S T A T E O F N E W Y O R K

1501

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. WRIGHT -- Multi-Sponsored by -- M. of A. J. RIVERA -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law and the state finance law, in relation to the stock transfer tax and to creating the children's ounce of prevention fund

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. This act shall be known and may be cited as "the children's ounce of prevention act".

S 2. Subdivision 1 of section 280-a of the tax law, as amended by chapter 578 of the laws of 1981, is amended to read as follows:

1. Except as otherwise provided in subdivision fifteen of this section, where a tax shall have been paid under this article a portion of the amount paid shall be allowed as a rebate and such portion shall be paid to the taxpayer but only to the extent that moneys are available for the payment of such rebates in the stock transfer incentive fund established pursuant to section ninety-two-i of the state finance law. The portion of the amount of tax paid which is to be allowed as a rebate shall be thirty percent of the tax incurred and paid on transactions subject to the stock transfer tax occurring on and after October first, nineteen hundred seventy-nine and on or before September thirtieth, nineteen hundred eighty and sixty percent of the tax incurred and paid on such transactions occurring on and after October first, nineteen hundred eighty and on or before September thirtieth, nineteen hundred eighty-one and all of the amount of tax incurred and paid shall be allowed as a rebate on transactions subject to the stock transfer tax occurring on and after October first, nineteen hundred eighty-one AND ON OR BEFORE SEPTEMBER THIRTIETH, TWO THOUSAND NINE, AND NINETY-THREE AND THREE-QUARTERS PERCENT OF THE TAX INCURRED AND PAID SHALL BE ALLOWED AS

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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A REBATE ON SUCH TRANSACTIONS OCCURRING ON AND AFTER OCTOBER FIRST, TWO THOUSAND NINE.

S 3. Subdivisions 3 and 4 of section 92-b of the state finance law, subdivision 3 as amended by chapter 878 of the laws of 1977, subdivision 4 as amended by chapter 724 of the laws of 1979, are amended to read as follows:

3. The moneys received from such tax and other sources in such fund, after deducting the amount the commissioner of taxation and finance shall determine to be necessary for reasonable costs of the state tax commission in administering, collecting and distributing such tax, commencing with the fiscal year ending March thirty-first, nineteen hundred seventy-seven, shall be appropriated to (i) the municipal assistance corporation for the city of New York created pursuant to title three of article ten of the public authorities law in order to enable such corporation to fulfill the terms of any agreements made with the holders of its notes and bonds and to carry out its corporate purposes including the maintenance of the capital reserve fund and (ii) to the extent such moneys are not required by such corporation as provided in subdivision seven of section ninety-two-d of this [chapter] ARTICLE and, after deducting the amount such commissioner shall determine to be necessary for reasonable costs of the state tax commission in administering and making distributions in accordance with the provisions of section two hundred eighty-a of the tax law from the stock transfer incentive fund, to the stock transfer incentive fund created pursuant to section ninety-two-i of this [chapter] ARTICLE to enable rebates to be made from such fund under the provisions of section two hundred eighty-a of the tax law and (iii) to the extent such moneys are not required by such fund, as certified by the commissioner of taxation and finance, the balance shall be appropriated to the [city of New York, for the support of local government] CHILDREN'S OUNCE OF PREVENTION FUND ESTABLISHED PURSUANT TO SECTION NINETY-TWO-O OF THIS ARTICLE.

4. After the deduction of such costs of the state tax commission in administering, collecting and distributing such tax, the balances in the stock transfer tax fund so appropriated shall be distributed and paid on the last business day of September, December, March and June into the special account established for the municipal assistance corporation for the city of New York in the municipal assistance tax fund established pursuant to subdivision one of section ninety-two-d of this [chapter] ARTICLE, unless and to the extent the balances in such fund on each such payment day are not required by such corporation as provided in said subdivision seven of said section ninety-two-d in which case the balance not so required, if any, after the deduction of such costs of the state tax commission in administering and making distributions in accordance with the provisions of section two hundred eighty-a of the tax law from the stock transfer incentive fund shall be distributed and paid to the stock transfer incentive fund in the custody of the commissioner of taxation and finance established pursuant to section ninety-two-i of this [chapter] ARTICLE and unless and to the extent that the balances in the stock transfer tax fund on each such payment day are not required by the stock transfer incentive fund as provided in such section ninety-two-i of this [chapter] ARTICLE in which case the balance not so required, if any, shall be distributed and paid to the [chief fiscal officer of the city of New York to be paid into the treasury of the city to the credit of the general fund or paid by the commissioner of taxation and finance to such other account or fund as may be designated in writing by such chief fiscal officer at least ten business days prior to

