

1 HB120  
2 156076-1  
3 By Representative Hubbard (J)  
4 RFD: Ways and Means General Fund  
5 First Read: 14-JAN-14  
6 PFD: 01/10/2014

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8 SYNOPSIS: Currently, the State of Alabama levies a tax  
9 on various tobacco products.

10 This bill would add a \$1 user fee on a pack  
11 of cigarettes and provide for its distribution.

12 This bill would be known as the Medicaid  
13 Paygo Act.

14  
15 A BILL  
16 TO BE ENTITLED  
17 AN ACT

18  
19 To amend Section 40-25-2, Code of Alabama 1975,  
20 relating to the state tax on tobacco products; to create the  
21 Medicaid Paygo Act; and to add a user fee on cigarettes and  
22 provide for its distribution.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. This act shall be known and may be cited  
25 as the Medicaid Paygo Act.

26 Section 2. Section 40-25-2, Code of Alabama 1975, is  
27 amended to read as follows:

1           "§40-25-2.

2           "(a) In addition to all other taxes of every kind  
3 now imposed by law, every person, firm, corporation, club or  
4 association, within the State of Alabama, who sells or stores  
5 or receives for the purpose of distribution to any person,  
6 firm, corporation, club or association within the State of  
7 Alabama, cigars, cheroots, stogies, cigarettes, smoking  
8 tobacco, chewing tobacco, snuff, or any substitute therefor,  
9 either or all, shall pay to the State of Alabama for state  
10 purposes only a license or privilege tax which shall be  
11 measured by and graduated in accordance with the volume of  
12 sales of such person, firm, corporation, club or association  
13 in Alabama. There is hereby levied license or privilege taxes  
14 on articles containing tobacco enumerated in this article in  
15 the following amounts:

16           "(1) LITTLE CIGARS. Upon cigars of all descriptions  
17 made of tobacco, or any substitute therefor, and weighing not  
18 more than three pounds per 1,000, \$.04 for each ten cigars, or  
19 fractional part thereof.

20           "(2) CHEROOTS, STOGIES, CIGARS, ETC. Upon cigars of  
21 all descriptions made of tobacco, or any substitute therefor,  
22 retailing for three and one-third cents each or less, \$3 per  
23 1,000.

24           "(3) CIGARS. Upon cigars of all descriptions made of  
25 tobacco, or any substitute therefor, retailing for more than  
26 three and one-third cents each and not more than \$.05 each, \$6  
27 per 1,000.

1           "(4) CIGARS. Upon cigars of all descriptions made of  
2 tobacco, or any substitute therefor, retailing for more than  
3 \$.05 each and not exceeding \$.08 each, \$9 per 1,000.

4           "(5) CIGARS. Upon cigars of all descriptions made of  
5 tobacco, or any substitute therefor, retailing for more than  
6 \$.08 each and not exceeding \$.10 each, \$15 per 1,000.

7           "(6) CIGARS. Upon cigars of all descriptions made of  
8 tobacco, or any substitute therefor, retailing for more than  
9 \$.10 each and not exceeding \$.20 each, \$30 per 1,000.

10          "(7) CIGARS. Upon cigars of all descriptions made of  
11 tobacco, or any substitute therefor, retailing for more than  
12 \$.20 each, \$40.50 per 1,000.

13          "(8) CIGARETTES. a. Upon all cigarettes made of  
14 tobacco, or any substitute therefor, 21.25 mills on each such  
15 cigarette.

16           "b. In addition to the amount provided in paragraph  
17 a., a user fee of 50 mills is assessed on cigarettes made of  
18 tobacco or any substitute for tobacco.

19          "(9) SMOKING TOBACCO. Upon all smoking tobacco,  
20 including granulated, plug cut, crimp cut, ready rubbed and  
21 other kinds and forms of tobacco prepared in such manner as to  
22 be suitable for smoking in a pipe or cigarette, upon each  
23 package: weighing not more than one and one-eighth ounces, tax  
24 \$.04; over one and one-eighth ounces, not exceeding two  
25 ounces, tax \$.10; over two ounces, not exceeding three ounces,  
26 tax \$.16; over three ounces, not exceeding four ounces, tax

1       \$.21; \$.06 additional tax for each ounce or fractional part  
2       thereof over four ounces.

3               "(10) CHEWING TOBACCO. Upon all chewing tobacco  
4       prepared in such manner as to be suitable for chewing only and  
5       not suitable for smoking as described and taxed in subdivision  
6       (9) of this subsection: \$.015 per ounce or fractional part  
7       thereof.

8               "(11) SNUFF. Upon each can or package of snuff  
9       weighing not more than five-eighths ounces, one cent tax; over  
10       five-eighths ounces and not exceeding one and five-eighths  
11       ounces, \$.02 tax; over one and five-eighths ounces and not  
12       exceeding two and one-half ounces, \$.04 tax; over two and  
13       one-half ounces and not exceeding five ounces (cans, packages,  
14       gullets), \$.06 tax; over three ounces and not exceeding five  
15       ounces (glasses, tumblers, bottles), seven cents tax; over  
16       five ounces and not exceeding six ounces, \$.08 tax; weighing  
17       over six ounces, an additional \$.12 for each ounce or  
18       fractional part thereof.

