

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 HOUSE BILL 2891

By: Roberts (Sean)

4
5
6 AS INTRODUCED

7 An Act relating to health care funding; amending
8 68 O.S. 2011, Section 402-3, which relates to the
9 apportionment of revenue from tobacco taxation;
10 modifying apportionment; providing for
11 apportionment of revenues to the Primary Care
12 Stabilization Revolving Fund; creating Primary
13 Care Stabilization Revolving Fund; providing for
14 apportionment of revenues; authorizing
15 expenditures by the Oklahoma Health Care
16 Authority; authorizing Oklahoma Health Care
17 Authority to apply for certain waivers; providing
18 for codification; providing an effective date;
19 and declaring an emergency.

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

21 SECTION 1. AMENDATORY 68 O.S. 2011, Section 402-3,
22 is amended to read as follows:

23 Section 402-3. A. In addition to the tax levied in
24 Sections 402, 402-1 and 402-2 of this title, effective January
25 1, 2005, there shall be levied, assessed, collected, and paid in
26 respect to the articles containing tobacco enumerated in Section
27 401 et seq. of this title, a tax in the following amounts:

1 1. Little Cigars. Upon cigars of all descriptions made of
2 tobacco, or any substitute therefor, and weighing not more than
3 three (3) pounds per thousand, twenty-seven (27) mills for each
4 cigar. Provided, that the tax levied on the products coming
5 under this paragraph shall not apply if the tax on such products
6 is reported and paid as cigarette tax under Sections 301 through
7 325 of this title;

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

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

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

23 B. Except as provided in subsection C of this section, the
24 revenue resulting from the additional tax levied in subsection A

1 of this section shall be apportioned by the Oklahoma Tax
2 Commission and transmitted to the State Treasurer as follows:

3 1. Twenty-two and six-hundredths percent (22.06%) shall be
4 placed to the credit of the Health Employee and Economy
5 Improvement Act Revolving Fund created in Section 1010.1 of
6 Title 56 of the Oklahoma Statutes;

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

11 3. Before July 1, 2008, seven and fifty-hundredths percent
12 (7.50%) shall be placed to the credit of the Trauma Care
13 Assistance Revolving Fund created in Section 1-2522 of Title 63
14 of the Oklahoma Statutes. On and after July 1, 2008, seven and
15 fifty-hundredths percent (7.50%) shall be allocated as follows:

16 a. every month, an amount equal to the actual amount
17 placed to the credit of the Trauma Care Assistance
18 Revolving Fund pursuant to this paragraph for the
19 same month of the 2008 fiscal year shall be
20 credited to the Trauma Care Assistance Revolving
21 Fund,

22 b. every month, any amount over and above the amount
23 placed to the credit of the Trauma Care Assistance
24 Revolving Fund pursuant to subparagraph a of this

1 paragraph shall be credited to the Oklahoma
2 Emergency Response Systems Stabilization and
3 Improvement Revolving Fund as created in Section 8
4 of this act until the combined amount credited to
5 the Oklahoma Emergency Response Systems
6 Stabilization and Improvement Revolving Fund
7 pursuant to this section and Section 302-5 of this
8 title is equal to Two Million Five Hundred
9 Thousand Dollars (\$2,500,000.00) each year, and

1 0 c. any additional revenue allocated pursuant to this
1 1 paragraph shall be placed to the credit of the
1 2 Trauma Care Assistance Revolving Fund;

1 3 4. Three and nine-hundredths percent (3.09%) shall be
1 4 placed to the credit of the Oklahoma State University College of
1 5 Osteopathic Medicine Revolving Fund created in Section 160.2 of
1 6 Title 62 of the Oklahoma Statutes;

1 7 5. Twenty-six and thirty-eight-hundredths percent (26.38%)
1 8 shall be placed to the credit of the Oklahoma Health Care
1 9 Authority Medicaid Program Fund created in Section 5020 of Title
2 0 63 of the Oklahoma Statutes for the purposes of maintaining
2 1 programs and services funded under the federal "Jobs and Growth
2 2 Tax Relief Reconciliation Act of 2003", reimbursing city/county-
2 3 owned hospitals, increasing emergency room physician rates, and
2 4 providing TEFRA 134, also known as "Katie Beckett" services;

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

5 7. Forty-four-hundredths of one percent (0.44%) shall be
6 placed to the credit of the Belle Maxine Hilliard Breast and
7 Cervical Cancer Treatment Revolving Fund created in Section 1-
8 559 of Title 63 of the Oklahoma Statutes;

9 8. One percent (1%) shall be placed to the credit of the
10 Teachers' Retirement System Revolving Fund created in Section
11 158 of Title 62 of the Oklahoma Statutes;

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

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

19 11. ~~Sixteen and eighty-three hundredths percent (16.83%)~~
20 Nine and thirteen hundredths percent (9.13%) shall be placed to
21 the credit of the General Revenue Fund; and

22 12. For fiscal years beginning July 1, 2004, and ending
23 June 30, 2006, fourteen and twenty-three-hundredths percent
24 (14.23%) shall be apportioned to municipalities and counties

1 that levy a sales tax, in the proportions which total municipal
2 and county sales tax revenue was apportioned by the Tax
3 Commission in the preceding month.

