

**COMMITTEE AMENDMENT**  
HOUSE OF REPRESENTATIVES  
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1035 \_\_\_\_\_  
Of the printed Bill  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Adopted: \_\_\_\_\_

Amendment submitted by: Kevin Wallace \_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

1 STATE OF OKLAHOMA

2 1st Extraordinary Session of the 56th Legislature (2017)

3 PROPOSED COMMITTEE  
4 SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 1035

By: Wallace and Casey of the  
House

7 and

8 David and Fields of the  
9 Senate

10  
11  
12 PROPOSED COMMITTEE SUBSTITUTE

13 An Act relating to revenue and taxation; stating  
14 purpose; imposing additional tax levy upon  
15 cigarettes; specifying amount of additional levy;  
16 providing for apportionment of revenues; exempting  
17 levy from inclusion in determination of certain  
18 amounts; requiring certain collections and  
19 administration of levy; prohibiting sale of cigarette  
20 excise tax stamps to wholesalers in excess of certain  
21 amount; providing exception; creating the State  
22 Health Care Enhancement Fund; exempting fund from  
23 fiscal year limitations; identifying funding source;  
24 authorizing appropriations from fund for certain  
purpose; amending 68 O.S. 2011, Section 311, which  
relates to discount sales of tax stamps on cigarettes  
and tobacco; decreasing amount of discount; amending  
68 O.S. 2011, Sections 402, 402-1 and 402-3, which  
relate to tax levies on tobacco products; providing  
that little cigars be taxed in the same rate and  
manner as cigarettes; clarifying language; imposing  
additional tax levy upon chewing tobacco; specifying  
amount of additional levy; providing for  
apportionment of revenues; prohibiting certain acts;  
declaring levy as a tax on the consumer; stating

1 purpose; imposing tax on gasoline and diesel fuel;  
2 establishing amount of tax per gallon; requiring  
3 deposit of certain revenue, penalties and interest in  
4 certain fund; amending 68 O.S. 2011, Section 500.10,  
5 which relates to exemption from motor fuels tax;  
6 extending exemptions to additional tax levy; amending  
7 69 O.S. 2011, Section 1521, as last amended by  
8 Section 93, Chapter 15, O.S.L. 2013 (69 O.S. Supp.  
9 2017, Section 1521), which relates to the Rebuilding  
10 Oklahoma Access and Driver Safety Fund; modifying  
11 calculation of certain annual apportionments;  
12 amending 37 O.S. 2011, Section 576, as last amended  
13 by Section 18, Chapter 298, O.S.L. 2014 (37 O.S.  
14 Supp. 2017, Section 576), which relates to gross  
15 receipts taxes on products sold by certain licensees;  
16 making applicable to low-point beer; defining term;  
17 providing that tax be in addition to other taxes;  
18 repealing 37 O.S. 2011, Section 576, as last amended  
19 by Section 11 of this act, which relates to gross  
20 receipts taxes on products sold by certain licensees;  
21 repealing 68 O.S. 2011, Section 402-2, which relates  
22 to additional tax on tobacco products; providing for  
23 codification; providing for noncodification; and  
24 providing effective dates.

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

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 302-7 of Title 68, unless there  
is created a duplication in numbering, reads as follows:

A. For the purpose of providing revenue for the support of the  
functions of state government, in addition to the tax levied in  
Sections 302, 302-1, 302-2, 302-3, 302-4 and 302-5 of Title 68 of  
the Oklahoma Statutes, there is hereby levied upon the sale, use,

1 gift, possession or consumption of cigarettes, as defined in  
2 Sections 301 through 325 of Title 68 of the Oklahoma Statutes,  
3 within this state, a tax at the rate of seventy-five (75) mills per  
4 cigarette.

5 B. 1. Except as provided in paragraph 2 of this subsection,  
6 the revenue resulting from the additional tax levied in subsection A  
7 of this section shall be apportioned as provided in paragraph 3 of  
8 this subsection.

9 2. The net amount of any revenue resulting from a payment in  
10 lieu of excise taxes on cigarettes levied by this section, which net  
11 amount shall be calculated after deductions for rebates owed  
12 pursuant to a compact with a federally recognized Indian tribe or  
13 nation, shall be apportioned as provided in paragraph 3 of this  
14 subsection.

15 3. a. Prior to July 1, 2018, the resulting revenues as  
16 described by paragraphs 1 and 2 of this subsection  
17 shall be apportioned by the Oklahoma Tax Commission  
18 and transmitted to the State Treasurer who shall  
19 deposit such revenue in the General Revenue Fund.

20 b. Beginning July 1, 2018, the resulting revenues as  
21 described by paragraphs 1 and 2 of this subsection  
22 shall be apportioned by the Oklahoma Tax Commission  
23 and transmitted to the State Treasurer, who shall  
24 deposit such revenue to the credit of the State Health

1 Care Enhancement Fund, created in Section 3 of this  
2 act.

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

6 1. The State of Oklahoma Building Bonds of 1961 Sinking Fund  
7 pursuant to the provisions of Sections 57.31 through 57.43 of Title  
8 62 of the Oklahoma Statutes;

9 2. The State of Oklahoma Institutional Building Bonds of 1965  
10 Sinking Fund pursuant to the provisions of Sections 57.61 through  
11 57.73 of Title 62 of the Oklahoma Statutes;

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

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

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

21 D. The cigarette taxes levied in this section shall be  
22 collected and administered as provided by law for other cigarette  
23 taxes now levied, collected and administered pursuant to the  
24

1 provisions of Sections 301 through 325 of Title 68 of the Oklahoma  
2 Statutes.

