

YOUTH ACCESS TOBACCO ENFORCEMENT
PROGRAM.

THE STATE OF NEW YORK
BILL TEXT
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1999 NY A.B. 9093

NEW YORK 223RD ANNUAL LEGISLATIVE SESSION
ASSEMBLY BILL 9093

STATE OF NEW YORK
9093

1999-2000 REGULAR SESSIONS
IN ASSEMBLY

DECEMBER 21, 1999

INTRODUCED BY COMMITTEE ON RULES -- (AT THE REQUEST OF M. OF A. SILVER,
GOTTFRIED, GRANNIS ARROYO, AUBRY, BEA, BOYLAND, BRAGMAN, BRENNAN,
BRODSKY,

CAHILL, CARROZZA, CLARK, A. COHEN, M. COHEN, COLMAN, COLTON, COOK,
CYMBROWITZ, DAVIS, DENIS, DIAZ, DINAPOLI, DINOWITZ, ENGLEBRIGHT,
ESPAILLAT,

EVE, FARRELL, GALEF, GANTT, GLICK, GREEN, GREENE, GRIFFITH, GROMACK,
GUNTHER,

HARENBERG, HIKIND, HILL, HOCHBERG, JACOBS, JOHN, KAUFMAN, KLEIN, KOON,
LAFAYETTE, LENTOL, LOPEZ, LUSTER, MARKEY, MAYERSOHN, MAZZARELLI,
MCLAUGHLIN,

MILLMAN, MORELLE, NOLAN, NORMAN, ORTIZ, PERRY, PHEFFER, PRETLOW,
RAMIREZ,

RHODD-CUMMINGS, RIVERA, SANDERS, SCARBOROUGH, SEDDIO, SIDIKMAN,
SMITH,

STRINGER, E. C. SULLIVAN, SWEENEY, TOCCI, TOKASZ, TOWNS, VANN,
WEINSTEIN,

WEISENBERG, WEPRIN, WRIGHT) -- (AT REQUEST OF THE GOVERNOR) -- READ
ONCE AND

REFERRED TO THE COMMITTEE ON HEALTH

BILL TRACKING REPORT: 1999 Bill Tracking NY A.B. 9093

1999 Bill Text NY A.B. 9093

VERSION: Enacted

VERSION-DATE: December 30, 1999

SYNOPSIS: AN ACT to enact the New York Health Care Reform Act of 2000 and to amend the public health law, the tax law, the state finance law, the social services law and the insurance law, chapter 81 of the laws of 1995 amending the public health law and other laws relating to medical reimbursement and welfare reform, chapter 474 of the laws of 1996 amending the

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education law and other laws relating to rates for residential health care facilities, chapter 629 of the laws of 1986 amending the social services law relating to establishing a demonstration program for the delivery of long-term home health care services to certain persons, chapter 41 of the laws of 1992 amending the public health law and other laws relating to health care providers, chapter 433 of the laws of 1997 amending the public health law and other laws relating to rates of reimbursement paid to hospitals and residential health care facilities, chapter 639 of the laws of 1996 enacting the Health Care Reform Act of 1996, chapter 703 of the laws of 1988 relating to enacting the expanded health care coverage act of 1988 and amending the insurance law and other laws relating to expanded health care and catastrophic health care coverage, chapter 600 of the laws of 1986 amending the public health law relating to development of pilot reimbursement programs for ambulatory care services, chapter 731 of the laws of 1993 amending the public health law and other laws generally relating to reimbursement, delivery and capital costs of ambulatory health care services and inpatient hospital services, chapter 520 of the laws of 1978 relating to providing for a comprehensive survey of health care financing, education and illness prevention and creating councils for the conduct thereof, chapter 600 of the laws of 1986 amending the public health law relating to the development of pilot reimbursement programs for ambulatory care services and chapter 753 of the laws of 1989 amending the public health law and other laws relating to general hospital reimbursement for inpatient and ambulatory surgery, in relation to extending the Health Care Reform Act of 1996; and to create a commission on financially distressed residential health care facilities; and to repeal section 2807-g of the public health law relating to the health work force retraining program; to repeal section 1399-ii of the public health law relating to youth tobacco prevention education; to repeal subdivision 2 of section 2958 of the public health law relating to rural health care; to repeal section 2804-b of the public health law relating to the state task force on clinical practice guidelines and medical technology assessment ; to repeal section 2807-bb of the public health law relating to the primary health care services grant program; to repeal section 2807-n of the public health law relating to health care quality and information grants; and to repeal section 2807-q of the public health law relating to grants for indigent care ambulatory surgical services and laboratory services and providing for the repeal of certain provisions upon expiration thereof

