

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 ENGROSSED SENATE
5 BILL NO. 1452

By: Schulz of the Senate

and

McCall of the House

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

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

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

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

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

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

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

16 3. Before July 1, 2008, seven and fifty-hundredths percent
17 (7.50%) shall be placed to the credit of the Trauma Care Assistance
18 Revolving Fund created in Section 1-2530.9 of Title 63 of the
19 Oklahoma Statutes. On and after July 1, 2008, seven and fifty-
20 hundredths percent (7.50%) shall be allocated as follows:

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

1 month of the 2008 fiscal year shall be credited to the
2 Trauma Care Assistance Revolving 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 Emergency
7 Response Systems Stabilization and Improvement
8 Revolving Fund as created in Section ~~8 of this act~~ 1-
9 2512.1 of Title 63 of the Oklahoma Statutes until the
10 combined amount credited to the Oklahoma Emergency
11 Response Systems Stabilization and Improvement
12 Revolving Fund pursuant to this section and Section
13 402-3 of this title is equal to a total of Two Million
14 Five Hundred Thousand Dollars (\$2,500,000.00) each
15 year, and

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

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

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

1 Medicaid Program Fund created in Section 5020 of Title 63 of the
2 Oklahoma Statutes for the purposes of maintaining programs and
3 services funded under the federal "Jobs and Growth Tax Relief
4 Reconciliation Act of 2003", reimbursing city/county-owned
5 hospitals, increasing emergency room physician rates, and providing
6 TEFRA 134, also known as "Katie Beckett" services, but in no event
7 shall the amount apportioned in any fiscal year pursuant to this
8 paragraph exceed the limitation provided in subsection G of this
9 section. Any amounts in excess of such limitation shall be placed
10 to the credit of the General Revenue Fund;

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

19 7. Forty-four-hundredths of one percent (0.44%) shall be placed
20 to the credit of the Belle Maxine Hilliard Breast and Cervical
21 Cancer Treatment Revolving Fund created in Section 1-559 of Title 63
22 of the Oklahoma Statutes;
23
24

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

4 9. Two and seven-hundredths percent (2.07%) shall be placed to
5 the credit of the Education Reform Revolving Fund created in Section
6 41.29b of Title 62 of the Oklahoma Statutes;

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

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

12 12. For fiscal years beginning July 1, 2004, and ending June
13 30, 2006, fourteen and twenty-three-hundredths percent (14.23%)
14 shall be apportioned to municipalities and counties that levy a
15 sales tax, in the proportions which total municipal and county sales
16 tax revenue was apportioned by the Tax Commission in the preceding
17 month.

18 For fiscal years beginning July 1, 2006, and thereafter, the
19 apportionment percentage specified in paragraph 12 of this
20 subsection will be adjusted by dividing the total municipal and
21 county sales tax revenue collected in the calendar year immediately
22 preceding the commencement of the fiscal year by the sum of the
23 state sales tax revenue and total municipal and county sales tax
24 revenue collected in the same year. This ratio shall be divided by

1 the ratio of the total municipal and county sales tax revenue
2 collected in the calendar year beginning January 1, 2004, and ending
3 December 31, 2004, divided by the sum of the state sales tax revenue
4 and total municipal and county sales tax revenue collected in the
5 same year. The resulting quotient shall be multiplied by fourteen
6 and twenty-three-hundredths percent (14.23%) to determine the
7 apportionment percentage for the fiscal year.

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

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

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

23 1. Thirty-three and forty-nine-hundredths percent (33.49%)
24 shall be placed to the credit of the Health Employee and Economy

1 Improvement Act Revolving Fund created in Section 1010.1 of Title 56
2 of the Oklahoma Statutes, but in no event shall the amount
3 apportioned in any fiscal year pursuant to this paragraph exceed the
4 limitation provided in subsection G of this section. Any amounts in
5 excess of such limitation shall be placed to the credit of the
6 General Revenue Fund;

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

11 3. Before July 1, 2008, eleven and thirty-nine-hundredths
12 percent (11.39%) shall be placed to the credit of the Trauma Care
13 Assistance Revolving Fund created in Section 1-2522 of Title 63 of
14 the Oklahoma Statutes. On and after July 1, 2008, eleven and
15 thirty-nine-hundredths percent (11.39%) shall be allocated as
16 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. Four and sixty-nine-hundredths percent (4.69%) shall be
15 placed to the credit of the Oklahoma State University College of
16 Osteopathic Medicine Revolving Fund created in Section 160.2 of
17 Title 62 of the Oklahoma Statutes;

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

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

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

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

18 8. One percent (1%) shall be placed to the credit of the
19 Tobacco Prevention and Cessation Revolving Fund created in Section
20 1-105d of Title 63 of the Oklahoma Statutes.

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

1 1. The State of Oklahoma Building Bonds of 1961 Sinking Fund
2 pursuant to the provisions of Sections 57.31 through 57.43 of Title
3 62 of the Oklahoma Statutes;

4 2. The State of Oklahoma Institutional Building Bonds of 1965
5 Sinking Fund pursuant to the provisions of Sections 57.61 through
6 57.73 of Title 62 of the Oklahoma Statutes;

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

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

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

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

21 G. The amounts apportioned annually pursuant to paragraphs 1, 5
22 and 6 of subsections B and D of this section shall be limited to the
23 three-year average of the amounts apportioned for fiscal years 2015,
24 2016 and 2017.

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

2 SECTION 3. It being immediately necessary for the preservation
3 of the public peace, health or safety, an emergency is hereby
4 declared to exist, by reason whereof this act shall take effect and
5 be in full force from and after its passage and approval.

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7 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
8 03/26/2018 - DO PASS.
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