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

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2013-2014 Regular Sessions

I N A S S E M B L Y

May 16, 2013

Introduced by M. of A. CRESPO, DINOWITZ, MOYA, LUPARDO, SEPULVEDA, MOSLEY, RUSSELL, RIVERA, ROBERTS, CAHILL, RYAN, AUBRY, GOODELL, JOHNS -- Multi-Sponsored by -- M. of A. COOK, CROUCH, JAFFEE, MILLMAN, PEOPLES-STOKES, PERRY, SWEENEY -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Ways and Means in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law and the state finance law, in relation to allocating certain revenue to the tobacco use prevention and control program fund for programs to help smokers quit and to keep children from smoking

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

Section 1. Statement of legislative intent. The legislature finds that:

New York state has raised over twelve billion dollars in tobacco revenues over the past seven years, yet only three and one-half percent of these revenues have been spent on the state's Tobacco Use Prevention and Control Program.

In the year 2013, New York state spent only sixteen percent of the amount recommended by the Centers for Disease Control and Prevention on tobacco control. New York state was once a leader in tobacco control support spending, but now ranks twenty-first in the United States.

From the years 2007-2013, funding for the New York State Tobacco Use Prevention and Control Program was cut by more than half. This inadequate funding level for the program stands in contrast to promises made in 1998 by public officials to invest state dollars earned from the Tobacco Master Settlement Agreement in tobacco control programs.

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

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The Tobacco Master Settlement Agreement states that its purpose is to "achieve for the Settling States and their citizens significant funding for the advancement of public health" and "the implementation of important tobacco-related public health measures."

When more adequately funded, the State Tobacco Use Prevention and Control Program achieved successes in the effort to curb tobacco use. Teenage and adult tobacco use rates had fallen faster in New York state than in the United States as a whole.

Limited funding prevents the State Tobacco Use Prevention and Control Program from reaching the most vulnerable populations with the highest rates of smoking, individuals with limited income. A recent analysis by the American Cancer Society of New York and New Jersey found that lung cancer rates in upstate New York are higher than the national average.

Tobacco use takes a terrible toll on New York. In the year 2009, twenty-five thousand four hundred lives were prematurely lost due to tobacco use, with an estimated nine thousand six hundred ten of those deaths resulting from cancer. Tobacco costs New Yorkers over eight billion dollars in health care costs, including nearly two billion seven hundred thousand dollars in Medicaid expenditures.

The legislature therefore declares that New York state should fulfill the promise made by state policy makers at the time of the State Tobacco Master Settlement Agreement to use tobacco revenues for programs to help smokers quit and to keep children from smoking. The legislature further declares that funding for the Tobacco Use Prevention and Control Program should be incrementally increased on an annual basis over the next ten years to reach the level recommended by the United States Centers for Disease Control and Prevention that would be current by the year 2024.

S 2. Section 482 of the tax law, as amended by section 2 of part T of chapter 61 of the laws of 2011, is amended to read as follows:

S 482. Deposit and disposition of revenue. (a) All taxes, fees, interest and penalties collected or received by the commissioner under this article and article twenty-A of this chapter shall be deposited and disposed of pursuant to the provisions of section one hundred seventy-one-a of this chapter, AS ADDED BY CHAPTER SIXTY-NINE OF THE LAWS OF NINETEEN HUNDRED SEVENTY-EIGHT, AS AMENDED. (b) From the taxes, interest and penalties collected or received by the commissioner under sections four hundred seventy-one and four hundred seventy-one-a of this article, effective on and after March first, two thousand, forty-nine and fifty-five hundredths, and effective on and after February first, two thousand two, forty-three and seventy hundredths; and effective on and after May first, two thousand two, sixty-four and fifty-five hundredths; and effective on and after April first, two thousand three, sixty-one and twenty-two hundredths percent; and effective on and after June third, two thousand eight, seventy and sixty-three hundredths percent; and effective on and after July first, two thousand ten, seventy-six percent collected or received under those sections must be deposited to the credit of the tobacco control and insurance initiatives pool to be established and distributed by the commissioner of health in accordance with section twenty-eight hundred seven-v of the public health law. NOTWITHSTANDING THE PROVISIONS OF SECTION ONE HUNDRED SEVENTY-ONE-A OF THIS CHAPTER, AS ADDED BY CHAPTER SIXTY-NINE OF THE LAWS OF NINETEEN HUNDRED SEVENTY-EIGHT, AS AMENDED, FROM THE TAXES COLLECTED OR RECEIVED BY THE COMMISSIONER PURSUANT TO THIS ARTICLE, EFFECTIVE ON AND AFTER APRIL FIRST, TWO THOUSAND FIFTEEN, FIFTY-TWO MILLION DOLLARS AND, EFFECTIVE FROM APRIL FIRST, TWO THOUSAND SIXTEEN UNTIL APRIL FIRST, TWO THOUSAND TWENTY-FIVE AT LEAST FIVE PERCENT SHALL

ANNUALLY BE ADDITIONALLY CREDITED TO AND DEPOSITED IN THE TOBACCO USE PREVENTION AND CONTROL PROGRAM FUND ESTABLISHED PURSUANT TO SECTION EIGHTY-SIX OF THE STATE FINANCE LAW, PROVIDED HOWEVER, THAT EFFECTIVE APRIL FIRST, TWO THOUSAND TWENTY-FIVE THE TOTAL AMOUNT CREDITED TO AND DEPOSITED IN THE TOBACCO USE PREVENTION AND CONTROL PROGRAM FUND ESTABLISHED PURSUANT TO SECTION EIGHTY-SIX OF THE STATE FINANCE LAW SHALL NOT BE LESS THAN THE AMOUNT RECOMMENDED BY THE UNITED STATES CENTERS FOR DISEASE CONTROL AND PREVENTION ON SUCH DATE.

S 3. The state finance law is amended by adding a new section 86 to read as follows:

S 86. TOBACCO USE PREVENTION AND CONTROL PROGRAM FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE A SPECIAL FUND TO BE KNOWN AS THE "TOBACCO USE PREVENTION AND CONTROL PROGRAM FUND".

2. THE TOBACCO USE PREVENTION AND CONTROL PROGRAM FUND SHALL CONSIST OF MONEYS APPROPRIATED THERETO, AND FUNDS TRANSFERRED FROM ANY OTHER FUND OR SOURCES INCLUDING TAX REVENUE REQUIRED TO BE DEPOSITED THEREIN PURSUANT TO SECTION FOUR HUNDRED EIGHTY-TWO OF THE TAX LAW.

3. THE MONEYS RECEIVED BY SUCH FUND SHALL BE EXPENDED PURSUANT TO APPROPRIATION ONLY FOR THE PURPOSES OF IMPLEMENTING THE TOBACCO USE PREVENTION AND CONTROL PROGRAM PURSUANT TO SECTION THIRTEEN HUNDRED NINETY-NINE-II OF THE PUBLIC HEALTH LAW.

S 4. This act shall take effect April 1, 2015. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.