

IN THE SUPREME COURT OF OHIO

BOARD OF TRUSTEES OF THE )  
TOBACCO USE PREVENTION AND )  
CONTROL FOUNDATION, et al., )  
 )  
Plaintiffs-Appellants, )  
 )  
v. )  
 )  
KEVIN L. BOYCE, )  
TREASURER OF STATE, et al. )  
 )  
Defendants-Appellants. )

Case No. 2010-0118  
On Appeal from the Franklin  
County Court of Appeals,  
Tenth Appellate District  
Court of Appeals Case Nos.  
09AP-768, 09AP-785, 09AP832

ROBERT G. MILLER, JR., et al., )  
 )  
Plaintiffs-Appellants, )  
 )  
v. )  
 )  
STATE OF OHIO, et al., )  
 )  
Defendants-Appellees. )

On Appeal from the Franklin  
County Court of Appeals,  
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09AP-769, 09AP-786, 09AP-833

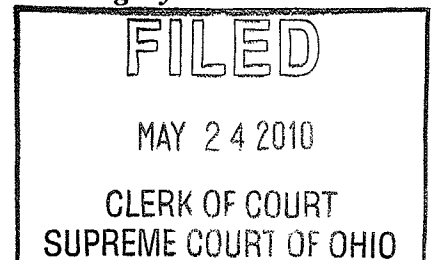
**BRIEF OF AMICUS CURIAE IN SUPPORT OF DEFENDANT-APPELLEES,  
THE VOICES FOR OHIO'S CHILDREN**

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## I. INTRODUCTION

### A. Statement of Interest of Amicus Curiae

Amicus Curiae, Voices for Ohio's Children is the non-partisan voice of Ohio's nearly three million children. The organization works to impact the changes and public policy that improve the health, safety, education, family stability and child care of Ohio's children and their families. Amicus Curiae submits this brief in support of Defendants-Appellees The State of Ohio, Ohio Attorney General Richard Cordray, Ohio Treasurer Kevin L. Boyce, and Ohio Department of Health & Director Alvin D. Jackson. Amicus Curiae endorses the position and arguments set forth by the Defendants-Appellees as well as those set forth by Amici Curiae The Ohio Dental Association, Ohio Optometric Association, Ohio State Chiropractic Association and Ohio Association of Community Health Centers. The Voices for Ohio's Children files this separate amicus curiae brief to point out the adverse impact which will be vested upon the health and welfare of Ohio's children and their families in the event that this Court upholds Appellants' Propositions of Law and does not permit the General Assembly to reallocate the Ohio Tobacco Use Prevention and Control Endowment Fund money towards more critical needs.

### B. **The health and welfare of Ohio' children will be better served by permitting the Ohio General Assembly to reallocate the Ohio Tobacco Use Prevention and Control Endowment Fund money towards expanded health care and welfare interests for children.**

Amicus Curiae respectfully urges this Court to affirm the well-reasoned opinion of the Tenth District Court of Appeals which applied well-established constitutional principles and Ohio law, holding that the General Assembly has a right to reallocate the funds at issue to address the economic crisis facing the State of Ohio. Although the goal of promoting smoking prevention and cessation is admirable and important, the General Assembly, via H.B. 1, has

reallocated the funds to more critical needs including child Medicaid programs which will expand children's health insurance coverage for up to 21,000 Ohio children who live in families with incomes between 200-300% FPL. Permitting the General Assembly's reallocation of funds will ensure that these children have a regular place to obtain medical care; receive preventive care visits; have fewer unmet health care needs; and will serve the interest of reducing racial disparities. The General Assembly has also reallocated funds to give Ohio's counties resources to address over 106,000 new allegations of child abuse and neglect. The Voices for Ohio's Children recognizes that smoking cessation and prevention programs are also important to the health and welfare of Ohio's children. However, due to the adverse economic climate in the State of Ohio and the limited resources currently available, it is necessary to prioritize. Amicus Curiae submits that the expansion of healthcare benefits to Ohio's children and the additional resources which will be available to address child abuse and neglect through the reallocation of the endowment fund money are more immediately critical to the health and welfare of Ohio's children than the promotion of smoking prevention and cessation. The children of the State of Ohio and their families should not continue to suffer from the continued deprivation of these funds.

## **II. STATEMENT OF FACTS AND STATEMENT OF CASE**

Amicus Curiae adopts and incorporates the Statement of Facts and Statement of Case set forth in the Brief of Defendants-Appellees State of Ohio, Ohio Attorney General Richard Cordray, Ohio Treasurer Kevin L. Boyce, and Ohio Department of Health & Director Alvin D, Jackson.

### III. ARGUMENT

Amicus Curiae adopts and incorporates the argument set forth in in the Brief of Defendants-Appellees State of Ohio, Ohio Attorney General Richard Cordray, Ohio Treasurer Kevin L. Boyce, and Ohio Department of Health & Director Alvin D, Jackson.

### IV. CONCLUSION

For the reasons set forth above and in the Brief of Defendants-Appellees, this Court should affirm the decision of the Tenth District Court of Appeals.

Respectfully submitted

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