

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

SENATE BILL 825

By: Leftwich

AS INTRODUCED

An Act relating to public health and safety and revenue and taxation; amending Section 1, Chapter 297, O.S.L. 2004 (63 O.S. Supp. 2004, Section 1-559), and Sections 2 and 10, Chapter 322, O.S.L. 2004 (68 O.S. Supp. 2004, Sections 302-5 and 402-3), which relate to the Belle Maxine Hilliard Breast and Cervical Cancer Treatment Revolving Fund; modifying name of fund; clarifying references; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 1, Chapter 297, O.S.L. 2004 (63 O.S. Supp. 2004, Section 1-559), is amended to read as follows:

Section 1-559. A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Health Care Authority to be designated the "Belle Maxine Hilliard Breast and Cervical Cancer Screening and Treatment Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Oklahoma Health Care Authority from appropriations, gifts or donations.

B. All monies accruing to the credit of such fund are hereby appropriated and may be budgeted and expended by the Oklahoma Health Care Authority for the purpose specified and associated with the Oklahoma Breast Cancer Act.

C. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 2. AMENDATORY Section 2, Chapter 322, O.S.L. 2004 (68 O.S. Supp. 2004, Section 302-5), is amended to read as follows:

Section 302-5. A. Effective January 1, 2005, in addition to the tax levied in Sections 302, 302-1, 302-2, 302-3 and 302-4 of ~~Title 68 of the Oklahoma Statutes~~ this title, there is hereby levied upon the sale, use, gift, possession, or consumption of cigarettes, as defined in Sections 301 through 325 of ~~Title 68 of the Oklahoma Statutes~~ this title, within this state, a tax at the rate of forty (40) mills per cigarette.

B. Except as provided in subsection D of this section, the revenue resulting from the additional tax levied in subsection A of this section shall be apportioned by the Oklahoma Tax Commission and transmitted to the State Treasurer as follows:

1. Twenty-two and six-hundredths percent (22.06%) shall be placed to the credit of the Health Employee and Economy Improvement Act (HEEIA) Revolving Fund created in Section ~~4~~ 1010.1 of ~~Enrolled Senate Bill No. 1546~~ Title 56 of the ~~2nd Session of the 49th~~ Oklahoma ~~Legislature~~ Statutes;

2. Three and nine-hundredths percent (3.09%) shall be placed to the credit of the Comprehensive Cancer Center Debt Service Revolving Fund created in Section ~~5~~ 160.1 of ~~this act~~ Title 62 of the Oklahoma Statutes;

3. Seven and fifty-hundredths percent (7.50%) shall be placed to the credit of the Trauma Care Assistance Revolving Fund created in Section 1-2522 of Title 63 of the Oklahoma Statutes;

4. Three and nine-hundredths percent (3.09%) shall be placed to the credit of the Oklahoma State University College of Osteopathic Medicine Revolving Fund created in Section ~~6~~ 160.2 of ~~this act~~ Title 62 of the Oklahoma Statutes;

5. Twenty-six and thirty-eight-hundredths percent (26.38%) shall be placed to the credit of the Oklahoma Health Care Authority

Medicaid Program Fund created in Section 5020 of Title 63 of the Oklahoma Statutes for the purposes of maintaining programs and services funded under the federal "Jobs and Growth Tax Relief Reconciliation Act of 2003", reimbursing city/county-owned hospitals, increasing emergency room physician rates, and providing TEFRA 134, also known as "Katie Beckett" services;

6. Two and sixty-five-hundredths percent (2.65%) shall be placed to the credit of the Department of Mental Health and Substance Abuse Services Revolving Fund created in Section 2-303 of Title 43A of the Oklahoma Statutes;

7. Forty-four-hundredths of one percent (0.44%) shall be placed to the credit of the Belle Maxine Hilliard Breast and Cervical Cancer Screening and Treatment Revolving Fund created in Section ~~4~~ 1-559 of ~~Enrolled House Bill No. 2552~~ Title 63 of the ~~2nd Session of the 49th~~ Oklahoma Legislature Statutes;

8. One percent (1%) shall be placed to the credit of the Teachers' Retirement System Revolving Fund created in Section 158 of Title 62 of the Oklahoma Statutes;

9. Two and seven-hundredths percent (2.07%) shall be placed to the credit of the Education Reform Revolving Fund created in Section 41.29b of Title 62 of the Oklahoma Statutes;

10. Sixty-six-hundredths percent (0.66%) shall be placed to the credit of the Tobacco Prevention and Cessation Revolving Fund created in Section 1-105d of Title 63 of the Oklahoma Statutes;

11. Sixteen and eighty-three-hundredths percent (16.83%) shall be placed to the credit of the General Revenue Fund; and

12. For fiscal years beginning July 1, 2004, and ending June 30, 2006, fourteen and twenty-three-hundredths percent (14.23%) shall be apportioned to municipalities and counties that levy a sales tax, in the proportions which total municipal and county sales tax revenue was apportioned by the Tax Commission in the preceding month.