such last day and on each such day, the] CHILDREN'S OUNCE OF PREVENTION FUND ESTABLISHED PURSUANT TO SECTION NINETY-TWO-O OF THIS ARTICLE. THE commissioner of taxation and finance shall certify to the comptroller the amount deducted for administering, collecting and distributing such tax during such quarterly period and shall pay such amount into the general fund of the state treasury to the credit of the state purposes fund therein. In no event shall any amount (other than the amount to be deducted for administering, collecting and distributing such tax) be distributed or paid from the stock transfer tax fund to any person other than the municipal assistance corporation for the city of New York unless and until the aggregate of all payments certified to the comptroller as required by such corporation in order to comply with its agreements with the holders of its notes and bonds and to carry out its corporate purposes, including the maintenance of the capital reserve fund, which remain unappropriated or unpaid to such corporation shall have been appropriated to such corporation and shall have been paid in full provided, however, that no person, including such corporation or the holders of its notes or bonds shall have any lien on such tax and such agreements shall be executory only to the extent of the balances available to the state in such fund. If the balances in such fund are not required by such corporation pursuant to the provisions of this subdivision, on each such last business day of September, December, March and June, the commissioner of taxation and finance shall certify to the comptroller the amount deducted for administering and making distributions in accordance with the provisions of section two hundred eighty-a of the tax law from the stock transfer incentive fund during such quarterly period and he shall pay such amount into the general fund of the state treasury to the credit of the state purposes fund therein. To the extent such moneys are not required by such corporation, as provided in subdivision seven of section ninety-two-d of this [chapter] ARTICLE, no amount thereof (other than such amount to be deducted for administering, collecting and distributing such tax and such costs in administering and making distributions in accordance with the provisions of section two hundred eighty-a of the tax law from the stock transfer incentive fund) shall be distributed or paid from the stock transfer tax fund other than to such stock transfer incentive fund OR THE CHILDREN'S OUNCE OF PREVENTION FUND in the custody of the commissioner of taxation and finance unless and until the aggregate of all payments certified to the comptroller by such commissioner pursuant to the provisions of such incentive fund as necessary to provide payments on account of rebates authorized pursuant to section two hundred eighty-a of the tax law which remain unappropriated or unpaid to such fund shall have been appropriated to such fund and shall have been paid in full provided, however, that no person, including any taxpayer under article twelve of the tax law or any member or dealer referred to in subdivisions two-a and six of section two hundred eighty-a of such law, shall have any lien on this fund or the stock transfer incentive fund.

S 4. The state finance law is amended by adding a new section 92-o to read as follows:

S 92-O. THE CHILDREN'S OUNCE OF PREVENTION FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE COMMISSIONER OF TAXATION AND FINANCE AND THE COMMISSIONER OF EDUCATION A SPECIAL FUND TO BE KNOWN AS THE CHILDREN'S OUNCE OF PREVENTION FUND.

2. SUCH FUND SHALL CONSIST OF MONEYS PAID THERETO FROM THE STOCK TRANSFER TAX FUND AS PROVIDED IN SUBDIVISION FOUR OF SECTION

NINETY-TWO-B OF THIS ARTICLE AND ALL OTHER MONEYS APPROPRIATED, CREDITED OR TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW.

3. THE MONEYS IN THIS FUND SHALL BE DIRECTED TO SCHOOL DISTRICTS WHICH RECEIVE EXTRAORDINARY NEEDS AID PURSUANT TO SECTION THIRTY-SIX HUNDRED TWO OF THE EDUCATION LAW, FOR SERVICES AND EXPENSES ASSOCIATED WITH PROGRAMS DESIGNED TO HELP STUDENTS IMPROVE ACHIEVEMENT IN ORDER TO MEET THE NEW HIGH LEARNING STANDARDS AND ASSESSMENTS ESTABLISHED BY THE BOARD OF REGENTS IN ACCORDANCE WITH A DISTRICT PLAN TO ASSIST STUDENTS THROUGH: (A) THE PROVISION OF DIRECT INSTRUCTIONAL SERVICES TO STUDENTS; (B) THE PROVISION OF APPROPRIATE PROFESSIONAL DEVELOPMENT SERVICES TO TEACHERS; (C) THE DEVELOPMENT AND SHARING OF INNOVATIVE EDUCATIONAL PRACTICES; AND (D) THE REDUCTION OF CLASS SIZE. THE COMMISSIONER OF EDUCATION SHALL PROVIDE FOR THE APPORTIONMENT OF MONEYS FROM THIS FUND DIRECTLY TO QUALIFYING SCHOOL DISTRICTS AS SHALL BE DETERMINED BY SUCH COMMISSIONER.

4. MONIES SHALL BE PAYABLE FROM THE FUND ON THE AUDIT AND WARRANT OF THE COMPTROLLER ON VOUCHERS APPROVED AND CERTIFIED BY THE COMMISSIONER OF EDUCATION.

5. TO THE EXTENT PRACTICABLE, THE COMMISSIONER OF EDUCATION SHALL ENSURE THAT ALL MONIES RECEIVED DURING A FISCAL YEAR ARE EXPENDED PRIOR TO THE END OF THAT FISCAL YEAR.

S 5. This act shall take effect September 1, 2009.