

HOUSE BILL No. 2944

By Representatives DiVita, Cook, Faber, Howell, Huy, Kauffman, Mason, Mays, Merrick, Miller, Judy Morrison, Novascone, Ostmeyer, T. Powell and Toplikar

2-13

AN ACT concerning the disposition of tobacco litigation settlement proceeds; creating the seniors' initiatives fund; redesignating the Kansas endowment for youth fund as the Kansas endowment for youth and seniors fund; providing for certain transfers from the Kansas endowment for youth and seniors fund; amending K.S.A. 38-2101 and 38-2102 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) There is hereby established in the state treasury the seniors' initiatives fund which shall be administered by the secretary of aging as provided by law.

(b)(1) All moneys credited to the seniors' initiatives fund shall be used for additional funding for health related service and assistance programs which provide assistance and services for older persons in accordance with this section and the provisions of appropriation acts.

(2) All moneys in the seniors' initiatives fund shall be allocated through a state allocation formula adopted by the secretary of aging in accordance with this section to provide funding for health related service and assistance programs for older persons. In accordance with the guidelines adopted by the secretary of aging, the funding allocation process shall include the area agencies on aging planning process and funds shall be distributed through area agencies on aging. The allocation formula shall include targeting of older persons who are most likely to have been impacted by the primary and secondary effects of tobacco use. The department on aging may prescribe health related service and assistance programs to be provided with up to 50% or less of the allocated funds. The remainder of the allocated funds shall be prescribed for health related service and assistance programs through the local area agency on aging planning process as delineated in the area plan of aging.

(3) Funds allocated from the seniors' initiatives fund shall be maximized through application of local, federal and private matching contributions to the extent that the intent of the original allocation is maintained. Funds not used as matching resources shall be utilized in

1 accordance with guidelines promulgated by the department on aging for
2 services provided under title III of the federal older Americans act.

3 (4) The department on aging may use up to 5% of the allocated funds
4 for administrative costs related to program oversight. Area agencies on
5 aging may use up to 5% of the remaining funds allocated to respective
6 planning and service areas for administrative costs related to program
7 oversight. Any remaining fund shall be used for the direct or contractual
8 provision of health related service and assistance programs.

9 (5) All funds shall be obligated by the department on aging to area
10 agencies by the end of each fiscal year. Area agencies on aging must
11 expend 75% of allocated services funds in the following fiscal year or
12 release such funds back to the department on aging for reallocation under
13 the state formula. Area agencies on aging may retain 25% or less of al-
14 located funds for use the following fiscal year or hold such funds in trust
15 for use in future fiscal years for the purposes of health related service
16 and assistance programs under this act in accordance with guidelines
17 promulgated by the department on aging.

18 (6) Moneys allocated or appropriated from the seniors' initiatives
19 fund shall not be used to replace or substitute for moneys appropriated
20 from the state general fund in the immediately preceding fiscal year.

21 (c) All expenditures from the seniors' initiatives fund shall be made
22 in accordance with appropriation acts upon warrants of the director of
23 accounts and reports issued pursuant to vouchers approved by the sec-
24 retary of aging or the secretary's designee.

25 (d) (1) On July 1, 2002, or as soon thereafter as moneys are available,
26 the director of accounts and reports shall transfer \$22,500,000 from the
27 Kansas endowment for youth and seniors fund to the seniors' initiatives
28 fund.

29 (2) On July 1 of each fiscal year thereafter, or as soon thereafter as
30 moneys are available, the director of accounts and reports shall transfer
31 from the Kansas endowment for youth and seniors fund to the seniors'
32 initiatives fund the amount equal to 102.5% of the amount transferred
33 from the Kansas endowment for youth and seniors fund to the seniors'
34 initiatives fund pursuant to this section during the immediately preceding
35 fiscal year.

