

ENROLLED HOUSE BILL NO. 2139
ENACTED BY THE FIRST REGULAR SESSION OF THE
43RD LEGISLATURE OF THE STATE OF OKLAHOMA
NUMBERED BY THE SECRETARY OF STATE

STATE QUESTION NUMBER 647
LEGISLATIVE REFERENDUM NUMBER 291

Received: May 22, 1992

An Act

ENROLLED HOUSE
BILL NO. 2139

BY: JOHNSON (Glen), HENSHAW,
and NIEMI of the HOUSE

and

CULLISON of the SENATE

AN ACT DIRECTING THE SECRETARY OF STATE TO REFER TO THE PEOPLE FOR THEIR APPROVAL OR REJECTION A PROPOSED ACT RELATING TO MEDICAL ASSISTANCE FUNDING AND DEPARTMENT OF HUMAN SERVICES PROGRAMS; PROVIDING FOR THE OKLAHOMA HEALTH CARE PROVIDER ACT; DEFINING TERMS; LEVYING CERTAIN TAXES AND PROVIDING PROCEDURES RELATED THERETO; PROVIDING FOR COLLECTION OF LEVIES; REQUIRING THE OKLAHOMA TAX COMMISSION AND THE DEPARTMENT OF HUMAN SERVICES TO PROMULGATE CERTAIN RULES; AUTHORIZING THE DEPARTMENT OF HUMAN SERVICES TO REQUEST CERTAIN WAIVERS; PROVIDING FOR SEVERABILITY; CREATING THE OKLAHOMA HEALTH CARE PROVIDER FUND; PROVIDING PROCEDURES RELATED TO THE FUND; CREATING A GRANT ASSISTANCE PROGRAM FOR CERTAIN NURSING FACILITY RESIDENTS; PROVIDING FOR ELIGIBILITY, APPLICATIONS, PAYMENTS, REPORTS AND PROCEDURES WITH REGARD TO THE GRANT PROGRAM; CREATING THE OKLAHOMA LONG-TERM CARE ASSISTANCE REVOLVING FUND; PROVIDING PROCEDURES RELATED TO THE FUND; CREATING THE INTERIM TASK FORCE ON STATE WELFARE AND MEDICAID REFORM; PROVIDING FOR MEMBERSHIP AND DUTIES OF THE TASK FORCE; PROVIDING FOR TERMINATION OF THE TASK FORCE; REQUIRING THE DEPARTMENT OF HUMAN SERVICES TO PERFORM CERTAIN DUTIES; PROVIDING FOR CODIFICATION AND NONCODIFICATION; PROVIDING AN EFFECTIVE DATE; PROVIDING A BALLOT TITLE; AND DIRECTING FILING.

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

SECTION 1. The Secretary of State shall refer to the people for their approval or rejection at the next general election, as and in the manner provided for by law, the following proposed statute.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7001 of Title 68, unless there is created a duplication in numbering, reads as follows:

Sections 2 through 13 of this act shall be known and may be cited as the "Oklahoma Health Care Provider Act".

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7002 of Title 68, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Health Care Provider Act:

1. "Commission" means the Oklahoma Tax Commission;
2. "Consumer" means the person who is ultimately responsible for the payment of the cost of prescription drugs which are sold by a

retail pharmacy. In the case of an insured person or an enrollee of a health maintenance organization as defined by Section 2503 of Title 63 of the Oklahoma Statutes who is or is not required to make a co-payment per prescription or refill, the insurer as defined by Section 103 of Title 36 of the Oklahoma Statutes or the health maintenance organization is deemed to be the consumer;

3. "Department" means the Department of Human Services;

4. "Health care provider" means hospitals, nursing facilities, intermediate care facilities for the mentally retarded, retail pharmacies and out-of-state pharmacies;

5. "Hospitals" means institutions licensed by the State Department of Health as a general or specialized hospital pursuant to Section 1-701 et seq. of Title 63 of the Oklahoma Statutes maintained primarily for the care and treatment of patients with disorders;