3 SECTION 2. NEW LAW A new section of law not to be  
4 codified in the Oklahoma Statutes reads as follows:

5 The Oklahoma Tax Commission shall not sell cigarette excise tax  
6 stamps to any wholesaler in excess of the amount of the monthly  
7 average amount of such excise tax stamps sold to such wholesaler  
8 during the preceding calendar year prior to the effective date of  
9 Sections 1 and 2 of this act. Provided, the wholesaler may purchase  
10 in excess of the monthly average purchased during the preceding  
11 calendar year upon documentation, to the Tax Commission's  
12 satisfaction, of probable sales greater than the wholesaler's sales  
13 in the preceding calendar year.

14 SECTION 3. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 302-7a of Title 68, unless there  
16 is created a duplication in numbering, reads as follows:

17 There is hereby created in the State Treasury a fund to be  
18 designated the "State Health Care Enhancement Fund". The fund shall  
19 be a continuing fund, not subject to fiscal year limitations, and  
20 shall consist of monies received pursuant to Section 1 of this act  
21 and any monies designated to the fund by law. All monies accruing  
22 to the credit of the fund shall be appropriated at the discretion of  
23 the Legislature for the purpose of enhancing the health of  
24 Oklahomans.

1 SECTION 4. AMENDATORY 68 O.S. 2011, Section 311, is  
2 amended to read as follows:

3 Section 311. For the purpose of allowing compensation for the  
4 costs necessarily incurred in affixing the proper tax stamp to each  
5 package of cigarettes and tobacco before making a sale of such  
6 cigarettes and tobacco, each person purchasing cigarette or tobacco  
7 tax stamps from the Oklahoma Tax Commission as required by law may  
8 purchase stamps from the Tax Commission at a reduction of ~~one and~~  
9 ~~one-half cents (\$0.015)~~ one cent (\$0.01) per stamp<sub>7</sub>; provided, that  
10 such discount or reduction shall not be applicable on purchases of  
11 less than One Hundred Dollars (\$100.00) at any one time; and  
12 provided<sub>7</sub> further, that no discount shall be allowed to out-of-state  
13 purchasers which reside in the states that do not give discounts on  
14 cigarette stamps purchased from State of Oklahoma cigarette dealers.  
15 The discount herein provided shall be the only discount allowed to  
16 purchasers from the Tax Commission; provided, that if a purchaser  
17 refuses to comply with the laws of the State of Oklahoma, the Tax  
18 Commission shall require the full face value for stamps purchased  
19 until such time as the person has complied with the provisions of  
20 the law. The Tax Commission may authorize the use of a metering  
21 device for the impress of the tax stamp.

22 SECTION 5. AMENDATORY 68 O.S. 2011, Section 402, is  
23 amended to read as follows:

24

1 Section 402. There shall be levied, assessed, collected, and  
2 paid in respect to the articles containing tobacco enumerated in  
3 Section 401 et seq. of this title, a tax in the following amounts:

4 1. Little Cigars. Upon cigars of all descriptions made of  
5 tobacco, or any substitute therefor, and weighing not more than  
6 three (3) pounds per thousand, ~~four (4) mills for each cigar.~~

7 ~~Provided, that~~ the tax levied on the products coming under this  
8 paragraph shall ~~not apply if~~ be equal to the tax on such products

9 that is reported and paid as cigarette tax under Sections 301

10 through 325 of this title. Further, the tax levied herein shall be

11 paid in the same manner as required in Sections 301 through 325 of

12 this title;

13 2. Cigars. Upon cigars of all descriptions made of tobacco, or  
14 any substitute therefor, weighing more than three (3) pounds per  
15 thousand and having a manufacturer's recommended retail selling  
16 price, under the Federal Code, of not exceeding four cents (\$0.04)  
17 per cigar, one cent (\$0.01) for each cigar;

18 3. Cigars. Upon all other cigars of all descriptions made of  
19 tobacco, or any substitute therefor, and weighing more than three  
20 (3) pounds per thousand, Twenty Dollars (\$20.00) per thousand. For  
21 the purpose of computing the tax, cheroots, stogies, etc., are  
22 hereby classed as cigars;

23 4. Smoking Tobacco. Upon all smoking tobacco including  
24 granulated, plug cut, crimp cut, ready rubbed and other kinds and



1 forms of tobacco prepared in such manner as to be suitable for  
2 smoking in a pipe or cigarette, the tax shall be twenty-five percent  
3 (25%) of the factory list price exclusive of any trade discount,  
4 special discount or deals; and

5 5. Chewing Tobacco. Upon chewing tobacco, smokeless tobacco,  
6 and snuff, the tax shall be twenty percent (20%) of the factory list  
7 price exclusive of any trade discount, special discount or deals.