36 (3) If the amounts to be received during any fiscal year under the
37 tobacco litigation settlement agreements entered into by the attorney
38 general on behalf of the state of Kansas, or pursuant to any judgment
39 rendered, regarding the litigation against tobacco industry companies and
40 related entities, are reduced or increased from the amount that was an-
41 ticipated to be received for such fiscal year, as of the time the settlement
42 agreements were entered into, then the legislature may adjust the amount
43 otherwise provided by this subsection to be transferred from the Kansas

1 endowment for youth and seniors fund to the seniors' initiatives fund for
2 such fiscal year by including provisions in appropriation acts for such fiscal
3 year that proportionally reduce or increase, as appropriate and in coordi-
4 nation with any similar adjustments made pursuant to subsection (d)(3)
5 of K.S.A. 38-2102, and amendments thereto, the amount otherwise pro-
6 vided by this subsection to be transferred from the Kansas endowment
7 for youth seniors fund to the seniors' initiatives fund for such fiscal year.
8 In addition, for purposes of circumstances related to the investment of
9 moneys in the Kansas endowment for youth fund or other circumstances
10 or matters deemed sufficient by the legislature, the legislature may adjust
11 the amount otherwise provided by this subsection to be transferred from
12 the Kansas endowment for youth and seniors fund to the seniors' initia-
13 tives fund for any fiscal year by including provisions in appropriation acts
14 for such fiscal year that proportionally reduce or increase, as appropriate
15 and in coordination with any similar adjustments made pursuant to sub-
16 section (d)(3) of K.S.A. 38-2102, and amendments thereto, the amount
17 otherwise provided by this subsection to be transferred from the Kansas
18 endowment for youth seniors fund to the seniors' initiatives fund for such
19 fiscal year.

20 (e) On or before the 10th day of each month, the director of accounts
21 and reports shall transfer from the state general fund to the Kansas en-
22 dowment for youth and seniors fund, interest earnings based on (1) the
23 average daily balance of moneys in the seniors' initiatives fund and (2)
24 the net earnings rate of the pooled money investment portfolio for the
25 preceding month.

26 (f) As used in this section:

27 (1) "Older person" means an individual who resides in Kansas, who
28 is 60 years of age or older; and

29 (2) "health related service and assistance programs" means health
30 care and social services provided for older persons and shall include, but
31 not be limited to, the following service and assistance programs for older
32 persons: (A) Home and community based services; (B) the senior phar-
33 macy assistance program; (C) telemedicine programs; (D) in-home health
34 or homemaker services; (E) transportation services; (F) care giver support
35 services; (G) adult care home and nursing home ombudsman services;
36 (H) home modification programs; (I) nutrition programs; (J) targeted ec-
37 onomic development loan and grant programs developed and adminis-
38 tered by the secretary of aging; and (K) other services that directly or
39 indirectly assist older persons with health-related needs.

40 Sec. 2. K.S.A. 38-2101 is hereby amended to read as follows: 38-
41 2101. (a) There is hereby established in the state treasury the Kansas
42 endowment for youth *and seniors* fund which shall constitute a trust fund
43 and shall be invested, managed and administered in accordance with the

1 provisions of this act by the board of trustees of the Kansas public em-
2 ployees retirement system established by K.S.A. 74-4905 and amend-
3 ments thereto.

4 (b) All of the moneys received by the state pursuant to the tobacco
5 litigation settlement agreements entered into by the attorney general on
6 behalf of the state of Kansas, or pursuant to any judgment rendered,
7 regarding the litigation against tobacco industry companies and related
8 entities, shall be deposited in the state treasury and credited to the Kansas
9 endowment for youth fund. All such moneys shall constitute an endow-
10 ment which shall remain credited to the Kansas endowment for youth
11 *and seniors* fund except as provided in this section or in K.S.A. 38-2102
12 and amendments thereto for transfers to the children's initiatives fund *or*
13 *in section 1, and amendments thereto, for transfers to the seniors' initia-*
14 *tives fund.* Expenditures may be made from the Kansas endowment for
15 youth *and seniors* fund for the payment of the operating expenses of the
16 Kansas children's cabinet and the board of trustees, including the ex-
17 penses of investing and managing the moneys, which are attributable to
18 the Kansas endowment for youth *and seniors* fund. All moneys credited
19 to the Kansas endowment for youth *and seniors* fund shall be invested to
20 provide an ongoing source of investment earnings available for periodic
21 transfer to the children's initiatives fund ~~in accordance with this act and~~
22 ~~to the seniors' initiatives fund as provided by law.~~ All expenditures from
23 the Kansas endowment for youth *and seniors* fund shall be made in ac-
24 cordance with appropriation acts upon warrants of the director of ac-
25 counts and reports issued pursuant to vouchers approved by the chair-
26 person of the board of trustees of the Kansas public employees retirement
27 system or by the chairperson's designee.

