

As Passed by the House

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

Sub. H. B. No. 434

**Representatives Calvert, Allen, Barrett, Beatty, D. Evans, Flowers, Hartnett,
Hughes, Miller, T. Patton, Schneider, J. Stewart, Strahorn, Aslanides,
Chandler, Collier, C. Evans, Otterman, Peterson, Schlichter, Setzer**

A B I L L

To amend sections 183.04 and 183.18 and to enact 1
sections 3313.717 and 3314.16 of the Revised Code 2
to provide for the distribution of money received 3
by the state pursuant to the Tobacco Master 4
Settlement Agreement by making operating and 5
capital appropriations for the biennium beginning 6
July 1, 2004, and ending June 30, 2006, and to 7
provide authorization and conditions for the 8
operation of state programs. 9

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

Section 1. That sections 183.04 and 183.18 be amended and 10
sections 3313.717 and 3314.16 of the Revised Code be enacted to 11
read as follows: 12

Sec. 183.04. There is hereby created the tobacco use 13
prevention and control foundation, the general management of which 14
is vested in a board of trustees of twenty-four members as 15
follows: 16

(A) Eight members who are health professionals, health 17
researchers, or representatives of health organizations. Two of 18

these members shall be appointed by the governor, two by the 19
speaker of the house of representatives, one by the minority 20
leader of the house of representatives, two by the president of 21
the senate, and one by the minority leader of the senate. 22

(B) Two members, one of whom has experience in financial 23
planning and accounting and one of whom has experience in media 24
and mass marketing, who shall be appointed by the governor; 25

(C) One member, who shall be appointed by the governor from a 26
list of at least three individuals recommended by the American 27
cancer society; 28

(D) One member, who shall be appointed by the governor from a 29
list of at least three individuals recommended by the American 30
heart association; 31

(E) One member, who shall be appointed by the governor from a 32
list of at least three individuals recommended by the American 33
lung association; 34

(F) One member, who shall be appointed by the governor from a 35
list of at least three individuals recommended by the association 36
of hospitals and health systems; 37

(G) One member, who shall be appointed by the governor from a 38
list of at least three individuals recommended by the Ohio state 39
medical association; 40

(H) One member, who shall be appointed by the governor from a 41
list of at least three individuals recommended by the association 42
of Ohio health commissioners; 43

(I) One member, who shall be appointed by the governor from a 44
list of at least three individuals recommended by the Ohio dental 45
association; 46

(J) One nonvoting member, who shall be a member of the house 47
of representatives of the political party of which the speaker of 48

the house of representatives is a member and who shall be 49
appointed by the speaker; 50

(K) One nonvoting member, who shall be a member of the house 51
of representatives of the major political party of which the 52
speaker of the house of representatives is not a member and who 53
shall be appointed by the speaker; 54

(L) One nonvoting member, who shall be a member of the senate 55
of the political party of which the president of the senate is a 56
member and who shall be appointed by the president; 57

(M) One nonvoting member, who shall be a member of the senate 58
of the major political party of which the president of the senate 59
is not a member and who shall be appointed by the president; 60

(N) The director of health, the executive director of the 61
commission on minority health, or the executive director's 62
designee, and the attorney general, who shall serve as ex officio 63
members. 64

The appointments of the governor shall be with the advice and 65
consent of the senate. 66

Terms of office for the non-legislative members appointed by 67
the governor, president, speaker, and minority leaders shall be 68
for five years. The terms of legislative members shall be for the 69
biennial session of the general assembly in which they are 70
appointed. Each member shall hold office from the date of 71
appointment until the end of the term for which the member was 72
appointed. Any member appointed to fill a vacancy occurring prior 73
to the expiration of the term for which the member's predecessor 74
was appointed shall hold office for the remainder of that term. 75
Any member shall continue in office subsequent to the expiration 76
date of the member's term until the member's successor takes 77
office, or until a period of sixty days has elapsed, whichever 78
occurs first. A vacancy in an unexpired term shall be filled in 79

the same manner as the original appointment. The governor may 80
remove any non-legislative member for malfeasance, misfeasance, or 81
nonfeasance after a hearing in accordance with Chapter 119. of the 82
Revised Code. 83

The members of the board shall serve without compensation but 84
shall receive their reasonable and necessary expenses incurred in 85
the conduct of foundation business. 86

Sections 101.82 to 101.87 of the Revised Code do not apply to 87
the foundation. 88

Sec. 183.18. Ohio's public health priorities trust fund is 89
hereby created in the state treasury. Money credited to the fund 90
shall be used for the following purposes: 91

