

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

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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:

1 Section 1. Statement of legislative intent. The legislature finds
2 that:
3 New York state has raised over twelve billion dollars in tobacco
4 revenues over the past seven years, yet only three and one-half percent
5 of these revenues have been spent on the state's Tobacco Use Prevention
6 and Control Program.
7 In the year 2013, New York state spent only sixteen percent of the
8 amount recommended by the Centers for Disease Control and Prevention on
9 tobacco control. New York state was once a leader in tobacco control
10 support spending, but now ranks twenty-first in the United States.
11 From the years 2007-2013, funding for the New York State Tobacco Use
12 Prevention and Control Program was cut by more than half. This inadequate
13 funding level for the program stands in contrast to promises made
14 in 1998 by public officials to invest state dollars earned from the
15 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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1 The Tobacco Master Settlement Agreement states that its purpose is to
2 "achieve for the Settling States and their citizens significant funding
3 for the advancement of public health" and "the implementation of impor-
4 tant tobacco-related public health measures."

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

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

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

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

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

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

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

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

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

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

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

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