6. "Intermediate care facilities for the mentally retarded" means any home, establishment or institution licensed by the State Department of Health pursuant to Section 1-1901 et seq. of Title 63 of the Oklahoma Statutes or licensed by the Department of Human Services which offers or provides inpatient long-term care services on a twenty-four-hour basis to a limited category of persons requiring such services including but not limited to a facility providing health or habilitation services for mentally retarded or developmentally disabled persons;

7. "Medicaid" means the medical assistance program established in Title XIX of the Social Security Act and administered in this state by the Department of Human Services;

8. "Net patient revenues" means the gross revenue from inpatient and outpatient hospital services less deductions from revenue as identified under Medicare principles of reimbursement. These deductions result from the inability to collect payments from charges. The deductions include bad debts, contractual adjustments, uncompensated care, administrative courtesy, policy discounts and adjustments, restricted donations and grants for indigent care;

9. "Nursing facilities" means a home, an establishment or an institution licensed by the State Department of Health pursuant to Section 1-1901 et seq. of Title 63 of the Oklahoma Statutes which is primarily engaged in providing to residents:

- a. skilled nursing care related services for residents who require medical or nursing care,
- b. rehabilitation services for the rehabilitation of injured, disabled, or sick persons, or
- c. on a regular basis, health-related care and services to individuals who because of their mental or physical conditions require care and services beyond the level of care provided by a residential care home which can be made available to them only through a nursing facility;

10. "Out-of-state pharmacy" means any retail pharmacy that is licensed as a pharmacy by a state other than Oklahoma;

11. "Patient gross revenues" means gross revenue as identified under Medicare principles of reimbursement;

12. "Per patient day" means all resident bed days for which a nursing facility receives payment;

13. "Person" means any individual, company, partnership, joint venture, joint agreement, association (mutual or otherwise),

corporation, estate, trust, business trust, receiver or trustee appointed by the state or federal court, syndicate, this state, any county, city, municipality, or other political subdivision or agency of the state, or group or combination acting as a unit in the plural or singular number;

14. "Prescription drugs" means medicines or drugs prescribed for the treatment of human beings by a person licensed to prescribe the medicine or drugs. Prescription drugs shall not mean proprietary or patent medicines as defined by Section 353.1 of Title 59 of the Oklahoma Statutes;

15. "Purchase price" means the consideration paid or given or contracted to be paid or given by any person to the seller of prescription drugs for the prescription drugs purchased;

16. "Retail pharmacy" means a place licensed by the Oklahoma State Board of Pharmacy engaged in the role of outpatient prescription drugs, except a pharmacy whose net revenues are reported directly through hospital net patient revenues;

17. "Taxpayer" means any person liable to pay the tax levied in Section 9 of this act, or charged with the collection and remission thereof; and

18. "Total prescription drug sales" means the gross proceeds, as defined in Section 1352 of Title 68 of the Oklahoma Statutes, received for the sale of prescription drugs by retail pharmacies.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7003 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. There is hereby levied upon hospitals a tax of one and eighty-three one hundredths percent (1.83%) of net patient revenues.

B. The tax liability of hospitals shall be based upon the net patient revenue figures contained in the Medicare hospital cost report required to be filed with the Department of Human Services.

C. The monthly tax liability of a hospital shall be calculated by multiplying the net patient revenue by the tax levy specified in this section and dividing the product by twelve. The quotient is the monthly tax liability of the hospital.

D. The tax liability of a hospital for the period beginning December 1, 1992, through June 30, 1993, shall be determined using the Medicare hospital cost report for the 1991 calendar year based on the hospital's fiscal year ending in 1991. The tax liability for the fiscal year beginning July 1, 1993, and each fiscal year thereafter shall be determined using the latest calendar year Medicare hospital cost report based on the hospital's fiscal year ending in the same time period.