For fiscal years beginning July 1, 2006, and thereafter, the apportionment percentage specified in paragraph 12 of this subsection will be adjusted by dividing the total municipal and county sales tax revenue collected in the calendar year immediately preceding the commencement of the fiscal year by the sum of the state sales tax revenue and total municipal and county sales tax revenue collected in the same year. This ratio shall be divided by the ratio of the total municipal and county sales tax revenue collected in the calendar year beginning January 1, 2004, and ending December 31, 2004, divided by the sum of the state sales tax revenue and total municipal and county sales tax revenue collected in the same year. The resulting quotient shall be multiplied by fourteen and twenty-three-hundredths percent (14.23%) to determine the apportionment percentage for the fiscal year.

For fiscal years beginning July 1, 2006, and thereafter, any adjustment to the percentage of revenues apportioned to municipalities and counties shall be reflected in the percent of revenues apportioned to the General Revenue Fund.

C. The tax shall be evidenced by tax stamps as now provided for; however, as to cigarette packages of less than ten cigarettes for free distribution as samples, the tax herein levied shall be computed and paid as provided for other cigarette taxes without affixing stamps on each such package.

D. The net amount of any revenue resulting from a payment in lieu of excise taxes on cigarettes levied by this section, pursuant to a compact with a federally recognized Indian tribe or nation after deductions for deposits into trust accounts pursuant to such compacts, shall be apportioned by the Tax Commission and transmitted to the State Treasurer as follows:

1. Thirty-three and forty-nine-hundredths percent (33.49%) shall be placed to the credit of the Health Employee and Economy Improvement Act (HEEIA) Revolving Fund created in Section ~~4~~ 1010.1

of ~~Enrolled Senate Bill No. 1546~~ Title 56 of the ~~2nd Session of the~~  
~~49th~~ Oklahoma Legislature Statutes;

2. Four and sixty-nine-hundredths percent (4.69%) shall be placed to the credit of the Comprehensive Cancer Center Debt Service Revolving Fund created in Section ~~5~~ 160.1 of ~~this act~~ Title 62 of the Oklahoma Statutes;

3. Eleven and thirty-nine-hundredths percent (11.39%) shall be placed to the credit of the Trauma Care Assistance Revolving Fund created in Section 1-2522 of Title 63 of the Oklahoma Statutes;

4. Four and sixty-nine-hundredths percent (4.69%) shall be placed to the credit of the Oklahoma State University College of Osteopathic Medicine Revolving Fund created in Section ~~6~~ 160.2 of ~~this act~~ Title 62 of the Oklahoma Statutes;

5. Forty and six-hundredths percent (40.06%) shall be placed to the credit of the Oklahoma Health Care Authority Medicaid Program Fund created in Section 5020 of Title 63 of the Oklahoma Statutes for the purposes of maintaining programs and services funded under the federal "Jobs and Growth Tax Relief Reconciliation Act of 2003", reimbursing city/county-owned hospitals, increasing emergency room physician rates, and providing TEFRA 134, also known as "Katie Beckett" services;

6. Four and one-hundredths percent (4.01%) shall be placed to the credit of the Department of Mental Health and Substance Abuse Services Revolving Fund created in Section 2-303 of Title 43A of the Oklahoma Statutes;

7. Sixty-seven-hundredths percent (0.67%) shall be placed to the credit of the Belle Maxine Hilliard Breast and Cervical Cancer Screening and Treatment Revolving Fund created in Section ~~4~~ 1-559 of ~~Enrolled House Bill No. 2552~~ Title 63 of the ~~2nd Session of the~~ ~~49th~~ Oklahoma Legislature Statutes; and

8. One percent (1%) shall be placed to the credit of the Tobacco Prevention and Cessation Revolving Fund created in Section 1-105d of Title 63 of the Oklahoma Statutes.

E. No part of the revenues resulting from the additional taxes levied in this section shall be used in determining the amount of cigarette tax collections to be paid into:

1. The State of Oklahoma Building Bonds of 1961 Sinking Fund pursuant to the provisions of Sections 57.31 through 57.43 of Title 62 of the Oklahoma Statutes;

2. The State of Oklahoma Institutional Building Bonds of 1965 Sinking Fund pursuant to the provisions of Sections 57.61 through 57.73 of Title 62 of the Oklahoma Statutes;

3. The State of Oklahoma Institutional Building Bonds of 1965 Sinking Fund Series C and Series D pursuant to Sections 57.81 through 57.112 of Title 62 of the Oklahoma Statutes;

4. The State of Oklahoma Building Bonds of 1968 Sinking Fund pursuant to the provisions of Sections 57.121 through 57.193 of Title 62 of the Oklahoma Statutes; or

5. The Oklahoma Building Bonds of 1992 Sinking Fund pursuant to the provisions of Sections 57.300 through 57.313 of Title 62 of the Oklahoma Statutes.