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

11 Notwithstanding any other provision of law, the tax levied pursuant  
12 to the provisions of Section 401 et seq. of this title shall be part  
13 of the gross proceeds or gross receipts from the sale of cigars or  
14 tobacco products, or both, as those terms are defined in paragraph 7  
15 of Section 1352 of this title.

16 SECTION 6. AMENDATORY 68 O.S. 2011, Section 402-1, is  
17 amended to read as follows:

18 Section 402-1. In addition to the tax levied by Section 402 of  
19 this title, there is hereby levied upon the sale, use, exchange or  
20 possession of articles containing tobacco as defined in said Section  
21 402, a tax in the following amounts:

22 (a) ~~Upon little cigars of all descriptions made of tobacco, or~~  
23 ~~any substitute therefor, and weighing not more than three (3) pounds~~  
24 ~~per thousand, two and one-half (2 1/2) mills for each cigar.~~

1 ~~Provided, that the tax levied on the products coming under this~~  
2 ~~paragraph shall not apply if the tax on such products is reported~~  
3 ~~and paid as cigarette tax under Sections 301 through 325 of this~~  
4 ~~title.~~

5 ~~(b)~~ Upon cigars of all descriptions made of tobacco, or any  
6 substitute therefor, and weighing more than three (3) pounds per  
7 thousand, and having a manufacturer's recommended retail selling  
8 price, under the Federal Code, of more than four cents (\$0.04) for  
9 each cigar, Ten Dollars (\$10.00) per thousand. For the purpose of  
10 computing the tax, cheroots, stogies, etc., are hereby classed as  
11 cigars;

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

18 ~~(d)~~ (c) Upon chewing tobacco, smokeless tobacco, and snuff, the  
19 tax shall be ten percent (10%) of the factory list price exclusive  
20 of any trade discount, special discount or deals.

21 This tax shall be paid by the consumer and no retailer may  
22 advertise that he will pay or absorb this tax.

23 ~~(e)~~ The tax herein levied on tobacco products shall be evidenced  
24 by stamps and collected on the same basis and in the same manner and

1 in all respects as the tax levied by the Tobacco Products Tax Law.  
2 The revenue from this additional tax shall be apportioned by the  
3 Oklahoma Tax Commission in the same manner as provided in Section  
4 404 of this title, for the apportionment of other tobacco products  
5 tax revenue.

6 SECTION 7. AMENDATORY 68 O.S. 2011, Section 402-3, is  
7 amended to read as follows:

8 Section 402-3. A. In addition to the tax levied in Sections  
9 402, and 402-1 ~~and 402-2~~ of this title, effective January 1, 2005,  
10 there shall be levied, assessed, collected, and paid in respect to  
11 the articles containing tobacco enumerated in Section 401 et seq. of  
12 this title, a tax in the following amounts:

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

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

1       ~~3.~~ 2. Smoking Tobacco. Upon all smoking tobacco including  
2 granulated, plug cut, crimp cut, ready rubbed and other kinds and  
3 forms of tobacco prepared in such manner as to be suitable for  
4 smoking in a pipe or cigarette, the tax shall be forty percent (40%)  
5 of the factory list price exclusive of any trade discount, special  
6 discount or deals; and

7       ~~4.~~ 3. Chewing Tobacco. Upon chewing tobacco, smokeless  
8 tobacco, and snuff, the tax shall be thirty percent (30%) of the  
9 factory list price exclusive of any trade discount, special discount  
10 or deals.

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

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

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

22       3. Before July 1, 2008, seven and fifty-hundredths percent  
23 (7.50%) shall be placed to the credit of the Trauma Care Assistance  
24 Revolving Fund created in Section ~~1-2522~~ 1-2530.9 of Title 63 of the

1 Oklahoma Statutes. On and after July 1, 2008, seven and fifty-  
2 hundredths percent (7.50%) shall be allocated as follows:

3 a. every month, an amount equal to the actual amount  
4 placed to the credit of the Trauma Care Assistance  
5 Revolving Fund pursuant to this paragraph for the same  
6 month of the 2008 fiscal year shall be credited to the  
7 Trauma Care Assistance Revolving Fund,

8 b. every month, any amount over and above the amount  
9 placed to the credit of the Trauma Care Assistance  
10 Revolving Fund pursuant to subparagraph a of this  
11 paragraph shall be credited to the Oklahoma Emergency  
12 Response Systems Stabilization and Improvement  
13 Revolving Fund as created in Section ~~§~~ 1-2512.1 of  
14 ~~this act~~ Title 63 of the Oklahoma Statutes until the  
15 combined amount credited to the Oklahoma Emergency  
16 Response Systems Stabilization and Improvement  
17 Revolving Fund pursuant to this section and Section  
18 302-5 of this title is equal to Two Million Five  
19 Hundred Thousand Dollars (\$2,500,000.00) each year,  
20 and

21 c. any additional revenue allocated pursuant to this  
22 paragraph shall be placed to the credit of the Trauma  
23 Care Assistance Revolving Fund;

