

OKLAHOMA TAX COMMISSION

**REVENUE IMPACT STATEMENT AND/OR ADMINISTRATIVE IMPACT STATEMENT
SECOND REGULAR SESSION, FIFTY-EIGHTH OKLAHOMA LEGISLATURE**

DATE OF IMPACT STATEMENT: 4/11/2022 [REVISED]

BILL NUMBER: HB 3083 **STATUS AND DATE OF BILL:** Engrossed 3/21/22

AUTHORS: House Hilbert Senate Montgomery

TAX TYPE (S): MMJ & Sales **SUBJECT:** Apportionment

PROPOSAL: Amendatory

Engrossed HB 3083 proposes to amend 63 O.S. § 426 and 68 O.S. § 1353, modifying apportionment of the 7% tax on retail medical marijuana sales.

EFFECTIVE DATE: Emergency – July 1, 2022

REVENUE IMPACT:

Insert dollar amount (plus or minus) of the expected change in state revenues due to this proposed legislation.

FY 23: None.

April 11, 2022
DATE

Rick Miller
DIVISION DIRECTOR

bdf & mg

4/11/2022
DATE

Huan Gong
HUAN GONG, ECONOMIST

4/12/2022
DATE

Joseph P. Boyer
FOR THE COMMISSION

The revenue impact provided herein is an estimate of the potential impact on the collection or apportionment of tax revenues affected by the proposed legislation. It is not intended to be an estimate of the overall fiscal impact on the state budget if the proposed legislation is enacted.

ATTACHMENT TO REVENUE IMPACT – HB 3083 [Engrossed] Prepared 4/11/2022

Engrossed HB 3083 proposes to amend 63 O.S. § 426 and 68 O.S. § 1353, modifying apportionment of the 7% tax on retail medical marijuana sales.

Currently, except for FY 22, tax proceeds are applied primarily to finance the Oklahoma Medical Marijuana Authority, and if proceeds exceed the budgeted amount for running the Authority, any surplus is apportioned as follows:

- 75% of the surplus to General Revenue Fund to be expended only for common education, including funding redbud school grants; and
- 25% of the surplus to the Oklahoma State Department of Health to be earmarked for drug and alcohol rehabilitation.

For FY 22, the first \$65 million of tax proceeds are apportioned as follows:

- 59.23% to the State Public Common School Building Equalization Fund;
- 34.62% to the Oklahoma Medical Marijuana Authority; and
- 6.15% to the Oklahoma State Department of Mental Health to be earmarked for drug and alcohol rehabilitation.

Any surplus collections are apportioned to the General Revenue Fund of the State Treasury.

In addition, for FY 2023 and each subsequent fiscal year, before any otherwise required apportionment is made to the General Revenue Fund, there will be apportioned to the State Public Common School Building Equalization Fund an amount, if any, as required by 70 O.S. § 3-104, not to exceed the state sales tax generated by medical marijuana sales in the preceding fiscal year, as reported by the Oklahoma Tax Commission (OTC).

Under the proposed amendment to 63 O.S. § 426, the 7% tax on retail medical marijuana sales will be appropriated as authorized by the Oklahoma Legislature. Beginning for FY 23 and each subsequent fiscal year, tax proceeds are apportioned as follows:

- 40.5% of the total proceeds to the Oklahoma Medical Marijuana Authority, not to exceed \$26.8 million per fiscal year;
- 44.625% of the total proceeds to the State Public Common School Building Equalization Fund for the purpose of funding redbud school grants, not to exceed per fiscal year the amount of redbud school grant funds awarded; and
- 14.875% of the total proceeds to the Department of Mental Health and Substance Abuse Services, not to exceed \$10 million per fiscal year.

Any surplus collections are apportioned to the General Revenue Fund of the State Treasury.

The proposed amendment to 68 O.S. § 1353 further requires that for fiscal year 2023 and each subsequent fiscal year, before any other otherwise required apportionment is made to the General Revenue Fund, amounts not to exceed the state sales tax generated by medical marijuana sales in the preceding fiscal year, as reported by the OTC, will be apportioned as follows:

- 40.5% of the total proceeds to the Oklahoma Medical Marijuana Authority, not to exceed \$15.2 million per fiscal year;
- 44.625% of the total proceeds to the State Public Common School Building Equalization Fund for the purpose of funding redbud school grants, not to exceed per fiscal year the amount of redbud school grant funds awarded; and

- 14.875% of the total proceeds to the Department of Mental Health and Substance Abuse Services, not to exceed \$5.5 million per fiscal year.

Any surplus collections are apportioned to the General Revenue Fund of the State Treasury.

Administrative Concerns:

- Regarding the proposed 7% medical marijuana apportionment changes, language governing FY 22 and prior fiscal year apportionment has been partially or wholly removed. 63 O.S. § 426.
- For both the 7% medical marijuana and sales tax apportionment it is unclear whether the statement “Any surplus amounts shall be remitted to the General Revenue Fund” applies to the subsection or preceding paragraph.
- Sales tax imposed on the retail sales of medical marijuana is not reported separately from sales tax on other items of tangible personal property. If the applicable section is not amended to allow the OTC to base apportionment on an estimate, the OTC will incur significant administrative costs to make the necessary reporting and revenue tracking system modifications.
- Current language of B.2. from 70 O.S. § 3-104 references amendments made pursuant to passage of SB 229 [2021] and is inconsistent with the apportionment revisions proposed herein.
- Further, it is unclear from the language of this proposal when and the manner in which the OTC is to be notified of the amount of redbud school grant funds awarded.

HB 3083 is not expected to impact collections attributable to retail sales of medical marijuana.