(A) Minority health programs, on which not less than 92
twenty-five per cent of the annual appropriations from the trust 93
fund shall be expended; 94

(B) Enforcing section 2927.02 of the Revised Code; 95

(C) Alcohol and drug abuse treatment and prevention programs, 96
including programs for adult and juvenile offenders in state 97
institutions and aftercare programs; 98

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

copayment to obtain medication or oxygen, the director of health 110
shall recommend to the general assembly whether this division's 111
set-aside of five per cent of the appropriations from the trust 112
fund should be used to pay such premiums or copayments. As used in 113
this division, "federal poverty guidelines" has the same meaning 114
as in section 5101.46 of the Revised Code. 115

(E) Partial reimbursement, on a county basis, of hospitals, 116
free medical clinics, and similar organizations or programs that 117
provide free, uncompensated care to the general public, and of 118
counties that pay private entities to provide such care using 119
revenue from a property tax levied at least in part for that 120
purpose. 121

All investment earnings of the fund shall be credited to the 122
fund. 123

Sec. 3313.717. (A) As used in this section, "automated 124
external defibrillator" means a specialized defibrillator that is 125
approved for use as a medical device by the United States food and 126
drug administration for performing automated external 127
defibrillation, as defined in section 2305.235 of the Revised 128
Code. 129

(B) The board of education of each school district and the 130
administrative authority of each chartered nonpublic school may 131
require the placement of an automated external defibrillator in 132
each school under the control of the board or authority. If a 133
board or authority requires the placement of an automated external 134
defibrillator as provided in this section, the board or authority 135
also shall require that a sufficient number of the staff persons 136
assigned to each school under the control of the board or 137
authority successfully complete an appropriate training course in 138
the use of an automated external defibrillator as described in 139
section 3701.85 of the Revised Code. 140

(C) In regard to the use of an automated external 141
defibrillator that is placed in a school as specified in this 142
section, and except in the case of willful or wanton misconduct or 143
when there is no good faith attempt to activate an emergency 144
medical services system in accordance with section 3701.85 of the 145
Revised Code, no person shall be held liable in civil damages for 146
injury, death, or loss to person or property, or held criminally 147
liable, for performing automated external defibrillation in good 148
faith, regardless of whether the person has obtained appropriate 149
training on how to perform automated external defibrillation or 150
successfully completed a course in cardiopulmonary resuscitation. 151

Sec. 3314.16. (A)(1) As used in this section, "automated 152
external defibrillator" means a specialized defibrillator that is 153
approved for use as a medical device by the United States food and 154
drug administration for performing automated external 155
defibrillation, as defined in section 2305.235 of the Revised 156
Code. 157

(2) This section does not apply to an internet- or 158
computer-based community school. 159

(B) The governing board of a community school established 160
under this chapter may require the placement of an automated 161
external defibrillator in each school under the control of the 162
governing authority. If a governing authority requires the 163
placement of an automated external defibrillator as provided in 164
this section, the governing authority also shall require that a 165
sufficient number of the staff persons assigned to each school 166
under the control of the governing authority successfully complete 167
an appropriate training course in the use of an automated external 168
defibrillator as described in section 3701.85 of the Revised Code. 169

(C) In regard to the use of an automated external 170
defibrillator that is placed in a community school as specified in 171

this section, and except in the case of willful or wanton 172
misconduct or when there is no good faith attempt to activate an 173
emergency medical services system in accordance with section 174
3701.85 of the Revised Code, no person shall be held liable in 175
civil damages for injury, death, or loss to person or property, or 176
held criminally liable, for performing automated external 177
defibrillation in good faith, regardless of whether the person has 178
obtained appropriate training on how to perform automated external 179
defibrillation or successfully completed a course in 180
cardiopulmonary resuscitation. 181

Section 2. That existing sections 183.04 and 183.18 of the 182
Revised Code are hereby repealed. 183

Section 3. All items in Sections 4 to 13 of this act are 184
hereby appropriated as designated out of any moneys in the state 185
treasury to the credit of the designated fund that are not 186
otherwise appropriated. For all appropriations made in this 187
section, those in the first column are for fiscal year 2005 and 188
those in the second column are for fiscal year 2006. 189