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

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

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

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

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

24

1 9. Two and seven-hundredths percent (2.07%) shall be placed to  
2 the credit of the Education Reform Revolving Fund created in Section  
3 ~~41.29b~~ 34.89 of Title 62 of the Oklahoma Statutes;

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

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

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

15 For fiscal years beginning July 1, 2006, and thereafter, the  
16 apportionment percentage specified in paragraph 12 of this  
17 subsection will be adjusted by dividing the total municipal and  
18 county sales tax revenue collected in the calendar year immediately  
19 preceding the commencement of the fiscal year by the sum of the  
20 state sales tax revenue and total municipal and county sales tax  
21 revenue collected in the same year. This ratio shall be divided by  
22 the ratio of the total municipal and county sales tax revenue  
23 collected in the calendar year beginning January 1, 2004, and ending  
24 December 31, 2004, divided by the sum of the state sales tax revenue

1 and total municipal and county sales tax revenue collected in the  
2 same year. The resulting quotient shall be multiplied by fourteen  
3 and twenty-three-hundredths percent (14.23%) to determine the  
4 apportionment percentage for the fiscal year.

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

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

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

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

24



1           3. Before July 1, 2008, eleven and thirty-nine-hundredths  
2 percent (11.39%) shall be placed to the credit of the Trauma Care  
3 Assistance Revolving Fund created in Section ~~1-2522~~ 1-2530.9 of  
4 Title 63 of the Oklahoma Statutes. On and after July 1, 2008,  
5 eleven and thirty-nine-hundredths percent (11.39%) shall be  
6 allocated as follows:

- 7           a. every month, an amount equal to the actual amount  
8 placed to the credit of the Trauma Care Assistance  
9 Revolving Fund pursuant to this paragraph for the same  
10 month of the 2008 fiscal year shall be credited to the  
11 Trauma Care Assistance Revolving Fund,
- 12           b. every month, any amount over and above the amount  
13 placed to the credit of the Trauma Care Assistance  
14 Revolving Fund pursuant to subparagraph a of this  
15 paragraph shall be credited to the Oklahoma Emergency  
16 Response Systems Stabilization and Improvement  
17 Revolving Fund as created in Section ~~&~~ 1-2512.1 of  
18 ~~this act~~ Title 63 of the Oklahoma Statutes until the  
19 combined amount credited to the Oklahoma Emergency  
20 Response Systems Stabilization and Improvement  
21 Revolving Fund pursuant to this section and Section  
22 302-5 of this title is equal to Two Million Five  
23 Hundred Thousand Dollars (\$2,500,000.00) each year,  
24 and

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

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

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

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

20           7.    Sixty-seven-hundredths percent (0.67%) shall be placed to  
21 the credit of the Belle Maxine Hilliard Breast and Cervical Cancer  
22 Treatment Revolving Fund created in Section 1-559 of Title 63 of the  
23 Oklahoma Statutes; and  
24

1       8. One percent (1%) shall be placed to the credit of the  
2 Tobacco Prevention and Cessation Revolving Fund created in Section  
3 1-105d of Title 63 of the Oklahoma Statutes.

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

7       SECTION 8.       NEW LAW       A new section of law to be codified  
8 in the Oklahoma Statutes as Section 402-4 of Title 68, unless there  
9 is created a duplication in numbering, reads as follows:

10       A. For the purpose of providing revenue for the support of the  
11 functions of state government, in addition to the tax levied in  
12 Sections 402, 402-1 and 402-3 of Title 68 of the Oklahoma Statutes,  
13 there shall be levied, assessed, collected and paid in respect to  
14 the articles containing tobacco enumerated in Section 401 et seq. of  
15 Title 68 of the Oklahoma Statutes, a tax in the following amounts:

16       Chewing Tobacco. Upon chewing tobacco, smokeless tobacco and  
17 snuff, the tax shall be ten percent (10%) of the factory list price  
18 exclusive of any trade discount, special discount or deals.

19       B. 1. Except as provided in paragraph 2 of this subsection,  
20 the revenue resulting from the additional tax levied in subsection A  
21 of this section shall be apportioned as provided in paragraph 3 of  
22 this subsection.

23       2. The net amount of any revenue resulting from a payment in  
24 lieu of excise taxes on chewing tobacco levied by this section,

1 which net amount shall be calculated after deductions for rebates  
2 owed pursuant to a compact with a federally recognized Indian tribe  
3 or nation, shall be apportioned as provided in paragraph 3 of this  
4 subsection.

5 3. a. Prior to July 1, 2018, the resulting revenues as  
6 described by paragraphs 1 and 2 of this subsection  
7 shall be apportioned by the Oklahoma Tax Commission  
8 and transmitted to the State Treasurer who shall  
9 deposit such revenue in the General Revenue Fund.

10 b. Beginning July 1, 2018, the resulting revenues as  
11 described by paragraphs 1 and 2 of this subsection  
12 shall be apportioned by the Oklahoma Tax Commission  
13 and transmitted to the State Treasurer, who shall  
14 deposit such revenue to the credit of the State Health  
15 Care Enhancement Fund created in Section 3 of this  
16 act.

17 C. No retailer shall advertise that the retailer will absorb  
18 the tax due on the taxable merchandise described in this section.  
19 Such tax shall be paid by the consumer.