28 ~~(c) On the effective date of this act, the director of accounts and~~
29 ~~reports shall transfer all moneys credited to the children's health care~~
30 ~~programs fund to the Kansas endowment for youth fund and the chil-~~
31 ~~children's health care programs fund is hereby abolished. On the effective~~
32 ~~date of this act, the Kansas endowment for youth fund is hereby redesign-~~
33 ~~ated as the Kansas endowment for youth and seniors fund. On and after~~
34 ~~July 1, 1999 2002, whenever the children's health care programs fund~~
35 ~~Kansas endowment for youth fund, or words of like effect, is referred to~~
36 ~~or designated by statute, contract or other document, such reference or~~
37 ~~designation shall be deemed to apply to the Kansas endowment for youth~~
38 ~~and seniors fund.~~

39 Sec. 3. K.S.A. 38-2102 is hereby amended to read as follows: 38-
40 2102. (a) There is hereby established in the state treasury the children's
41 initiatives fund which shall be administered in accordance with this sec-
42 tion and the provisions of appropriation acts.

43 (b) All moneys credited to the children's initiatives fund shall be used

1 for the purposes of providing additional funding for programs, projects,
2 improvements, services and other purposes directly or indirectly benefi-
3 cial to the physical and mental health, welfare, safety and overall well-
4 being of children in Kansas as provided by appropriation or other acts of
5 the legislature. In allocating or appropriating moneys in the children's
6 initiatives fund, the legislature shall emphasize programs and services that
7 are data-driven and outcomes-based and may emphasize programs and
8 services that are generally directed toward improving the lives of children
9 and youth by combating community-identified risk factors associated with
10 children and youth becoming involved in tobacco, alcohol, drugs or ju-
11 venile delinquency. Programs funded must have a clearly articulated ob-
12 jective to be achieved with any funds received. As a condition precedent
13 to funding, every program must demonstrate that the program's design
14 is supported by credible research, that the program as implemented will
15 constitute best practices in the field, that data is available to benchmark
16 the program's desired outcomes and that an evaluation and assessment
17 component is part of the program design and that such evaluation is
18 capable of determining program performance, needed program modifi-
19 cations to enhance performance, ways in which the program could be
20 modified for transfer to other venues, and when performance no longer
21 justifies funding. Community-based programs must demonstrate the
22 availability of sufficient community leadership and the capacity to appro-
23 priately implement and administer the program that is funded. Programs
24 which require community mobilization to successfully achieve program
25 objectives must demonstrate a specific strategy to obtain the requisite
26 levels of community mobilization. Moneys allocated or appropriated from
27 the children's initiatives fund shall not be used to replace or substitute
28 for moneys appropriated from the state general fund in the immediately
29 preceding fiscal year.

30 (c) All expenditures from the children's initiatives fund shall be made
31 in accordance with appropriation acts upon warrants of the director of
32 accounts and reports issued pursuant to vouchers approved in the manner
33 prescribed by law.

