87 440-409 Tuberculosis	\$	450,000	\$	450,000	154
Prevention and Treatment					
L87 440-410 Hepatitis C Prevention	\$	425,000	\$	425,000	155

	and Intervention				
L87 440-411	Dental Care Programs	\$	420,000	\$	420,000
	for Minority and Low-Income Populations				156
L87 440-412	Emergency Medications	\$	583,653	\$	583,653
	and Oxygen for Low-Income Seniors				157
L87 440-414	Uncompensated Care	\$	3,852,400	\$	3,855,051
L87 440-421	Infant Mortality	\$	266,000	\$	266,000
	Reduction Initiative				
TOTAL TSF Tobacco Master					160
Settlement Agreement Fund					161
Group		\$	6,347,053	\$	6,349,704
TOTAL ALL BUDGET FUND GROUPS		\$	6,347,053	\$	6,349,704

Section 8. MIH COMMISSION ON MINORITY HEALTH

					165
Tobacco Master Settlement Agreement Fund Group					166
L87 149-402	Minority Health and	\$	690,000	\$	690,000
	Academic Partnership Grants				167
L87 149-403	Training and Capacity	\$	100,000	\$	100,000
	Building				168
L87 149-404	Academic, Scientific,	\$	400,000	\$	400,000
	and Community Partnerships				169
TOTAL TSF Tobacco Master Settlement		\$	1,190,000	\$	1,190,000
Agreement Fund Group					170
TOTAL ALL BUDGET FUND GROUPS		\$	1,190,000	\$	1,190,000

Section 9. DHS DEPARTMENT OF PUBLIC SAFETY

					173
Tobacco Master Settlement Agreement Fund Group					174
L87 767-406	Under-Age Tobacco Use	\$	636,000	\$	636,000
	Enforcement				175

TOTAL TSF Tobacco Master Settlement Agreement Fund	\$	636,000	\$	636,000	176
TOTAL ALL BUDGET FUND GROUPS	\$	636,000	\$	636,000	177

Section 10. NET SCHOOLNET COMMISSION 179

Tobacco Master Settlement Agreement Fund Group					180
S87 228-602 Education Technology Trust Fund	\$	9,277,865	\$	6,274,109	181
TOTAL TSF Tobacco Master Settlement Agreement Fund Group					182
Group	\$	9,277,865	\$	6,274,109	184
TOTAL ALL BUDGET FUND GROUPS	\$	9,277,865	\$	6,274,109	185

Section 11. SOA SOUTHERN OHIO AGRICULTURAL AND COMMUNITY DEVELOPMENT FOUNDATION 187

Tobacco Master Settlement Agreement Fund Group					189
5M9 945-601 Operating Expenses	\$	421,725	\$	430,277	190
K87 945-602 Southern Ohio Agricultural and Community Development Foundation	\$	13,200,000	\$	12,600,000	191
TOTAL TSF Tobacco Master Settlement Agreement Fund Group					192
Group	\$	13,621,725	\$	13,030,277	194
TOTAL ALL BUDGET FUND GROUPS	\$	13,621,725	\$	13,030,277	195

Section 12. TAX DEPARTMENT OF TAXATION 197

Tobacco Master Settlement Agreement Fund Group					198
T87 110-402 Tobacco Settlement Enforcement	\$	223,563	\$	228,034	199
TOTAL TSF Tobacco Master Settlement Agreement Fund Group	\$	223,563	\$	228,034	200
TOTAL ALL BUDGET FUND GROUPS	\$	223,563	\$	228,034	201

Section 13. TUP TOBACCO USE PREVENTION AND CONTROL FOUNDATION	203
Tobacco Master Settlement Agreement Fund Group	204
H87 940-601 Tobacco Use Prevention \$ 0 \$ 107,500,000	205
and Control Foundation	
5M8 940-601 Operating Expenses \$ 1,273,000 \$ 1,298,000	206
TOTAL TSF Tobacco Master Settlement \$ 1,273,000 \$ 108,798,000	207
Agreement Fund Group	
TOTAL ALL BUDGET FUND GROUPS \$ 1,273,000 \$ 108,798,000	208

Section 14. All items set forth in this section are hereby 210
appropriated out of any moneys in the state treasury to the credit 211
of the Education Facilities Trust Fund (Fund N87) that are not 212
otherwise appropriated. 213

Appropriations

SFC SCHOOL FACILITIES COMMISSION	214
CAP-780 Classroom Facilities Assistance Program \$ 243,200,000	215
Total School Facilities Commission \$ 243,200,000	216
TOTAL Education Facilities Trust Fund \$ 243,200,000	217

Section 14.01. Section 14 of this act shall remain in full 219
force and effect commencing on July 1, 2004, and terminating on 220
June 30, 2006, for the purpose of drawing money from the state 221
treasury in payment of liabilities lawfully incurred thereunder, 222
and on June 30, 2006, and not before, the moneys appropriated 223
thereby shall lapse into the funds from which they are severally 224
appropriated. 225