20 SECTION 9. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 500.4B of Title 68, unless there  
22 is created a duplication in numbering, reads as follows:

23 A. For the purpose of providing revenue for the support of the  
24 functions of state government, in addition to the tax imposed by

1 Section 500.4 of Title 68 of the Oklahoma Statutes, there is hereby  
2 imposed a tax of six cents (\$0.06) per gallon on all:

- 3 1. Gasoline used or consumed in this state; and
- 4 2. Diesel fuel used or consumed in this state.

5 B. All remaining revenue from the tax imposed by subsection A  
6 of this section and penalties and interest thereon collected by the  
7 Oklahoma Tax Commission, after the requirements of Section 500.63 of  
8 this title have been fulfilled, shall be deposited as follows:

9 1. Prior to July 1, 2018, the remaining revenue shall be  
10 apportioned by the Oklahoma Tax Commission and transmitted to the  
11 State Treasurer who shall deposit such revenue in the General  
12 Revenue Fund; and

13 2. Beginning July 1, 2018, the remaining revenue shall be  
14 apportioned by the Oklahoma Tax Commission and transmitted to the  
15 State Treasurer who shall deposit such revenue in the Rebuilding  
16 Oklahoma Access and Driver Safety Fund created in Section 1521 of  
17 Title 69 of the Oklahoma Statutes.

18 SECTION 10. AMENDATORY 68 O.S. 2011, Section 500.10, is  
19 amended to read as follows:

20 Section 500.10 Subject to the procedural requirements and  
21 conditions set out in this section and Sections 500.11 through  
22 500.17 of this title, the following are exempt from the ~~tax~~ taxes on  
23 motor fuel imposed by Section 500.4 of this title ~~on motor fuel and~~  
24 Section 9 of this act:

1        1. Motor fuel for which proof of export is available in the  
2 form of a terminal-issued destination state shipping paper:

3            a. exported by a supplier who is licensed in the  
4 destination state, or

5            b. sold by a supplier to a licensed exporter for  
6 immediate export;

7        2. Motor fuel which was acquired by an unlicensed exporter and  
8 as to which the tax imposed by Section 500.4 of this title has  
9 previously been paid or accrued and was subsequently exported by  
10 transport truck by or on behalf of the licensed exporter in a  
11 diversion across state boundaries properly reported in conformity  
12 with Section 500.46 of this title;

13        3. Motor fuel exported out of a bulk plant in this state in a  
14 tank wagon if the destination of that vehicle does not exceed  
15 twenty-five (25) miles from the border of this state and as to which  
16 the tax imposed by Section 500.4 of this title has previously been  
17 paid or accrued, subject to gallonage limits and other conditions  
18 established by the Oklahoma Tax Commission;

19        4. K-1 kerosene sold at retail through dispensers which have  
20 been designed and constructed to prevent delivery directly from the  
21 dispenser into a vehicle fuel supply tank, and K-1 kerosene sold at  
22 retail through nonbarricaded dispensers in quantities of not more  
23 than twenty-one (21) gallons for use other than for highway  
24

1 purposes, under such rules as the Tax Commission shall reasonably  
2 require;

3 5. Motor fuel sold to the United States or any agency or  
4 instrumentality thereof;

5 6. Motor fuel used solely and exclusively in district-owned  
6 public school vehicles or FFA and 4-H Club trucks for the purpose of  
7 legally transporting public school children, and motor fuel  
8 purchased by any school district for use exclusively in school buses  
9 leased or hired for the purpose of legally transporting public  
10 school children, or in the operation of vehicles used in driver  
11 training;

12 7. Motor fuel used solely and exclusively as fuel to propel  
13 motor vehicles on the public roads and highways of this state, when  
14 leased or owned and being operated for the sole benefit of a county,  
15 city, town, a volunteer fire department with a state certification  
16 and rating, rural electric cooperatives, rural water and sewer  
17 districts, rural irrigation districts organized under the Oklahoma  
18 Irrigation District Act, conservancy districts and master  
19 conservancy districts organized under the Conservancy Act of  
20 Oklahoma, rural ambulance service districts, or federally recognized  
21 Indian tribes;

22 8. Motor fuel used as fuel for farm tractors or stationary  
23 engines owned or leased and operated by any person and used  
24 exclusively for agricultural purposes, except as to two and eight

1 one-hundredths cents (\$0.0208) per gallon of gasoline as provided in  
2 subsection C of Section 500.4 of this title;

3 9. Gasoline, diesel fuel and kerosene sold for use as fuel to  
4 generate power in aircraft engines, whether in aircraft or for  
5 training, testing or research purposes of aircraft engines, except  
6 as to eight one-hundredths of one cent (\$0.0008) per gallon as  
7 provided in subsection B of Section 500.4 of this title;

8 10. Motor fuel sold within an Indian reservation or within  
9 Indian country by a federally recognized Indian tribe to a member of  
10 that tribe and used in motor vehicles owned by that member of the  
11 tribe. This exemption does not apply to sales within an Indian  
12 reservation or within Indian country by a federally recognized  
13 Indian tribe to non-Indian consumers or to Indian consumers who are  
14 not members of the tribe selling the motor fuel;