34 ~~(d) (1) On July 1, 2000, or as soon thereafter as moneys are available,~~
35 ~~the director of accounts and reports shall transfer, in the following order~~
36 ~~of priority, (A) first, \$70,740,000 from the Kansas endowment for youth~~
37 ~~fund to the state general fund and (B) second, \$30,000,000 from the~~
38 ~~Kansas endowment for youth fund to the children's initiatives fund.~~

39 ~~—(2) On July 1, 2001, or as soon thereafter as moneys are available,~~
40 ~~the director of accounts and reports shall transfer \$40,000,000 from the~~
41 ~~Kansas endowment for youth fund to the children's initiatives fund and~~
42 ~~shall transfer \$10,000,000 from the Kansas endowment for youth fund to~~
43 ~~the state general fund.~~

1 ~~(3)~~ (1) On July 1, 2002, or as soon thereafter as moneys are available,
2 the director of accounts and reports shall transfer ~~\$45,000,000~~
3 \$22,500,000 from the Kansas endowment for youth *and seniors* fund to
4 the children's initiatives fund.

5 (4) (2) On July 1 of each fiscal year thereafter, or as soon thereafter
6 as moneys are available, the director of accounts and reports shall transfer
7 from the Kansas endowment for youth *and seniors* fund to the children's
8 initiatives fund the amount equal to 102.5% of the amount transferred
9 from the Kansas endowment for youth *and seniors* fund to the children's
10 initiatives fund pursuant to this section during the immediately preceding
11 fiscal year.

12 ~~(5)~~ (3) If the amounts to be received during any fiscal year under the
13 tobacco litigation settlement agreements entered into by the attorney
14 general on behalf of the state of Kansas, or pursuant to any judgment
15 rendered, regarding the litigation against tobacco industry companies and
16 related entities, are reduced or increased from the amount that was an-
17 ticipated to be received for such fiscal year, as of the time the settlement
18 agreements were entered into, then the legislature may adjust the amount
19 otherwise provided by this subsection to be transferred from the Kansas
20 endowment for youth *and seniors* fund to the children's initiatives fund
21 for such fiscal year by including provisions in appropriation acts for such
22 fiscal year that proportionally reduce or increase, as appropriate *and in*
23 *coordination with any similar adjustments made pursuant to subsection*
24 *(d)(3) of section 1, and amendments thereto*, the amount otherwise pro-
25 vided by this subsection to be transferred from the Kansas endowment
26 for youth *and seniors* fund to the children's initiatives fund for such fiscal
27 year. In addition, for purposes of circumstances related to the investment
28 of moneys in the Kansas endowment for youth *and seniors* fund or other
29 circumstances or matters deemed sufficient by the legislature, the legis-
30 lature may adjust the amount otherwise provided by this subsection to
31 be transferred from the Kansas endowment for youth *and seniors* fund
32 to the children's initiatives fund for any fiscal year by including provisions
33 in appropriation acts for such fiscal year that proportionally reduce or
34 increase, as appropriate *and in coordination with any similar adjustments*
35 *made pursuant to subsection (d)(3) of section 1, and amendments thereto*,
36 the amount otherwise provided by this subsection to be transferred from
37 the Kansas endowment for youth *and seniors* fund to the children's ini-
38 tiatives fund for such fiscal year.

39 (e) It is the intent of the legislature that, except as provided by this
40 section *or by section 1, and amendments thereto*, no amounts shall be
41 transferred from the Kansas endowment for youth *and seniors* fund to
42 the children's initiatives fund, *to the seniors' initiatives fund* or to any
43 other fund during any state fiscal year.

1 (f) On or before the 10th day of each month, the director of accounts
2 and reports shall transfer from the state general fund to the Kansas en-
3 dowment for youth *and seniors* fund interest earnings based on (1) the
4 average daily balance of moneys in the children's initiatives fund for the
5 preceding month and (2) the net earnings rate of the pooled money in-
6 vestment portfolio for the preceding month.

7 Sec. 4. K.S.A. 38-2101 and 38-2102 are hereby repealed.

8 Sec. 5. This act shall take effect and be in force from and after July
9 1, 2002, and its publication in the statute book.

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