E. All revenues derived pursuant to subsection A of this section shall be placed to the credit of the Oklahoma Health Care Provider Fund.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7004 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided in this section, there is hereby levied upon nursing facilities a tax of Three Dollars (\$3.00) per patient day.

B. The tax liability of nursing facilities shall be based upon per patient day figures contained in a per patient day report hereby required to be filed with the Department of Human Services. This

report shall include days provided by nursing facilities with and without a Medicaid contract with the Department.

C. The monthly tax liability of a nursing facility shall be calculated by multiplying the patient day figure by the tax levy specified in this section and dividing the product by twelve. The quotient is the monthly tax liability of the nursing facility.

D. The tax liability of a nursing facility for the period beginning December 1, 1992, through June 30, 1993, shall be determined using the patient days reported to the Department of Human Services upon forms supplied by the Department for the fiscal year ending June 30, 1992. The tax liability for the fiscal year beginning July 1, 1993, and each fiscal year thereafter shall be determined using the latest calendar year patient day report received by the Department.

E. When auditing the number of per patient days, the Tax Commission shall compare the figures contained in the per patient day report filed with the Department of Human Services with the figures filed with the State Department of Health for the corresponding time period.

F. The cost of these taxes shall be an allowable cost for Medicaid purposes. The Department of Human Services shall make necessary payment adjustments to eligible providers for services rendered to Medicaid recipients.

G. The revenue derived pursuant to subsection A of this section shall be apportioned as follows:

1. Two Dollars and twenty-nine cents (\$2.29) from each three dollar per patient day tax levy shall be placed to the credit of the Oklahoma Health Care Provider Fund.

2. Seventy-one cents (\$0.71) from each three dollar per patient day tax levy shall be placed to the credit of the Oklahoma Long-Term Care Assistance Revolving Fund.

H. If the grant assistance program provided for in Section 15 of this act is disallowed by any federal agency, the tax levy on nursing facilities, during such time of disallowance, shall be Two Dollars and twenty-nine cents (\$2.29). Revenues from said tax levy shall be placed to the credit of the Oklahoma Health Care Provider Fund. If the disallowance is reversed, the provisions of subsections A and G of this section shall then become applicable.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7005 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. There is hereby levied upon intermediate care facilities for the mentally retarded a tax of ten percent (10%) of patient gross revenues.

B. The tax liability of intermediate care facilities for the mentally retarded shall be based upon a patient gross revenue report hereby required to be filed with the Department of Human Services.

C. The monthly tax liability of an intermediate care facility for the mentally retarded shall be calculated by multiplying the patient gross revenue by the tax levy specified in this section and dividing the product by twelve. The quotient is the monthly tax liability of the intermediate care facility for the mentally retarded.

D. The tax liability of an intermediate care facility for the mentally retarded for the period beginning December 1, 1992, through June 30, 1993, shall be determined using patient gross revenue

figures reported to the Department of Human Services upon forms supplied by the Department for the 1991 calendar year. The tax liability for the fiscal year beginning July 1, 1993, and each fiscal year thereafter shall be determined using the latest calendar year patient gross revenue report received by the Department.

E. The cost of these taxes shall be an allowable cost for Medicaid purposes. The Department of Human Services shall make necessary payment adjustments to eligible providers for services rendered to Medicaid recipients.

F. All revenues derived pursuant to subsection A of this section shall be placed to the credit of the Oklahoma Health Care Provider Fund.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7006 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The tax liability of hospitals, intermediate care facilities for the mentally retarded and nursing facilities shall be collected monthly as follows:

1. For those health care providers that receive Medicaid payments from the Department of Human Services that exceed the tax liability of the health care provider, the Department shall withhold from the Medicaid payments to the health care provider, an amount not to exceed the tax liability of the health care provider and forward the monies to the Oklahoma Tax Commission for deposit as provided for in this act;

2. For those health care providers that receive Medicaid payments from the Department of Human Services that do not cover the amount of the tax liability of the health care provider, the Department shall withhold the health care provider's Medicaid payment and forward the monies to the Oklahoma Tax Commission for deposit as provided for in this act. The Department shall notify the Commission of the amount of the tax still due and the Commission shall bill the health care provider for that amount; and

3. For those health care providers that receive no Medicaid payments from the Department of Human Services, the Department shall notify the Oklahoma Tax Commission of the amount of tax liability due from the health care provider. The Commission shall bill the health care provider for that amount.