15 11. Subject to determination by the Tax Commission, that  
16 portion of diesel fuel:

- 17 a. used to operate equipment attached to a motor vehicle,  
18 if the diesel fuel was placed into the fuel supply  
19 tank of a motor vehicle that has a common fuel  
20 reservoir for travel on a highway and for the  
21 operation of equipment, or  
22 b. consumed by the vehicle while the vehicle is parked  
23 off the highways of this state;

24



1 12. Motor fuel acquired by a consumer out of state and carried  
2 into this state, retained within and consumed from the same vehicle  
3 fuel supply tank within which it was imported;

4 13. Diesel fuel used as heating oil, or in railroad locomotives  
5 or any other motorized flanged-wheel rail equipment, or used for  
6 other nonhighway purposes other than as expressly exempted under  
7 another provision;

8 14. Motor fuel which was lost or destroyed as a direct result  
9 of a sudden and unexpected casualty;

10 15. Taxable diesel which had been accidentally contaminated by  
11 dye so as to be unsaleable as highway fuel as proved by proper  
12 documentation;

13 16. Dyed diesel fuel;

14 17. Motor fuel sold to the Oklahoma Space Industry Development  
15 Authority or any spaceport user as defined in the Oklahoma Space  
16 Industry Development Act; and

17 18. Biofuels or biodiesel produced by an individual with crops  
18 grown on property owned by the same individual and used in a vehicle  
19 owned by the same individual on the public roads and highways of  
20 this state.

21 SECTION 11. AMENDATORY 69 O.S. 2011, Section 1521, as  
22 last amended by Section 93, Chapter 15, O.S.L. 2013 (69 O.S. Supp.  
23 2017, Section 1521), is amended to read as follows:  
24

1 Section 1521. A. There is hereby created in the State Treasury  
2 a fund to be known as the "Rebuilding Oklahoma Access and Driver  
3 Safety Fund". The fund shall be a continuing fund, not subject to  
4 fiscal year limitations, and shall consist of all appropriations and  
5 transfers made by the Legislature. All monies accruing to the  
6 credit of the fund are hereby appropriated and may be budgeted and  
7 expended each fiscal year by the Department of Transportation for  
8 the purposes authorized by subsection G of this section.

9 Expenditures from the fund shall be made upon warrants issued by the  
10 State Treasurer against claims filed as prescribed by law with the  
11 Director of the Office of Management and Enterprise Services for  
12 approval and payment.

13 B. ~~There~~ Beginning July 1, 2018, except for an amount  
14 equivalent to the amount of revenue apportioned pursuant to Section  
15 9 of this act, there shall be apportioned to the funds specified in  
16 this subsection from the monies that would otherwise be apportioned  
17 to the General Revenue Fund by Section 2352 of Title 68 of the  
18 Oklahoma Statutes from the revenues derived pursuant to subsections  
19 A, B and E of Section 2355 of Title 68 of the Oklahoma Statutes  
20 amounts as follows:

21 1. For each fiscal year, subject to the provisions of paragraph  
22 3 of this subsection, and, except for the amount prescribed by  
23 subparagraph a of this paragraph, subject to any reductions required  
24

1 by subsection F of this section, there shall be apportioned to the  
2 Rebuilding Oklahoma Access and Driver Safety Fund:

3 a. for the fiscal year beginning July 1, 2011, the first  
4 Thirty-five Million Seven Hundred Thousand Dollars  
5 (\$35,700,000.00), for the fiscal year beginning July  
6 1, 2012, the first Forty-one Million Seven Hundred  
7 Thousand Dollars (\$41,700,000.00) and for the fiscal  
8 year beginning July 1, 2013, and for each fiscal year  
9 thereafter, Fifty-nine Million Seven Hundred Thousand  
10 Dollars (\$59,700,000.00), which shall be allocated and  
11 used by the Department of Transportation first for the  
12 purpose of making any required payments for principal,  
13 interest or other costs of borrowing with respect to  
14 the obligations issued pursuant to Section 341 of  
15 Title 73 of the Oklahoma Statutes and after any such  
16 required payment has been made then for the purposes  
17 otherwise authorized by this section, plus

18 b. the total amount apportioned to the Rebuilding  
19 Oklahoma Access and Driver Safety Fund for the  
20 preceding fiscal year which, except for the amount  
21 prescribed by subparagraph a of this paragraph, shall  
22 be apportioned before any other amount is apportioned  
23 pursuant to Section 2352 of Title 68 of the Oklahoma  
24 Statutes, plus

1 c. an additional incremental amount which shall not be in  
2 excess of the amount prescribed by subparagraph a of  
3 this paragraph and that is required in order for the  
4 total apportionment to the Rebuilding Oklahoma Access  
5 and Driver Safety Fund from all sources for such  
6 fiscal year to equal Five Hundred Seventy-five Million  
7 Dollars (\$575,000,000.00).