Section 4. ADA DEPARTMENT OF ALCOHOL AND DRUG ADDICTION 190
SERVICES 191
Tobacco Master Settlement Agreement Fund Group 192
L87 038-403 Urban Minority \$ 500,000 \$ 500,000 193
Alcoholism and Drug
Abuse Outreach
Programs
L87 038-405 Juvenile Offender \$ 3,000,000 \$ 3,000,000 194
Aftercare Program
TOTAL TSF Tobacco Master Settlement \$ 3,500,000 \$ 3,500,000 195
Agreement Fund Group
TOTAL ALL BUDGET FUND GROUPS \$ 3,500,000 \$ 3,500,000 196

Section 5. AGO ATTORNEY GENERAL				198	
Tobacco Master Settlement Agreement Fund Group				199	
J87 055-635 Law Enforcement	\$	8,647,000	\$	3,000,000	200
Technology, Training, and Facility Enhancements					
U87 055-402 Tobacco Settlement	\$	562,546	\$	573,797	201
Oversight, Administration, and Enforcement					
TOTAL TSF Tobacco Master Settlement	\$	9,209,546	\$	3,573,797	202
Agreement Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	9,209,546	\$	3,573,797	203
Section 6. DEV DEPARTMENT OF DEVELOPMENT				205	
Tobacco Master Settlement Agreement Fund Group				206	
M87 195-435 Biomedical Research	\$	24,079,558	\$	23,896,239	207
and Technology Transfer					
TOTAL TSF Tobacco Master Settlement	\$	24,079,558	\$	23,896,239	208
Agreement Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	24,079,558	\$	23,896,239	209
Section 7. DOH DEPARTMENT OF HEALTH				211	
Tobacco Master Settlement Agreement Fund Group				212	
L87 440-404 Minority Health Care	\$	350,000	\$	350,000	213
Data Development					
L87 440-409 Tuberculosis	\$	450,000	\$	450,000	214
Prevention and Treatment					
L87 440-410 Hepatitis C Prevention	\$	425,000	\$	425,000	215

		and Intervention				
L87	440-411	Dental Care Programs	\$	420,000	\$	420,000
		for Minority and				216
		Low-Income Populations				
L87	440-412	Emergency Medications	\$	583,653	\$	583,653
		and Oxygen for				217
		Low-Income Seniors				
L87	440-414	Uncompensated Care	\$	3,852,400	\$	3,855,051
						218
L87	440-421	Infant Mortality	\$	266,000	\$	266,000
		Reduction Initiative				219
L87	440-428	Automated External	\$	2,500,000	\$	0
		Defibrillators				220
		TOTAL TSF Tobacco Master				221
		Settlement Agreement Fund				222
		Group	\$	8,847,053	\$	6,349,704
						223
		TOTAL ALL BUDGET FUND GROUPS	\$	8,847,053	\$	6,349,704
						224

AUTOMATED EXTERNAL DEFIBRILLATORS 225

The foregoing appropriation item 440-428, Automated External 226
 Defibrillators, shall be used by the Department of Health for the 227
 acquisition and placement of automated external defibrillators in 228
 Ohio primary and secondary schools. 229

The Department of Health shall select one nonprofit 230
 organization through a request for proposal process to receive 231
 grants for the placement of automated external defibrillators in 232
 primary and secondary schools. The request for proposal process 233
 used shall be in accordance with rule 123:5-1-08 of the 234
 Administrative Code. The grant recipient shall not charge any 235
 school for the equipment costs associated with the initial 236
 placement of an automated external defibrillator. The purpose of 237
 the nonprofit organization selected shall include some type of 238
 public health advocacy or activities. 239

Section 8.	MIH COMMISSION ON MINORITY HEALTH			240
	Tobacco Master Settlement Agreement Fund Group			241
L87 149-402	Minority Health and Academic Partnership Grants	\$ 690,000	\$ 690,000	242
L87 149-403	Training and Capacity Building	\$ 100,000	\$ 100,000	243
L87 149-404	Academic, Scientific, and Community Partnerships	\$ 400,000	\$ 400,000	244
	TOTAL TSF Tobacco Master Settlement Agreement Fund Group	\$ 1,190,000	\$ 1,190,000	245
	TOTAL ALL BUDGET FUND GROUPS	\$ 1,190,000	\$ 1,190,000	246
Section 9.	DHS DEPARTMENT OF PUBLIC SAFETY			248
	Tobacco Master Settlement Agreement Fund Group			249
L87 767-406	Under-Age Tobacco Use Enforcement	\$ 636,000	\$ 636,000	250
	TOTAL TSF Tobacco Master Settlement Agreement Fund	\$ 636,000	\$ 636,000	251
	TOTAL ALL BUDGET FUND GROUPS	\$ 636,000	\$ 636,000	252
Section 10.	NET SCHOOLNET COMMISSION			254
	Tobacco Master Settlement Agreement Fund Group			255
S87 228-602	Education Technology Trust Fund	\$ 9,277,865	\$ 6,274,109	256
	TOTAL TSF Tobacco Master Settlement Agreement Fund Group	\$ 9,277,865	\$ 6,274,109	259
	TOTAL ALL BUDGET FUND GROUPS	\$ 9,277,865	\$ 6,274,109	260
	SCHOOLNET PLUS			261