F. The cigarette taxes levied in this section shall be collected and administered in all respects not inconsistent with as now or hereafter provided for by law for other cigarette taxes now levied, collected, and administered pursuant to the provisions of Sections 301 through 325 of ~~Title 68 of the Oklahoma Statutes~~ this title.

SECTION 3. AMENDATORY Section 10, Chapter 322, O.S.L. 2004 (68 O.S. Supp. 2004, Section 402-3), is amended to read as follows:

Section 402-3. A. In addition to the tax levied in Sections 402, 402-1 and 402-2 of ~~Title 68 of the Oklahoma Statutes~~ this

title, effective January 1, 2005, there shall be levied, assessed, collected, and paid in respect to the articles containing tobacco enumerated in Section 401 et seq. of ~~Title 68 of the Oklahoma Statutes~~ this title, a tax in the following amounts:

1. Little Cigars. Upon cigars of all descriptions made of tobacco, or any substitute therefor, and weighing not more than three (3) pounds per thousand, twenty-seven (27) mills for each cigar. Provided, that the tax levied on the products coming under this paragraph shall not apply if the tax on such products is reported and paid as cigarette tax under Sections 301 through 325 of ~~Title 68 of the Oklahoma Statutes~~ this title;

2. Cigars. Upon all other cigars of all descriptions made of tobacco, or any substitute therefor, and weighing more than three (3) pounds per thousand, Ninety Dollars (\$90.00) per thousand. For the purpose of computing the tax, cheroots, stogies, etc., are hereby classed as cigars;

3. Smoking Tobacco. Upon all smoking tobacco including granulated, plug cut, crimp cut, ready rubbed and other kinds and forms of tobacco prepared in such manner as to be suitable for smoking in a pipe or cigarette, the tax shall be forty percent (40%) of the factory list price exclusive of any trade discount, special discount or deals; and

4. Chewing Tobacco. Upon chewing tobacco, smokeless tobacco, and snuff, the tax shall be thirty percent (30%) of the factory list price exclusive of any trade discount, special discount or deals.

B. Except as provided in subsection C of this section, the revenue resulting from the additional tax levied in subsection A of this section shall be apportioned by the Oklahoma Tax Commission and transmitted to the State Treasurer as follows:

1. Twenty-two and six-hundredths percent (22.06%) shall be placed to the credit of the Health Employee and Economy Improvement Act (HEEIA) Revolving Fund created in Section ~~4~~ 1010.1 of ~~Enrolled~~

~~Senate Bill No. 1546 of the 2nd Session Title 56 of the 49th~~  
Oklahoma ~~Legislature~~ Statutes;

2. Three and nine-hundredths percent (3.09%) shall be placed to the credit of the Comprehensive Cancer Center Debt Service Revolving Fund created in Section ~~5~~ 160.1 of ~~this act~~ Title 62 of the Oklahoma Statutes;

3. Seven and fifty-hundredths percent (7.50%) shall be placed to the credit of the Trauma Care Assistance Revolving Fund created in Section 1-2522 of Title 63 of the Oklahoma Statutes;

4. Three and nine-hundredths percent (3.09%) shall be placed to the credit of the Oklahoma State University College of Osteopathic Medicine Revolving Fund created in Section ~~6~~ 160.2 of ~~this act~~ Title 62 of the Oklahoma Statutes;

5. Twenty-six and thirty-eight-hundredths percent (26.38%) shall be placed to the credit of the Oklahoma Health Care Authority Medicaid Program Fund created in Section 5020 of Title 63 of the Oklahoma Statutes for the purposes of maintaining programs and services funded under the federal "Jobs and Growth Tax Relief Reconciliation Act of 2003", reimbursing city/county-owned hospitals, increasing emergency room physician rates, and providing TEFRA 134, also known as "Katie Beckett" services;

6. Two and sixty-five-hundredths percent (2.65%) shall be placed to the credit of the Department of Mental Health and Substance Abuse Services Revolving Fund created in Section 2-303 of Title 43A of the Oklahoma Statutes;

7. Forty-four-hundredths of one percent (0.44%) shall be placed to the credit of the Belle Maxine Hilliard Breast and Cervical Cancer Screening and Treatment Revolving Fund created in Section ~~4~~ 1-559 of ~~Enrolled House Bill No. 2552~~ Title 63 of the ~~2nd Session of the 49th~~ Oklahoma ~~Legislature~~ Statutes;