8 All amounts apportioned pursuant to this paragraph shall be  
9 divided into twelve equal amounts to be apportioned each month  
10 during the fiscal year except the amount specified in subparagraph a  
11 of this paragraph which amount shall be allocated in its full amount  
12 in cash not later than July 30 each year or such later date as may  
13 be required in order for the amount to be allocated in cash;

14 2. For each fiscal year after the apportionments required by  
15 paragraph 1 of this subsection have been made:

16 a. the next Two Million Dollars (\$2,000,000.00) shall be  
17 apportioned to the Oklahoma Tourism and Passenger Rail  
18 Revolving Fund created pursuant to Section 325 of  
19 Title 66 of the Oklahoma Statutes to be used for  
20 capital and operating costs for the "Heartland Flyer"  
21 rail project, and

22 b. the next Three Million Dollars (\$3,000,000.00) shall  
23 be apportioned to the Public Transit Revolving Fund  
24 created pursuant to Section 4031 of this title to be

1 used for purposes authorized by law other than the  
2 purpose described by subparagraph a of this paragraph.

3 All amounts apportioned pursuant to this paragraph shall be  
4 divided into twelve equal amounts to be apportioned each month  
5 during the fiscal year; and

6 3. For each fiscal year after the first fiscal year in which  
7 the total apportionment to the Rebuilding Oklahoma Access and Driver  
8 Safety Fund as provided by paragraph 1 of this subsection and from  
9 other sources equals Five Hundred Seventy-five Million Dollars  
10 (\$575,000,000.00), except for an amount equivalent to the amount of  
11 revenue apportioned pursuant to Section 9 of this act, the first  
12 Five Hundred Seventy-five Million Dollars (\$575,000,000.00)  
13 collected pursuant to subsections A, B and E of Section 2355 of  
14 Title 68 of the Oklahoma Statutes and apportioned pursuant to  
15 Section 2352 of Title 68 of the Oklahoma Statutes that would  
16 otherwise be apportioned to the General Revenue Fund shall be  
17 apportioned to the Rebuilding Oklahoma Access and Driver Safety  
18 Fund. With the exception of the amount prescribed by subparagraph a  
19 of paragraph 1 of this subsection, all amounts apportioned pursuant  
20 to this paragraph shall be divided into twelve equal amounts to be  
21 apportioned each month during the fiscal year.

22 C. The apportionments of revenues required by subparagraphs a,  
23 b and c of paragraph 1 of subsection B of this section shall be made  
24 until the total annual apportionment from such sources in addition

1 to the apportionment made pursuant to Section 9 of this act to the  
2 Rebuilding Oklahoma Access and Driver Safety Fund equals Five  
3 Hundred Seventy-five Million Dollars (\$575,000,000.00). After such  
4 annual apportionment level is reached, the apportionment to the fund  
5 shall be governed by the provisions of paragraph 3 of subsection B  
6 of this section.

7 D. The monies apportioned to the Rebuilding Oklahoma Access and  
8 Driver Safety Fund shall not be used to supplant or replace existing  
9 state funds used for transportation purposes.

10 E. In order to ensure that the funds from the ROADS Fund are  
11 used to enhance and not supplant state funding for the Department of  
12 Transportation, the State Board of Equalization shall examine and  
13 investigate expenditures from the fund each year. For purposes of  
14 this examination, monies used to retire outstanding debt obligations  
15 for which the Department of Transportation is responsible shall be  
16 excluded. At the meeting of the State Board of Equalization held  
17 within five (5) days after the monthly apportionment in February of  
18 each year, the State Board of Equalization shall issue a finding and  
19 report which shall state whether expenditures from the ROADS Fund  
20 were used to enhance or supplant state funding for the Department of  
21 Transportation. If the State Board of Equalization finds that state  
22 funding for the Department of Transportation was supplanted by funds  
23 from the ROADS Fund, the Board shall specify the amount by which  
24 such funding was supplanted. In this event, the Legislature shall

1 not make any appropriations for the ensuing fiscal year until an  
2 appropriation in that amount is made to replenish state funding for  
3 the Department of Transportation.

4 F. In the event that the Director of the Office of Management  
5 and Enterprise Services declares a General Revenue Fund revenue  
6 failure pursuant to Section 34.49 of Title 62 of the Oklahoma  
7 Statutes, and agency allocations are reduced pursuant to the  
8 provisions of Section 34.49 of Title 62 of the Oklahoma Statutes,  
9 the amounts that would otherwise be apportioned to the ROADS Fund  
10 by:

11 1. Subparagraph a of paragraph 1 of subsection B of this  
12 section, only to the extent that the amount is not required for debt  
13 service related to the obligations authorized pursuant to Section  
14 341 of Title 73 of the Oklahoma Statutes;

15 2. Subparagraphs b and c of paragraph 1 of subsection B of this  
16 section; and

17 3. Subparagraphs a and b of paragraph 2 of subsection B of this  
18 section,  
19 shall be reduced by a percentage equal to that required of the  
20 General Revenue Fund appropriations to state agencies and such  
21 reductions shall occur during the entire fiscal year and for any  
22 month during which such reductions are required by the Office of  
23 Management and Enterprise Services and by the same percentage as  
24

1 that required of the agencies for such General Revenue Fund  
2 appropriations.