The appropriations made in Section 14 of this act are subject 226
to all provisions of the capital appropriations act governing the 227
2004-2006 biennium that are generally applicable to such 228
appropriations. Expenditures from appropriations contained in 229
Section 14 shall be accounted for as though made in the capital 230

appropriations act governing the 2004-2006 biennium. 231

Section 15. PERSONAL SERVICE EXPENSES 232

Unless otherwise prohibited by law, each appropriation in 233
this act from which personal service expenses are paid shall bear 234
the employer's share of public employees' retirement, workers' 235
compensation, disabled workers' relief, and all group insurance 236
programs; the costs of centralized accounting, centralized payroll 237
processing, and related personnel reports and services; the cost 238
of the Office of Collective Bargaining; the cost of the Personnel 239
Board of Review; the cost of the Employee Assistance Program; the 240
cost of the Equal Opportunity Center; the costs of interagency 241
information management infrastructure; and the cost of 242
administering the state employee merit system as required by 243
section 124.07 of the Revised Code. Such costs shall be determined 244
in conformity with appropriate sections of law and paid in 245
accordance with procedures specified by the Office of Budget and 246
Management. 247

Section 16. REISSUANCE OF VOIDED WARRANTS 248

In order to provide funds for the reissuance of voided 249
warrants pursuant to section 117.47 of the Revised Code, there is 250
appropriated, out of moneys in the state treasury from the fund 251
credited as provided in section 117.47 of the Revised Code, that 252
amount sufficient to pay such warrants when approved by the Office 253
of Budget and Management. 254

Section 17. REAPPROPRIATION OF UNEXPENDED ENCUMBERED BALANCES 255
OF OPERATING APPROPRIATIONS 256

An unexpended balance of an operating appropriation or 257
reappropriation that a state agency lawfully encumbered prior to 258
the close of a fiscal year is reappropriated on the first day of 259

July of the following fiscal year from the fund from which it was 260
originally appropriated or reappropriated for the following period 261
and shall remain available only for the purpose of discharging the 262
encumbrance. 263

(A) For an encumbrance for personal services, maintenance, 264
equipment, or items for resale, other than an encumbrance for an 265
item of special order manufacture not available on term contract 266
or in the open market or for reclamation of land or oil and gas 267
wells, for a period of not more than five months from the end of 268
the fiscal year; 269

(B) For an encumbrance for an item of special order 270
manufacture not available on term contract or in the open market, 271
for a period of not more than five months from the end of the 272
fiscal year or, with the written approval of the Director of 273
Budget and Management, for a period of not more than twelve months 274
from the end of the fiscal year; 275

(C) For an encumbrance for reclamation of land or oil and gas 276
wells, for a period ending when the encumbered appropriation is 277
expended or for a period of two years, whichever is less; 278

(D) For an encumbrance for any other expense, for such period 279
as the Director of Budget and Management approves, provided such 280
period does not exceed two years. 281

Any operating appropriations for which unexpended balances 282
are reappropriated beyond a five-month period from the end of the 283
fiscal year pursuant to division (B) of this section shall be 284
reported to the Controlling Board by the Director of Budget and 285
Management by the thirty-first day of December of each year. The 286
report on each such item shall include the item, the cost of the 287
item, and the name of the vendor. This report to the Controlling 288
Board shall be updated on a quarterly basis for encumbrances 289
remaining open. 290

Upon the expiration of the reappropriation period set out in 291
division (A), (B), (C), or (D) of this section, a reappropriation 292
made pursuant to this section lapses, and the Director of Budget 293
and Management shall cancel the encumbrance of the unexpended 294
reappropriation not later than the end of the weekend following 295
the expiration of the reappropriation period. 296

Notwithstanding the preceding paragraph, with the approval of 297
the Director of Budget and Management, an unexpended balance of an 298
encumbrance that was reappropriated on the first day of July 299
pursuant to this section for a period specified in division (C) or 300
(D) of this section and that remains encumbered at the close of 301
the fiscal biennium is hereby reappropriated pursuant to this 302
section on the first day of July of the following fiscal biennium 303
from the fund from which it was originally appropriated or 304
reappropriated for the applicable period specified in division (C) 305
or (D) of this section and shall remain available only for the 306
purpose of discharging the encumbrance. 307

If the Controlling Board approved a purchase, that approval 308
remains in effect as long as the appropriation used to make that 309
purchase remains encumbered. 310

Section 18. Except as otherwise specifically provided in this 311
act, the codified and uncodified sections of law contained in this 312
act, and the items of law of which the codified and uncodified 313
sections of law contained in this act are composed, are subject to 314
the referendum. Therefore, under Ohio Constitution, Article II, 315
Section 1c and section 1.471 of the Revised Code, the codified and 316
uncodified sections of law contained in this act, and the items of 317
law of which the codified and uncodified sections of law contained 318
in this act are composed, take effect on the ninety-first day 319
after this act is filed with the Secretary of State. If, however, 320
a referendum petition is filed against any such codified or 321

uncodified section of law contained in this act, or against any 322
item of law of which any such codified or uncodified section of 323
law contained in this act is composed, the codified or uncodified 324
section of law, or item of law, unless rejected at the referendum, 325
takes effect at the earliest time permitted by law. 326

327

Section 19. If any item of law that constitutes the whole or 328
part of a codified or uncodified section of law contained in this 329
act, or if any application of any item of law that constitutes the 330
whole or part of a codified or uncodified section of law contained 331
in this act, is held invalid, the invalidity does not affect other 332
items of law or applications of items of law that can be given 333
effect without the invalid item of law or application. To this 334
end, the items of law of which the codified and uncodified 335
sections of law contained in this act are composed, and their 336
applications, are independent and severable. 337