NOTICE:

[A> UPPERCASE TEXT WITHIN THESE SYMBOLS IS ADDED <A]

[D> Text within these symbols is deleted <D]

TEXT: 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, like the rest of the nation, continues to experience dramatic changes in the organization and delivery of health care services. These changes are occurring as a result of market forces such as the growth of managed care, the integration of providers across the continuum of health care, and the significant shift in the locus of care from inpatient to outpatient settings. In light of these changes in the market, the legislature finds that the hospital inpatient reimbursement methodology established pursuant to the New York health care reform act of 1996 should be continued and refined. The legislature finds that New York should continue its system of negotiated rates for all non-medicare and non-

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Section 46. Subparagraphs (iv) and (vi) of paragraph (a) of subdivision 3 of section 2807-j of the public health law, as added by chapter 639 of the laws of 1996, are amended and a new subparagraph (viii) is added to read as follows:

(iv) revenue received from bad debt and charity care and indigent care rate adjustments and pool distributions pursuant to section twenty-eight hundred seven-c of this article, general hospital indigent care pool distributions pursuant to section twenty-eight hundred seven-k of this article, health care services pool distributions pursuant to section twenty-eight hundred seven-c of this article, health care initiatives pool distributions pursuant to section twenty-eight hundred seven-l of this article, [D> and <D] professional education pool distributions pursuant to section twenty-eight hundred seven-m of this article [A> , TOBACCO CONTROL AND INSURANCE INITIATIVES POOL DISTRIBUTIONS PURSUANT TO SECTION TWENTY- EIGHT HUNDRED SEVEN-V OF THIS ARTICLE, AND HIGH NEED INDIGENT CARE ADJUSTMENT POOL DISTRIBUTIONS PURSUANT TO SECTION TWENTY-EIGHT HUNDRED SEVEN-W OF THIS ARTICLE <A] :

(vi) revenue received by a general hospital from a public hospital pursuant to an affiliation agreement contract for the delivery of health care services to such public hospital; [D> and <D]

[A> (VIII) EFFECTIVE OCTOBER FIRST, TWO THOUSAND, SUBJECT TO THE PROVISIONS OF PARAGRAPH (D) OF THIS SUBDIVISION, REVENUE RECEIVED FOR OR ON ACCOUNT OF REFERRED AMBULATORY CLINICAL LABORATORY SERVICES. <A]

Section 47. Clauses (C) and (E) of subparagraph (ii) of paragraph (b) of subdivision 3 of section 2807-j of the public health law, as added by chapter 639 of the laws of 1996, are amended and a new clause (G) is added to read as follows:

(C) revenue received from bad debt and charity care rate adjustments pursuant to paragraph (f) of subdivision two of section twenty-eight hundred seven of this article, health care services pool distributions pursuant to section twenty-eight hundred seven-c of this article, health care initiatives pool distributions pursuant to section twenty-eight hundred seven-l of this article. [D> and <D] professional education pool distributions pursuant to section twenty-eight hundred seven-m of this article [A> , TOBACCO CONTROL AND INSURANCE INITIATIVES POOL DISTRIBUTIONS PURSUANT TO SECTION TWENTY-EIGHT HUNDRED SEVEN-V OF THIS ARTICLE, AND HIGH NEED INDIGENT CARE ADJUSTMENT POOL DISTRIBUTIONS PURSUANT TO SECTION TWENTY-EIGHT HUNDRED SEVEN-W OF THIS ARTICLE <A] ;

(E) for a diagnostic and treatment center operated by a health maintenance organization operating in accordance with the provisions of article forty-four of this chapter or article forty-three of the insurance law, revenue received for or on account of services provided to subscribers of such health maintenance organization; [D> and <D]

