

1 ENGROSSED SENATE
2 BILL NO. 1452

By: Schulz of the Senate

3 and

4 McCall of the House

5
6 An Act relating to cigarette tax; amending 68 O.S.
7 2011, Section 302-5, which relates to apportionment
8 of revenue; limiting certain annual apportionment to
9 specified funds or entities; providing for
10 distribution of amounts in excess of limitation;
11 providing methodology for calculating limitation;
12 updating statutory references; providing an effective
13 date; and declaring an emergency.

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

15 SECTION 1. AMENDATORY 68 O.S. 2011, Section 302-5, is
16 amended to read as follows:

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

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

1 1. Twenty-two and six-hundredths percent (22.06%) shall be
2 placed to the credit of the Health Employee and Economy Improvement
3 Act Revolving Fund created in Section 1010.1 of Title 56 of the
4 Oklahoma Statutes, but in no event shall the amount apportioned in
5 any fiscal year pursuant to this paragraph exceed the limitation
6 provided in subsection G of this section. Any amounts in excess of
7 such limitation shall be placed to the credit of the General Revenue
8 Fund;

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

12 3. Before July 1, 2008, seven and fifty-hundredths percent
13 (7.50%) shall be placed to the credit of the Trauma Care Assistance
14 Revolving Fund created in Section 1-2530.9 of Title 63 of the
15 Oklahoma Statutes. On and after July 1, 2008, seven and fifty-
16 hundredths percent (7.50%) shall be allocated as follows:

17 a. every month, an amount equal to the actual amount
18 placed to the credit of the Trauma Care Assistance
19 Revolving Fund pursuant to this paragraph for the same
20 month of the 2008 fiscal year shall be credited to the
21 Trauma Care Assistance Revolving 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 Emergency
2 Response Systems Stabilization and Improvement
3 Revolving Fund as created in Section ~~8 of this act~~ 1-
4 2512.1 of Title 63 of the Oklahoma Statutes until the
5 combined amount credited to the Oklahoma Emergency
6 Response Systems Stabilization and Improvement
7 Revolving Fund pursuant to this section and Section
8 402-3 of this title is equal to a total of Two Million
9 Five Hundred Thousand Dollars (\$2,500,000.00) each
10 year, and

11 c. any additional revenue allocated pursuant to this
12 paragraph shall be placed to the credit of the Trauma
13 Care Assistance Revolving Fund;

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

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

1 TEFRA 134, also known as "Katie Beckett" services, but in no event
2 shall the amount apportioned in any fiscal year pursuant to this
3 paragraph exceed the limitation provided in subsection G of this
4 section. Any amounts in excess of such limitation shall be placed
5 to the credit of the General Revenue Fund;

6 6. Two and sixty-five-hundredths percent (2.65%) shall be
7 placed to the credit of the Department of Mental Health and
8 Substance Abuse Services Revolving Fund created in Section 2-303 of
9 Title 43A of the Oklahoma Statutes, but in no event shall the amount
10 apportioned in any fiscal year pursuant to this paragraph exceed the
11 limitation provided in subsection G of this section. Any amounts in
12 excess of such limitation shall be placed to the credit of the
13 General Revenue Fund;

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

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

21 9. Two and seven-hundredths percent (2.07%) shall be placed to
22 the credit of the Education Reform Revolving Fund created in Section
23 41.29b of Title 62 of the Oklahoma Statutes;

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

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

6 12. For fiscal years beginning July 1, 2004, and ending June
7 30, 2006, fourteen and twenty-three-hundredths percent (14.23%)
8 shall be apportioned to municipalities and counties that levy a
9 sales tax, in the proportions which total municipal and county sales
10 tax revenue was apportioned by the Tax Commission in the preceding
11 month.