8. One percent (1%) shall be placed to the credit of the Teachers' Retirement System Revolving Fund created in Section 158 of Title 62 of the Oklahoma Statutes;

9. Two and seven-hundredths percent (2.07%) shall be placed to the credit of the Education Reform Revolving Fund created in Section 41.29b of Title 62 of the Oklahoma Statutes;

10. Sixty-six-hundredths percent (.66%) shall be placed to the credit of the Tobacco Prevention and Cessation Revolving Fund created in Section 1-105d of Title 63 of the Oklahoma Statutes;

11. Sixteen and eighty-three-hundredths percent (16.83%) shall be placed to the credit of the General Revenue Fund; and

12. For fiscal years beginning July 1, 2004, and ending June 30, 2006, fourteen and twenty-three-hundredths percent (14.23%) shall be apportioned to municipalities and counties that levy a sales tax, in the proportions which total municipal and county sales tax revenue was apportioned by the Tax Commission in the preceding month.

For fiscal years beginning July 1, 2006, and thereafter, the apportionment percentage specified in paragraph 12 of this subsection will be adjusted by dividing the total municipal and county sales tax revenue collected in the calendar year immediately preceding the commencement of the fiscal year by the sum of the state sales tax revenue and total municipal and county sales tax revenue collected in the same year. This ratio shall be divided by the ratio of the total municipal and county sales tax revenue collected in the calendar year beginning January 1, 2004, and ending December 31, 2004, divided by the sum of the state sales tax revenue and total municipal and county sales tax revenue collected in the same year. The resulting quotient shall be multiplied by fourteen and twenty-three-hundredths percent (14.23%) to determine the apportionment percentage for the fiscal year.

For fiscal years beginning July 1, 2006, and thereafter, any adjustment to the percentage of revenues apportioned to municipalities and counties shall be reflected in the percent of revenues apportioned to the General Revenue Fund.

C. The net amount of any revenue resulting from a payment in lieu of excise taxes on little cigars, cigars, smoking tobacco and chewing tobacco levied by this section, pursuant to a compact with a federally recognized Indian tribe or nation after deductions for deposits into trust accounts pursuant to such compacts, shall be apportioned by the Tax Commission and transmitted to the State Treasurer as follows:

1. Thirty-three and forty-nine-hundredths percent (33.49%) shall be placed to the credit of the Health Employee and Economy Improvement (HEEIA) Act Revolving Fund created in Section ~~4~~ 1010.1 of ~~Enrolled Senate Bill No. 1546~~ Title 56 of the ~~2nd Session of the 49th~~ Oklahoma Legislature Statutes;

2. Four and sixty-nine-hundredths percent (4.69%) shall be placed to the credit of the Comprehensive Cancer Center Debt Service Revolving Fund created in Section ~~5~~ 160.1 of ~~this act~~ Title 62 of the Oklahoma Statutes;

3. Eleven and thirty-nine-hundredths percent (11.39%) shall be placed to the credit of the Trauma Care Assistance Revolving Fund created in Section 1-2522 of Title 63 of the Oklahoma Statutes;

4. Four and sixty-nine-hundredths percent (4.69%) shall be placed to the credit of the Oklahoma State University College of Osteopathic Medicine Revolving Fund created in Section ~~6~~ 160.2 of ~~this act~~ Title 62 of the Oklahoma Statutes;

5. Forty and six-hundredths percent (40.06%) shall be placed to the credit of the Oklahoma Health Care Authority Medicaid Program Fund created in Section 5020 of Title 63 of the Oklahoma Statutes for the purposes of maintaining programs and services funded under the federal "Jobs and Growth Tax Relief Reconciliation Act of 2003",

reimbursing city/county-owned hospitals, increasing emergency room physician rates, and providing TEFRA 134, also known as "Katie Beckett" services;

6. Four and one-hundredths percent (4.01%) shall be placed to the credit of the Department of Mental Health and Substance Abuse Services Revolving Fund created in Section 2-303 of Title 43A of the Oklahoma Statutes;

7. Sixty-seven-hundredths percent (0.67%) shall be placed to the credit of the Belle Maxine Hilliard Breast and Cervical Cancer Screening and Treatment Revolving Fund created in Section ~~1~~ 1-559 of ~~Enrolled House Bill No. 2552~~ Title 63 of the ~~2nd Session of the 49th~~ Oklahoma ~~Legislature~~ Statutes; and

8. One percent (1%) shall be placed to the credit of the Tobacco Prevention and Cessation Revolving Fund created in Section 1-105d of Title 63 of the Oklahoma Statutes.

D. It shall not be permissible for a retailer to advertise that the retailer will absorb the tax due on the taxable merchandise described herein. Such tax shall be paid by the consumer.

SECTION 4. This act shall become effective July 1, 2005.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

50-1-93

CJ

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