B. All tax liabilities pursuant to Sections 4, 5 and 6 of this act shall be due the last day of each month and shall be delinquent if not received by the Oklahoma Tax Commission by the last day of the month following the month in which the tax is due. All amounts forwarded by the Department of Human Services to the Commission shall be considered timely paid.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7007 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. There is hereby levied upon retail pharmacies a tax of one and eight-tenths percent (1.8%) of total prescription drug sales.

B. The tax levied upon retail pharmacies pursuant to subsection A of this section shall be paid by the consumer to the retail pharmacy as trustee for and on account of this state. Each and every retail pharmacy in this state shall collect from the consumer the full amount of the tax levied by subsection A of this section, or an amount equal as nearly as possible or practicable to the average equivalent thereof. Every person required to collect any tax imposed by subsection A of this section, and in the case of a corporation,

each principal officer thereof, shall be personally liable for said tax.

C. Retail pharmacies shall add the tax imposed by subsection A of this section, or the average equivalent thereof, to the total prescription drug sales, and when added such tax shall constitute a part of such price or charge, shall be a debt from the consumer to the retail pharmacy until paid, and shall be recoverable at law in the same manner as other debts.

D. The cost of these taxes shall be an allowable cost for Medicaid purposes. The Department of Human Services shall make necessary payment adjustments to eligible providers for services rendered to Medicaid recipients.

E. A retail pharmacy who willfully or intentionally fails, neglects or refuses to collect the full amount of the tax levied by subsection A of this section, or willfully or intentionally fails, neglects or refuses to comply with the provisions of this act, or remits or rebates to a consumer, either directly or indirectly, and by whatsoever means, all or any part of the tax levied by subsection A of this section, or makes in any form of advertising, verbally or otherwise, any statement which implies that he is absorbing the tax, or paying the tax for the consumer by an adjustment of prices or at a price including the tax, or in any manner whatsoever, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than Five Hundred Dollars (\$500.00), and upon conviction for a second or other subsequent offense shall be fined not more than One Thousand Dollars (\$1,000.00), or incarcerated for not more than sixty (60) days, or both.

F. Any sum or sums collected or required to be collected pursuant to the tax levied in subsection A of this section shall be deemed to be held in trust for the State of Oklahoma, and, as trustee, the collecting retail pharmacy shall have a fiduciary duty to the State of Oklahoma in regard to such sums and shall be subject to the trust laws of this state. Any retail pharmacy who willfully or intentionally fails to remit the tax, after the tax levied by subsection A of this section was collected from the consumer, and appropriates the tax held in trust to his own use, or to the use of any person not entitled thereto, without authority of law shall be guilty of embezzlement.

G. The tax levied pursuant to subsection A of this section shall be due and payable on the first day of each month, except as herein provided, by any person liable to remit or pay any tax levied pursuant to subsection A of this section. For the purpose of ascertaining the amount of the tax payable under subsection A of this section, it shall be the duty of all retail pharmacies, on or before the 15th day of each month, to deliver to the Tax Commission, upon forms prescribed and furnished by it, reports signed under oath, showing the total prescription drug sales arising from all sales of prescription drugs during the preceding calendar month. Such reports shall show such further information as the Tax Commission may require to enable it to compute correctly and collect the tax levied in subsection A of this section. In addition to the information required on reports, the Tax Commission may request and the retail pharmacy must furnish any information deemed necessary for a correct computation of the tax levied in subsection A of this section. Such retail pharmacy shall compute and remit to the Tax Commission the required tax due for the preceding calendar month, the remittance or remittances of the tax to accompany the reports required by this section. If not filed on or before the 15th of such month, the tax shall be delinquent from such date. Reports timely mailed shall be considered timely filed. If a report is not timely filed, interest shall be charged from the date the report should have been filed until the report is actually filed.