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

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

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

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

18 1. Thirty-three and forty-nine-hundredths percent (33.49%)
19 shall be placed to the credit of the Health Employee and Economy
20 Improvement Act Revolving Fund created in Section 1010.1 of Title 56
21 of the Oklahoma Statutes, but in no event shall the amount
22 apportioned in any fiscal year pursuant to this paragraph exceed the
23 limitation provided in subsection G of this section. Any amounts in
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1 excess of such limitation shall be placed to the credit of the
2 General Revenue Fund;

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

7 3. Before July 1, 2008, eleven and thirty-nine-hundredths
8 percent (11.39%) shall be placed to the credit of the Trauma Care
9 Assistance Revolving Fund created in Section 1-2522 of Title 63 of
10 the Oklahoma Statutes. On and after July 1, 2008, eleven and
11 thirty-nine-hundredths percent (11.39%) shall be allocated as
12 follows:

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

18 b. every month, any amount over and above the amount
19 placed to the credit of the Trauma Care Assistance
20 Revolving Fund pursuant to subparagraph a of this
21 paragraph shall be credited to the Oklahoma Emergency
22 Response Systems Stabilization and Improvement
23 Revolving Fund as created in Section ~~8 of this act~~ 1-
24 2512.1 of Title 63 of the Oklahoma Statutes until the

1 combined amount credited to the Oklahoma Emergency
2 Response Systems Stabilization and Improvement
3 Revolving Fund pursuant to this section and Section
4 402-3 of this title is equal to a total of Two Million
5 Five Hundred Thousand Dollars (\$2,500,000.00) each
6 year, and

7 c. any additional revenue allocated pursuant to this
8 paragraph shall be placed to the credit of the Trauma
9 Care Assistance Revolving Fund;

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

14 5. Forty and six-hundredths percent (40.06%) shall be placed to
15 the credit of the Oklahoma Health Care Authority Medicaid Program
16 Fund created in Section 5020 of Title 63 of the Oklahoma Statutes
17 for the purposes of maintaining programs and services funded under
18 the federal "Jobs and Growth Tax Relief Reconciliation Act of 2003",
19 reimbursing city/county-owned hospitals, increasing emergency room
20 physician rates, and providing TEFRA 134, also known as "Katie
21 Beckett" services, but in no event shall the amount apportioned in
22 any fiscal year pursuant to this paragraph exceed the limitation
23 provided in subsection G of this section. Any amounts in excess of
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1 such limitation shall be placed to the credit of the General Revenue
2 Fund;

3 6. Four and one-hundredths percent (4.01%) shall be placed to
4 the credit of the Department of Mental Health and Substance Abuse
5 Services Revolving Fund created in Section 2-303 of Title 43A of the
6 Oklahoma Statutes, but in no event shall the amount apportioned in
7 any fiscal year pursuant to this paragraph exceed the limitation
8 provided in subsection G of this section. Any amounts in excess of
9 such limitation shall be placed to the credit of the General Revenue
10 Fund;

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

15 8. One percent (1%) shall be placed to the credit of the
16 Tobacco Prevention and Cessation Revolving Fund created in Section
17 1-105d of Title 63 of the Oklahoma Statutes.

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

21 1. The State of Oklahoma Building Bonds of 1961 Sinking Fund
22 pursuant to the provisions of Sections 57.31 through 57.43 of Title
23 62 of the Oklahoma Statutes;

1 2. The State of Oklahoma Institutional Building Bonds of 1965
2 Sinking Fund pursuant to the provisions of Sections 57.61 through
3 57.73 of Title 62 of the Oklahoma Statutes;

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

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

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

13 F. The cigarette taxes levied in this section shall be
14 collected and administered in all respects not inconsistent with as
15 now or hereafter provided for by law for other cigarette taxes now
16 levied, collected, and administered pursuant to the provisions of
17 Sections 301 through 325 of this title.

18 G. The amounts apportioned annually pursuant to paragraphs 1, 5
19 and 6 of subsections B and D of this section shall be limited to the
20 three-year average of the amounts apportioned for fiscal years 2015,
21 2016 and 2017.

22 SECTION 2. This act shall become effective July 1, 2018.

23 SECTION 3. It being immediately necessary for the preservation
24 of the public peace, health or safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

3 Passed the Senate the 7th day of March, 2018.

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5 _____
6 Presiding Officer of the Senate

7 Passed the House of Representatives the ____ day of _____,
8 2018.

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10 _____
11 Presiding Officer of the House
12 of Representatives
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