The Ohio SchoolNet Commission shall distribute SchoolNet Plus Grants to qualifying school districts in fiscal year 2005 to establish and equip at least one interactive computer workstation for each five students enrolled in the seventh grade as reported by school districts pursuant to division (A) of section 3317.03 of the Revised Code.

Upon completion of the SchoolNet Plus Grant Program for the seventh grade, the Ohio SchoolNet Commission shall distribute SchoolNet Plus Grants to qualifying school districts in fiscal year 2006 to establish and equip at least one interactive computer workstation for each five children enrolled in the eighth grade as reported by school districts pursuant to division (A) of section 3317.03 of the Revised Code.

Districts in the first two quartiles of wealth shall receive up to \$275 per pupil for students in the targeted grade to purchase classroom computers. Districts in the third and fourth quartiles shall receive up to \$105 per pupil in the targeted grade. If a district has met the state's goal of one computer to every five students in the targeted grade, the district may use the funds provided through SchoolNet Plus to purchase computers for successive grades or to fulfill educational technology needs in other grades as specified in the district's technology plan.

Section 11. SOA SOUTHERN OHIO AGRICULTURAL AND COMMUNITY DEVELOPMENT FOUNDATION

Tobacco Master Settlement Agreement Fund Group					286
5M9 945-601 Operating Expenses	\$	421,725	\$	430,277	287
K87 945-602 Southern Ohio	\$	13,200,000	\$	12,600,000	288
Agricultural and Community Development Foundation					
TOTAL TSF Tobacco Master					289

Settlement Agreement Fund				290	
Group	\$	13,621,725	\$	13,030,277	291
TOTAL ALL BUDGET FUND GROUPS	\$	13,621,725	\$	13,030,277	292

Section 12. TAX DEPARTMENT OF TAXATION 294

Tobacco Master Settlement Agreement Fund Group				295	
T87 110-402 Tobacco Settlement	\$	223,563	\$	228,034	296
Enforcement					
TOTAL TSF Tobacco Master Settlement	\$	223,563	\$	228,034	297
Agreement Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	223,563	\$	228,034	298

Section 13. TUP TOBACCO USE PREVENTION AND CONTROL FOUNDATION 300

Tobacco Master Settlement Agreement Fund Group				301	
H87 940-601 Tobacco Use Prevention	\$	0	\$	107,500,000	302
and Control Foundation					
5M8 940-601 Operating Expenses	\$	1,273,000	\$	1,298,000	303
TOTAL TSF Tobacco Master Settlement	\$	1,273,000	\$	108,798,000	304
Agreement Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	1,273,000	\$	108,798,000	305

Section 14. All items set forth in this section are hereby 307
appropriated out of any moneys in the state treasury to the credit 308
of the Education Facilities Trust Fund (Fund N87) that are not 309
otherwise appropriated. 310

Appropriations

SFC SCHOOL FACILITIES COMMISSION				311
CAP-780 Classroom Facilities Assistance Program	\$	243,200,000		312
Total School Facilities Commission	\$	243,200,000		313
TOTAL Education Facilities Trust Fund	\$	243,200,000		314

Section 14.01. Section 14 of this act shall remain in full 316
force and effect commencing on July 1, 2004, and terminating on 317

June 30, 2006, for the purpose of drawing money from the state 318
treasury in payment of liabilities lawfully incurred thereunder, 319
and on June 30, 2006, and not before, the moneys appropriated 320
thereby shall lapse into the funds from which they are severally 321
appropriated. 322

The appropriations made in Section 14 of this act are subject 323
to all provisions of the capital appropriations act governing the 324
2004-2006 biennium that are generally applicable to such 325
appropriations. Expenditures from appropriations contained in 326
Section 14 shall be accounted for as though made in the capital 327
appropriations act governing the 2004-2006 biennium. 328