H. It shall be the duty of every retail pharmacy required to make a report and pay any tax levied pursuant to subsection A of this section to keep and preserve suitable records of the gross daily sales of prescription drugs together with invoices of purchases and sales, bills of lading, bills of sale and other pertinent records and documents which may be necessary to determine the amount of tax due. All such records shall remain in Oklahoma and be preserved for a period of three (3) years, unless the Tax Commission, in writing, has authorized their destruction or disposal at an earlier date, and shall be open to examination at any time by the Tax Commission or by any of its duly authorized agents.

I. All revenues derived pursuant to the provisions of subsection A of this section shall be placed to the credit of the Oklahoma Health Care Provider Fund.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7008 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. There is hereby levied and there shall be paid by every person storing, using or otherwise consuming within this state prescription drugs purchased or brought into this state, a tax on the storage, use or other consumption of prescription drugs at the rate of one and eight-tenths percent (1.8%) of the purchase price of such prescription drugs. Prescription drugs purchased or brought into this state and subject to the tax levy provided for in this subsection shall not be subject to the tax levy provided for in Section 8 of this act. Prescription drugs purchased or brought into this state and which sales are reported by hospitals subject to the tax on net patient revenues pursuant to Section 4 of this act shall be exempt from the tax levy provided for in this subsection.

B. The tax levied by subsection A of this section is due and payable on the first day of each month for the preceding calendar month, and if not paid on or before the 15th day of each month shall thereafter be delinquent. Each taxpayer subject to the provisions of the tax levied pursuant to subsection A of this section shall, on or before the 15th day of every calendar month, file with the Tax Commission on forms to be furnished by the Tax Commission, a return verified by affidavit showing in detail the total purchase price of prescription drugs used by him within the state during the preceding calendar month subject to the tax levied pursuant to subsection A of this section and such other information as the Tax Commission may require. With each such return each taxpayer shall remit to the Tax Commission the amount of tax shown therein to be due. Reports timely mailed shall be considered timely filed. If a report is not timely filed, interest shall be charged from the date the report should have been filed until the report is actually filed.

C. All revenues derived pursuant to the provisions of subsection A of this section shall be placed to the credit of the Oklahoma Health Care Provider Fund.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7009 of Title 68, unless there is created a duplication in numbering, reads as follows:

There is hereby levied a tax of one and eight-tenths percent (1.8%) upon the total prescription drug sales or the purchase price of prescription drugs purchased from an out-of-state pharmacy which engages in business in this state. The tax shall be collected, reported and remitted or paid and apportioned in the same manner as the tax levied on retail pharmacies pursuant to Section 8 of this act.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7010 of Title 68, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Tax Commission and the Department of Human Services shall promulgate rules necessary to implement this act.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7011 of Title 68, unless there is created a duplication in numbering, reads as follows:

The Department of Human Services may request waivers from the United States Secretary of Health and Human Services with regard to exemptions or exclusions of health care providers from the provisions of Sections 4, 5, 6, 8, 9 and 10 of this act.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7012 of Title 68, unless there is created a duplication in numbering, reads as follows:

If any part of the Oklahoma Health Care Provider Act is found by a court of competent jurisdiction to be invalid, unconstitutional, or otherwise in violation of federal laws or federal regulations, that portion of the Oklahoma Health Care Provider Act shall be of no force and effect, and all other provisions shall be deemed valid and enforceable.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 220 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created in the State Treasury a fund to be known as the "Oklahoma Health Care Provider Fund". The fund shall consist of all monies apportioned to the fund by law. On the last business day of each month the State Treasurer shall transfer any monies in the fund to the Human Services Medical and Assistance Fund to be used for state funding for Medicaid, but such transfer shall not exceed any limitation provided for by law.