19               "(b) Whenever in this article reference is made to  
20       any manufactured tobacco products, manufactured or imported to  
21       sell at a certain price, as the basis for computing the tax,  
22       it is intended to mean the ordinary, customary or usual price  
23       paid by the consumer for such tobacco products taxable under  
24       this article.

25               "(c) Whenever in this article reference is made to  
26       any manufactured tobacco products on which the tax is based on

1 weight, the weight as shown by the manufacturer or the federal  
2 internal revenue stamp shall apply.

3 "(d) When the retail or selling price is referred to  
4 in this article as the basis for computing the amount of  
5 stamps required on any article, it is intended to mean the  
6 retail or selling price of the articles before adding the  
7 amount of the tax.

8 "(e) When any articles or commodities subject to tax  
9 in this article are given as prizes on punch boards, shooting  
10 galleries, premiums, etc., the tax shall be based on the  
11 ordinary retail selling price of such articles.

12 "(f) The tax herein levied shall be paid to the  
13 state through the use of stamps as herein provided. However,  
14 every wholesaler, distributor, jobber, or retail dealer shall  
15 add the amount of the tax levied herein to the price of the  
16 tobacco or tobacco products sold, it being the purpose and  
17 intent of this provision that the tax levied is in fact a levy  
18 on the ultimate consumer or user with the wholesaler,  
19 distributor, jobber, or retail dealer acting merely as an  
20 agent of the state for the collection and payment of the tax  
21 to the state. Therefore, notwithstanding any exemptions from  
22 taxes which any such seller may now or hereafter enjoy under  
23 the Constitution or laws of this or any other state, or of the  
24 United States, he shall collect the tax imposed hereunder from  
25 the purchaser or consumer, and the amount of the tax shall  
26 constitute a debt from the purchaser or consumer to the seller  
27 until paid. It shall be unlawful for any person, firm,

1 corporation, association, or copartnership to fail or refuse  
2 to add to the sales price and collect from the purchaser the  
3 amount of the tax to be added to the sales price and collected  
4 from the purchaser hereunder. Stamps in denominations to the  
5 amount of the tax or in denominations specified pursuant to  
6 subsection (g) of this section shall be affixed to the box or  
7 other container from or in which tobacco products taxed by  
8 this section are normally sold at retail. The stamps shall be  
9 affixed in such a manner that their removal will require  
10 continued application of water or steam; and in case of  
11 cigars, cheroots, chewing tobacco and like manufactured  
12 tobacco products, where sales are made from the original  
13 container, the stamps shall be affixed to the box or container  
14 in such a way that the stamps shall be torn in two or  
15 mutilated when such containers or boxes are opened for the  
16 sale of the tobacco products. In the case of cigarettes,  
17 smoking tobacco, snuff and like products sold at retail in  
18 packages, the required amount of stamps to cover the tax shall  
19 be affixed to each individual package or container. All  
20 taxable tobaccos herein enumerated, when offered for sale,  
21 either at wholesale or retail, without having stamps affixed  
22 in the manner set out by this article, shall be subject to  
23 confiscation, in the manner provided for contraband goods as  
24 set out in this article.

25 "(g) The Commissioner of Revenue shall prepare and  
26 issue stamps in denominations for the amount of the tax  
27 imposed by this article provided that if the commissioner

1 determines that it is not economical for the state to have a  
2 stamp prepared and issued for one or more particular types of  
3 packages of tobacco products, then he may by regulation  
4 prescribe the use of a stamp in a denomination other than for  
5 the amount of the tax imposed with the difference between the  
6 amount of tax actually imposed and the amount of tax  
7 denominated by the stamp paid with the use of a monthly  
8 report; or he may require a monthly report without use of a  
9 stamp to report the amount of taxes due.

10 "(h) The increases levied by this section shall be  
11 exclusive and shall be in lieu of any other or additional  
12 local taxes and/or license fees, county or municipal, imposed  
13 on the sale or use of cigarettes and/or other tobacco  
14 products. Notwithstanding the foregoing, an act of the  
15 Legislature or an ordinance or resolution by a taxing  
16 authority passed or enacted on or before May 18, 2004,  
17 imposing a local tax and/or license fee shall remain  
18 operative, but no additional local tax and/or license fee may  
19 thereafter be levied on the sale of cigarettes and/or other  
20 tobacco products.

21 "(i) Local taxes and/or license fees, county or  
22 municipal, imposed on the sale or use of cigarettes shall be  
23 paid to the local government through the use of stamps affixed  
24 to the product as provided herein for the state tax. Provided,  
25 however, this requirement shall not be interpreted to require  
26 the Department of Revenue to prepare all stamps or to collect  
27 all local taxes. Local governments may contract with another

1       entity to collect their local cigarette tax but all local  
2       taxes must be collected as provided herein."

3               Section 3. Notwithstanding any other provision of  
4       Chapter 25, Title 40, Code of Alabama 1975, all revenue  
5       received from the 50 mill user fee added by this amendatory  
6       act shall be deposited into the State General Fund and is  
7       hereby allocated to the Medicaid Program.

8               Section 4. This act shall become effective on the  
9       first day of the third month following its passage and  
10       approval by the Governor, or its otherwise becoming law.