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

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

23 C. The net amount of any revenue resulting from a payment
24 in lieu of excise taxes on little cigars, cigars, smoking

1 tobacco and chewing tobacco levied by this section, pursuant to
2 a compact with a federally recognized Indian tribe or nation
3 after deductions for deposits into trust accounts pursuant to
4 such compacts, shall be apportioned by the Tax Commission and
5 transmitted to the State Treasurer as follows:

6 1. Thirty-three and forty-nine-hundredths percent (33.49%)
7 shall be placed to the credit of the Health Employee and Economy
8 Improvement Act Revolving Fund created in Section 1010.1 of
9 Title 56 of the Oklahoma Statutes;

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

14 3. Before July 1, 2008, eleven and thirty-nine-hundredths
15 percent (11.39%) shall be placed to the credit of the Trauma
16 Care Assistance Revolving Fund created in Section 1-2522 of
17 Title 63 of the Oklahoma Statutes. On and after July 1, 2008,
18 eleven and thirty-nine-hundredths percent (11.39%) shall be
19 allocated as follows:

20 a. every month, an amount equal to the actual amount
21 placed to the credit of the Trauma Care Assistance
22 Revolving Fund pursuant to this paragraph for the
23 same month of the 2008 fiscal year shall be
24

1 credited to the Trauma Care Assistance Revolving
2 Fund,

3 b. every month, any amount over and above the amount
4 placed to the credit of the Trauma Care Assistance
5 Revolving Fund pursuant to subparagraph a of this
6 paragraph shall be credited to the Oklahoma
7 Emergency Response Systems Stabilization and
8 Improvement Revolving Fund as created in Section 8
9 of this act until the combined amount credited to
10 the Oklahoma Emergency Response Systems
11 Stabilization and Improvement Revolving Fund
12 pursuant to this section and Section 302-5 of this
13 title is equal to Two Million Five Hundred
14 Thousand Dollars (\$2,500,000.00) each year, and

15 c. any additional revenue allocated pursuant to this
16 paragraph shall be placed to the credit of the
17 Trauma Care Assistance Revolving Fund;

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

22 5. Forty and six-hundredths percent (40.06%) shall be
23 placed to the credit of the Oklahoma Health Care Authority
24 Medicaid Program Fund created in Section 5020 of Title 63 of the

1 Oklahoma Statutes for the purposes of maintaining programs and
2 services funded under the federal "Jobs and Growth Tax Relief
3 Reconciliation Act of 2003", reimbursing city/county-owned
4 hospitals, increasing emergency room physician rates, and
5 providing TEFRA 134, also known as "Katie Beckett" services;

6 6. Four and one-hundredths percent (4.01%) shall be placed
7 to the credit of the Department of Mental Health and Substance
8 Abuse Services Revolving Fund created in Section 2-303 of Title
9 43A of the Oklahoma Statutes;

10 7. Sixty-seven-hundredths percent (0.67%) shall be placed
11 to the credit of the Belle Maxine Hilliard Breast and Cervical
12 Cancer Treatment Revolving Fund created in Section 1-559 of
13 Title 63 of the Oklahoma Statutes; ~~and~~

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

17 9. Seven and seven-tenths percent (7.7%) shall be placed to
18 the credit of the Oklahoma Health Care Authority Primary Care
19 Stabilization Revolving Fund created by Section 2 of this act.

20 D. It shall not be permissible for a retailer to advertise
21 that the retailer will absorb the tax due on the taxable
22 merchandise described herein. Such tax shall be paid by the
23 consumer.
24

1 SECTION 2. NEW LAW A new section of law to be
2 codified in the Oklahoma Statutes as Section 5006.5 of Title 63,
3 unless there is created a duplication in numbering, reads as
4 follows:

5 A. There is hereby created in the State Treasury a
6 revolving fund for the Oklahoma Health Care Authority to be
7 designated the "Primary Care Stabilization Revolving Fund." The
8 fund shall be a continuing fund, not subject to fiscal year
9 limitations, and shall consist of all monies received by the
10 Oklahoma Health Care Authority from monies apportioned thereto
11 for purposes of this section from appropriations, gifts or
12 donations.

13 B. All monies accruing to the credit of the fund are hereby
14 appropriated and may be budgeted and expended by the Oklahoma
15 Health Care Authority by reimbursement contracts to health
16 centers authorized under Section 330 of the Public Health
17 Service Act, and incorporated in the State of Oklahoma for the
18 provision of primary health care services to uninsured patients
19 as regulated by 42 C.F.R. Chapter 1 part 51c and all applicable
20 current and future subparts and sections.

21 C. The Oklahoma Health Care Authority is hereby authorized
22 to pursue from the federal Centers for Medicare and Medicaid
23 Services an application for any waivers or any state plan
24

1 amendments required to amend the state Medicaid plan to support
2 the purposes of the section.

3 SECTION 3. This act shall become effective July 1, 2016.

4 SECTION 4. It being immediately necessary for the
5 preservation of the public peace, health and safety, an
6 emergency is hereby declared to exist, by reason whereof this
7 act shall take effect and be in full force from and after its
8 passage and approval.

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