B. The Oklahoma Tax Commission shall keep a record of the source of the monies that are being deposited into the fund pursuant to the Oklahoma Health Care Provider Act.

C. The Department of Human Services shall report monthly on Medicaid expenditures by class of provider. The report shall include a comparison of revenues provided to each class of provider for the preceding year.

D. It is the intent of the Legislature that revenue generated by a provider class pursuant to this act shall be used to support the Medicaid program for that provider class.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 70 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created a grant assistance program to provide financial support for eligible individuals residing in nursing homes licensed by this state, which individuals do not have their nursing home care paid for, in whole or in part, by private insurance or by a federal, state or combined federal-state medical care program.

B. To be eligible to apply for a grant assistance payment under this section, an individual must meet the following qualifications:

1. The individual must have resided or be residing, after December 1, 1992, in a facility licensed by this state as a nursing

home. Residents in facilities certified as intermediate care facilities for the mentally retarded are not eligible; and

2. For each day for which grant assistance is sought, the individual's nursing home care must not have been paid for, in whole or in part, by private insurance or by a federal, state or combined federal-state medical care program.

C. An application for a grant assistance program payment must be made quarterly by the individual, or the legally authorized representative of the individual, on forms prescribed by the Department of Human Services. Said forms shall include a certification of the individual's annual income for the previous calendar year by the individual or the legally authorized representative of the individual, and shall include a certification by the nursing home of the number of days the individual has resided in the nursing home during the quarter. For the purpose of this section, annual income shall include income an individual receives including but not limited to wages, salaries, dividends, interest, social security benefits, pensions, annuities, royalties, rents, prizes, or awards in currency, checks, money orders, or electronic funds transfer that can be used to meet his or her needs for food, clothing, shelter, or other necessities. Application information is subject to verification by the Department of Human Services.

D. Applications shall be processed by the Department of Human Services quarterly with the last quarter adjusted based on available monies in the Oklahoma Long-Term Care Assistance Revolving Fund. Grants shall be awarded only to applicants with a annual income level of Thirty-five Thousand Dollars (\$35,000.00) or less. The grant amount per application period shall be Three Dollars (\$3.00) for each day the eligible applicant resided in the nursing home during the quarter.

E. If it is determined that payments are made to individuals in excess of that allowed in this section, the Department of Human Services is authorized to recover said excess monies so paid.

F. Grant payments under this section shall be made to the individual at least quarterly and forwarded to such person at the place of his or her residence.

G. The Department of Human Services is authorized to promulgate rules as necessary to implement the provisions of this section.

H. The Department shall make a quarterly report to the Governor, Speaker of the House of Representatives and the President Pro Tempore of the Senate of expenditures for grant assistance.

I. The Department of Human Services shall administer the provisions of this section, including, but not limited to, the ability to contract with other state agencies or entities to make payments or verify income as required by this section.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 71 of Title 56, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Department of Human Services to be designated the "Oklahoma Long-Term Care Assistance Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies apportioned to the fund by law. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department of Human Services for the purpose of implementing the provisions of Section 15 of this act, and an amount not to exceed that established by law, for the administrative expenses of operating the grant program. Said fund shall be made upon warrants issued by the State Treasurer against

claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 17. A. There is hereby created the Interim Task Force on State Welfare and Medicaid Reform. The Interim Task Force shall be composed of fifteen (15) members. Four members shall be appointed by the Speaker of the House of Representatives, four members shall be appointed by the President Pro Tempore of the Senate, and four members shall be appointed by the Governor. The members of the Interim Task Force shall be selected for outstanding knowledge and leadership in the areas of health care, Medicaid or human services. The appointed members of the Interim Task Force shall serve at the pleasure of the authority by whom appointed. The Chairman of the Human Services Committee of the Oklahoma House of Representatives, the Chairman of the Human Resources Committee of the State Senate, and the Cabinet Secretary of the Department of Health and Human Services shall be ex officio voting members of the Interim Task Force. The chairperson of the Interim Task Force shall be chosen by the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives jointly and shall be one of the fifteen appointed members.