Section 15. PERSONAL SERVICE EXPENSES 329

Unless otherwise prohibited by law, each appropriation in 330
this act from which personal service expenses are paid shall bear 331
the employer's share of public employees' retirement, workers' 332
compensation, disabled workers' relief, and all group insurance 333
programs; the costs of centralized accounting, centralized payroll 334
processing, and related personnel reports and services; the cost 335
of the Office of Collective Bargaining; the cost of the Personnel 336
Board of Review; the cost of the Employee Assistance Program; the 337
cost of the Equal Opportunity Center; the costs of interagency 338
information management infrastructure; and the cost of 339
administering the state employee merit system as required by 340
section 124.07 of the Revised Code. Such costs shall be determined 341
in conformity with appropriate sections of law and paid in 342
accordance with procedures specified by the Office of Budget and 343
Management. 344

Section 16. REISSUANCE OF VOIDED WARRANTS 345

In order to provide funds for the reissuance of voided 346

warrants pursuant to section 117.47 of the Revised Code, there is 347
appropriated, out of moneys in the state treasury from the fund 348
credited as provided in section 117.47 of the Revised Code, that 349
amount sufficient to pay such warrants when approved by the Office 350
of Budget and Management. 351

Section 17. REAPPROPRIATION OF UNEXPENDED ENCUMBERED BALANCES 352
OF OPERATING APPROPRIATIONS 353

An unexpended balance of an operating appropriation or 354
reappropriation that a state agency lawfully encumbered prior to 355
the close of a fiscal year is reappropriated on the first day of 356
July of the following fiscal year from the fund from which it was 357
originally appropriated or reappropriated for the following period 358
and shall remain available only for the purpose of discharging the 359
encumbrance. 360

(A) For an encumbrance for personal services, maintenance, 361
equipment, or items for resale, other than an encumbrance for an 362
item of special order manufacture not available on term contract 363
or in the open market or for reclamation of land or oil and gas 364
wells, for a period of not more than five months from the end of 365
the fiscal year; 366

(B) For an encumbrance for an item of special order 367
manufacture not available on term contract or in the open market, 368
for a period of not more than five months from the end of the 369
fiscal year or, with the written approval of the Director of 370
Budget and Management, for a period of not more than twelve months 371
from the end of the fiscal year; 372

(C) For an encumbrance for reclamation of land or oil and gas 373
wells, for a period ending when the encumbered appropriation is 374
expended or for a period of two years, whichever is less; 375

(D) For an encumbrance for any other expense, for such period 376

as the Director of Budget and Management approves, provided such 377
period does not exceed two years. 378

Any operating appropriations for which unexpended balances 379
are reappropriated beyond a five-month period from the end of the 380
fiscal year pursuant to division (B) of this section shall be 381
reported to the Controlling Board by the Director of Budget and 382
Management by the thirty-first day of December of each year. The 383
report on each such item shall include the item, the cost of the 384
item, and the name of the vendor. This report to the Controlling 385
Board shall be updated on a quarterly basis for encumbrances 386
remaining open. 387

Upon the expiration of the reappropriation period set out in 388
division (A), (B), (C), or (D) of this section, a reappropriation 389
made pursuant to this section lapses, and the Director of Budget 390
and Management shall cancel the encumbrance of the unexpended 391
reappropriation not later than the end of the weekend following 392
the expiration of the reappropriation period. 393

Notwithstanding the preceding paragraph, with the approval of 394
the Director of Budget and Management, an unexpended balance of an 395
encumbrance that was reappropriated on the first day of July 396
pursuant to this section for a period specified in division (C) or 397
(D) of this section and that remains encumbered at the close of 398
the fiscal biennium is hereby reappropriated pursuant to this 399
section on the first day of July of the following fiscal biennium 400
from the fund from which it was originally appropriated or 401
reappropriated for the applicable period specified in division (C) 402
or (D) of this section and shall remain available only for the 403
purpose of discharging the encumbrance. 404

If the Controlling Board approved a purchase, that approval 405
remains in effect as long as the appropriation used to make that 406
purchase remains encumbered. 407

Section 18. Except as otherwise specifically provided in this act, the codified and uncodified sections of law contained in this act, and the items of law of which the codified and uncodified sections of law contained in this act are composed, are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the codified and uncodified sections of law contained in this act, and the items of law of which the codified and uncodified sections of law contained in this act are composed, take effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against any such codified or uncodified section of law contained in this act, or against any item of law of which any such codified or uncodified section of law contained in this act is composed, the codified or uncodified section of law, or item of law, unless rejected at the referendum, takes effect at the earliest time permitted by law.

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