3 G. The Department of Transportation shall use the monies in the  
4 Rebuilding Oklahoma Access and Driver Safety Fund for:

5 1. The construction and maintenance of state roads, bridges and  
6 highways;

7 2. The direct expenses of operating and maintaining the state  
8 highway system, including bridges;

9 3. Direct expenses incurred in constructing, repairing, and  
10 maintaining state highways, farm-to-market roads, county highways  
11 and bridges as authorized by law;

12 4. Matching federal funds;

13 5. The purchase of materials, tools, machinery, motor vehicles,  
14 and equipment necessary or convenient for the construction and  
15 maintenance of the state highway system and bridges;

16 6. Debt service incurred prior to January 1, 2006, for Capital  
17 Improvement Program bonds sold pursuant to Section 2001 of this  
18 title; and

19 7. Debt service incurred on or after July 1, 2009, with respect  
20 to obligations authorized to be issued pursuant to Section 341 of  
21 Title 73 of the Oklahoma Statutes.

22 H. From the monies allocated pursuant to the provisions of  
23 subparagraph a of paragraph 1 of subsection B of this section each  
24 fiscal year, the Department of Transportation shall make payments



1 required for the payment of principal, interest and other costs  
2 related to the obligations issued by the Oklahoma Capitol  
3 Improvement Authority as authorized by Section 341 of Title 73 of  
4 the Oklahoma Statutes and such payments shall be made by the  
5 Department each fiscal year before such monies are used for any  
6 other purpose.

7 SECTION 12. AMENDATORY 37 O.S. 2011, Section 576, as  
8 last amended by Section 18, Chapter 298, O.S.L. 2014 (37 O.S. Supp.  
9 2017, Section 576), is amended to read as follows:

10 Section 576. A. A tax at the rate of thirteen and one-half  
11 percent (13.5%) is hereby levied and imposed on the total gross  
12 receipts of a holder of a mixed beverage, caterer, public event or  
13 special event license, issued by the ABLE Commission, and a retail  
14 dealer licensed under Section 163.7 of this title to sell low-point  
15 beer for consumption on premises, from:

16 1. The sale, preparation or service of mixed beverages and low-  
17 point beer;

18 2. The total retail value of complimentary or discounted mixed  
19 beverages and low-point beer;

20 3. Ice or nonalcoholic beverages that are sold, prepared or  
21 served for the purpose of being mixed with alcoholic beverages and  
22 low-point beer and consumed on the premises where the sale,  
23 preparation or service occurs; and

24

1 4. Any charges for the privilege of admission to a mixed  
2 beverage establishment or retail dealer establishment which entitle  
3 a person to complimentary mixed beverages or discounted prices for  
4 mixed beverages, or complimentary low-point beer or discounted  
5 prices for low-point beer.

6 B. For purposes of this section:

7 1. "Mixed beverages" means mixed beverages as defined by  
8 Section 506 of this title;

9 2. "Total gross receipts" means the total amount of  
10 consideration received as charges for admission to a mixed beverage  
11 establishment or retail dealer establishment as provided in  
12 paragraph 4 of subsection A of this section and the total retail  
13 sale price received for the sale, preparation or service of mixed  
14 beverages, low-point beer, ice, and nonalcoholic beverages to be  
15 mixed with alcoholic beverages and low-point beer. The advertised  
16 price of a mixed beverage may be the sum of the total retail sale  
17 price and the gross receipts tax levied thereon; ~~and~~

18 3. "Total retail value" means the total amount of consideration  
19 that would be required for the sale, preparation or service of mixed  
20 beverages; and

21 4. "Low-point beer" means low-point beer as defined by Section  
22 163.2 of this title.

23 C. The gross receipts tax levied by this section shall be in  
24 addition to the excise tax levied in Section 163.3 of this title,

1 the excise tax levied in Section 553 of this title, the sales tax  
2 levied in the Oklahoma Sales Tax Code and to any municipal or county  
3 sales taxes.

4 D. The gross receipts tax levied by this section is hereby  
5 declared to be a direct tax upon the receipt of consideration for  
6 any charges for admission to a mixed beverage establishment or  
7 retail dealer establishment as provided in paragraph 4 of subsection  
8 A of this section, for the sale, preparation or service of mixed  
9 beverages, low-point beer, ice, and nonalcoholic beverages to be  
10 mixed with alcoholic beverages and low-point beer, and the total  
11 retail value of complimentary or discounted mixed beverages and low-  
12 point beer.

13 E. The total of the retail sale price received for the sale,  
14 preparation or service of mixed beverages, low-point beer, ice, and  
15 nonalcoholic beverages to be mixed with alcoholic beverages and low-  
16 point beer shall be the total gross receipts for purposes of  
17 calculating the sales tax levied in the Oklahoma Sales Tax Code.

18 SECTION 13. REPEALER 37 O.S. 2011, Section 576, as last  
19 amended by Section 12 of this act, is hereby repealed.

20 SECTION 14. REPEALER 68 O.S. 2011, Section 402-2, is  
21 hereby repealed.

22 SECTION 15. Section 11 of this act shall become effective July  
23 1, 2018.

24

1 SECTION 16. Section 13 of this act shall become effective  
2 October 1, 2018.

3

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