B. The members of the Interim Task Force shall be appointed within thirty (30) days from the effective date of this section. The members shall be reimbursed their actual and necessary expenses as follows: Legislative members of the Interim Task Force shall receive reimbursement in lieu of lodging and meals in the amount of Twenty-five Dollars (\$25.00) per day and mileage as provided in the State Travel Reimbursement Act. Except for state agency employees, nonlegislative members of the Interim Task Force shall be reimbursed the same as legislative members. Any state agency employees appointed to the Interim Task Force shall be reimbursed by the employing agency. Such expenditures for all Interim Task Force members and other expenses incurred by the Interim Task Force in conducting this study shall be paid from monies of the Legislative Service Bureau.

C. The Interim Task Force shall be charged with the commission of a full and thorough study and evaluation of this state's current welfare and Medicaid systems and providing recommendations as to any needed areas of reform in order to:

1. Review Oklahoma's public assistance and medical assistance programs and to provide recommendations to the Governor, the Legislature and to the appropriate state boards and commissions for increasing efficiency, for long-term cost control, for reducing abuse and fraud, and for improving service delivery and the quality of care in programs offered by the state;

2. Formulate clear goals for the state's public assistance and medical assistance programs and develop recommendations for changes to the current programs that will enable these goals to be met. Said goals and recommendations shall be submitted to the Governor, Speaker of the House of Representatives and President Pro Tempore of the Senate;

3. Make recommendations for reducing the dependency of clients on public assistance programs. The Interim Task Force shall recommend specific law or policy changes that will enable recipients to become self-supporting;

4. Review all aspects of the state Medicaid plan and provide, by January 1, 1993, the Commission for Human Services proposed reforms that address efficiency, cost control and containment, quality of services delivered and the delivery of those services under the plan;

5. Provide a plan to the Commission for Human Services, by October 1, 1992, for a program of managed care for all AFDC recipients eligible for Medicaid throughout the state. In addition,

the Interim Task Force shall address managed care pilot projects for special populations not previously identified in this section which are categorically eligible for Medicaid;

6. Evaluate new and existing programs in relation to adopted goals. In making such evaluations, the Interim Task Force shall, to the extent that it is reasonably possible, develop outcome measurements for each program that encompass comparisons of costs and benefits of services;

7. Identify and evaluate alternative, non-traditional social and medical services and provide cost-benefit projections for adopting such alternatives;

8. Evaluate the public assistance and medical assistance services that are offered by the state and outline the possibilities or consequences of eliminating said services;

9. Develop recommendations related to medical cost containment measures including, but not limited to, utilization review programs and pre-certification requirements;

10. Review the health care purchases of the state and provide recommendations as to how the state, through better coordination with private and among state health care purchasers, can decrease the rate of health care inflation and improve administrative efficiency;

11. Review the state's mental health programs and make recommendations as to how the state can provide services more effectively and economically. The Interim Task Force shall consider the establishment of pilot mental health programs and shall make recommendations regarding the implementation of such programs;

12. Consider the availability of quality primary medical services in all parts of the state and make recommendations to ensure that state Medicaid plan policies recognize the goals and needs of local communities;

13. Provide recommendations to establish an evaluation designed to provide long-term programmatic and policy direction for all public assistance and medical assistance programs;

14. Develop an incentives program for reducing the state's reliance on costly services and encouraging appropriate alternatives; and

15. In coordination with the Division of Health Care Information of the State Department of Health, design a system for gathering, maintaining and utilizing data on health care that will enable the state to better direct health care policy.

D. The Legislative Service Bureau shall contract for the services of appropriate consultants or consulting firms expert in the field of health or human services to assist the Interim Task Force in the performance of its duties and responsibilities. The Interim Task Force shall select such consultants or contracted staff assistance on the basis of the lowest and best bid submitted in response to a request for proposal which shall be developed by the Interim Task Force.

E. The Commission for Human Services, the Department of Human Services and any other state agency shall fully cooperate with all requests made by the Interim Task Force. With funds specifically appropriated for this purpose, the Oklahoma House of Representatives and the Oklahoma State Senate may provide staff assistance to the Interim Task Force or may hire staff or contract for professional assistance as necessary to assist the Interim Task Force in the performance of its duties.

F. The Interim Task Force shall provide a written report to the Speaker of the House of Representatives and the President Pro Tempore of the Senate on or before December 31, 1992, detailing its findings and recommendations pursuant to the provisions of this section.

SECTION 18. The Interim Task Force shall terminate on June 30, 1994.

SECTION 19. By January 1, 1993, the Commission for Human Services shall:

1. Develop and implement a on-line point-of-sale adjudication system for prescription drug sales. Said system shall be made available to all pharmacies participating in programs with the Department of Human Services. Any equipment or supplies necessary for a pharmacy to participate in the adjudication system shall be at the expense of the pharmacy; and

2. Develop an electronic benefit identification program as authorized by the United States Department of Agriculture to expediently and accurately determine the eligibility of and extent or limit of benefits of clients, and to service providers and other persons providing consumer-related goods to food stamp recipients and to recipients of other assistance programs.

SECTION 20. By January 1, 1993, the Director of the Department of Human Services shall present to the Commission for Human Services a plan to streamline eligibility practices of state-administered cash-assistance, social welfare, and medical benefits available to needy Oklahomans including Food Stamps, WIC Coupons, AFDC payments and Medicaid benefits. Said plan shall consider improving timeliness of claims, reducing paperwork, improving coordination of benefits on behalf of eligible populations, and reducing fraud.

SECTION 21. Sections 17 through 20 of this act shall not be codified in the Oklahoma Statutes.

SECTION 22. This act shall become effective December 1, 1992.

SECTION 23. The Ballot Title for the proposed act shall be in the following form:

BALLOT TITLE

Legislative Referendum No. _____ State Question No. _____

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

The measure enacts new laws. The laws impose taxes on health care providers to pay for health care programs. Under the laws, hospitals would pay a tax of 1.83% on some revenue. Nursing homes and similar facilities would pay \$3.00 per patient day. Some facilities for the mentally retarded would pay 10% of certain revenue. Retail pharmacies would collect a 1.8% tax on prescription drug sales. The laws create a grant program for some residents of nursing homes and similar facilities. The program is funded by the taxes on the nursing homes and similar facilities. The program would be run by the State Department of Human Services. The laws require that health care and assistance program reforms be developed. The laws create an interim task force to help develop those reforms and make other recommendations.

SHALL THIS ACT BE APPROVED BY THE PEOPLE?

YES, FOR THE ACT

NO, AGAINST THE ACT

SECTION 24. The Chief Clerk of the House of Representatives, immediately after the passage of this act, shall prepare and file one copy thereof, including the Ballot Title set forth in SECTION 23 hereof, with the Secretary of State and one copy with the Attorney General.

Passed the House of Representatives the 15th day of May, 1992.

Acting Ernie L. Brisson
Speaker of the House of
Representatives

Passed the Senate the 15th day of May, 1992.

ACTING Herb Rigel
President of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 18th
day of May, 1992,
at 2:09, o'clock P. M.
By: [Signature]

Approved by the Governor of the State of Oklahoma the 22 day of
May, 1992, at 10:28, o'clock A. M.

David I. Walters
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this 22nd
day of May, 1992,
at 11:34, o'clock A. M.
By: [Signature]