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system of accounts showing the amount of revenue collected or received from each of the taxes imposed by such articles. The comptroller, after reserving the amount to pay such refunds or reimbursements, shall, on or before the tenth day of each month, pay into the state treasury to the credit of the general fund all revenue deposited under this section during the preceding calendar month and remaining to the comptroller's credit on the last day of such preceding month. (i) except that the comptroller shall pay to the state department of social services that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against past-due support pursuant to subdivision six of section one hundred seventy-one-c of this chapter. (ii) and except that the comptroller shall pay to the New York state higher education services corporation and the state university of New York or the city university of New York respectively that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against the amount of defaults in repayment of guaranteed student loans and state university loans or city university loans pursuant to subdivision five of section one hundred seventy-one-d and subdivision six of section one hundred seventy-one-e of this chapter. (iii) and except further that, notwithstanding any law, the comptroller shall credit to the revenue arrearage account, pursuant to section ninety-one-a of the state finance law, that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B, thirty-two or thirty-three of this chapter, and any interest thereon, which is certified to the comptroller by the commissioner as the amount to be credited against a past-due legally enforceable debt owed to a state agency pursuant to paragraph (a) of subdivision six of section one hundred seventy-one-f of this article, provided, however, he shall credit to the special offset fiduciary account, pursuant to section ninety-one-c of the state finance law, any such amount creditable as a liability as set forth in paragraph (b) of subdivision six of section one hundred seventy-one-f of this article, (iv) and except further that the comptroller shall pay to a non-obligated spouse that amount of overpayment of tax imposed by article twenty-two of this chapter and the interest on such amount which has been credited pursuant to section one hundred seventy-one-c, one hundred seventy-one-d, one hundred seventy-one-e or one hundred seventy-one-f of this article and which is certified to the comptroller by the commissioner as the amount due such nonobligated spouse pursuant to paragraph six of subsection (b) of section six hundred fifty-one of this chapter; and the comptroller shall deduct a like amount which the comptroller shall pay into the treasury to the credit of the general fund from amounts subsequently payable to the department of social services, the state university of New York, the city university of New York, or the higher education services corporation, or the revenue arrearage account or special offset fiduciary account pursuant to section ninety-one-a or ninety-one-c of the state finance law, as the case may be, whichever had been credited the amount originally withheld from such overpayment.

Section 84. Notwithstanding any inconsistent provision of law, rule or regulation, up to two hundred seventy-six million dollars (\$ 276,000,000) for the period January 1, 2000 through December 31, 2000; up to three hundred five million dollars (\$ 305,000,000) for the period January 1, 2001 through December 31, 2001; up to three hundred eighty-three million dollars (\$ 383,000,000) for the period January 1, 2002 through December 31, 2002; and up to three hundred sixty million dollars (\$ 360,000,000) for the period January 1, 2003 through June 30,

2003 shall be transferred by the state comptroller from the tobacco settlement fund to the tobacco control and insurance initiatives pool to be established and distributed by the commissioner of health in accordance with section 2807-v of the public health law. Such transfer shall be initiated upon direction by the state director of the budget.

Section 84-a. Section 92-x of the state finance law, as added by section 41 of part F of chapter 405 of the laws of 1999, is amended to read as follows:

Section 92-x. Tobacco settlement fund. 1. There is hereby established in the [D> joint <D] [A> SOLE <A] custody of the comptroller [D> and the commissioner of taxation and finance <D] a special fund, to be known as the "tobacco settlement fund".

2. Such fund shall consist of moneys received by the state, as a result of the settlement of litigation in the case of State of New York and Dennis C. Vacco v. Philip Morris, Incorporated, et al. (Supreme Court, New York County, Index No. 400361/97), pursuant to the escrow arrangement provided in the master settlement agreement entered into by, inter alia, the Attorney General of the State of New York and the Tobacco Industry, on November 23, 1998. [D> No <D] [A> ALL <A] monies shall [D> be expended from <D] [A> REMAIN IN <A] such fund [D> without an appropriation by the legislature <D] [A> UNLESS OTHERWISE DIRECTED BY STATUTE <A] .

Section 85. Section 482 of the tax law, as amended by chapter 860 of the laws of 1987, is amended to read as follows:

Section 482. Deposit and disposition of revenue. All taxes, fees, interest and penalties collected or received by the [D> tax commission <D] [A> COMMISSIONER <A] under this article and article twenty-A [A> OF THIS CHAPTER <A] shall be deposited and disposed of pursuant to the provisions of section one hundred seventy-one-a of this chapter. [A> FROM THE TAXES AND 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 PERCENT COLLECTED OR RECEIVED UNDER SUCH SECTIONS SHALL 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. <A]

Section 86. The public health law is amended by adding a new section 2807-v to read as follows:

→ [A> SECTION 2807-V. TOBACCO CONTROL AND INSURANCE INITIATIVES POOL DISTRIBUTIONS. 1. FUNDS ACCUMULATED IN THE TOBACCO CONTROL AND INSURANCE INITIATIVES POOL, INCLUDING INCOME FROM INVESTED FUNDS, SHALL BE DISTRIBUTED OR RETAINED BY THE COMMISSIONER IN ACCORDANCE WITH THE FOLLOWING: <A]

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INSURANCE LAW. <A]

[A> (H) FUNDS SHALL BE RESERVED AND ACCUMULATED FROM YEAR TO YEAR BY THE COMMISSIONER AND SHALL BE AVAILABLE, INCLUDING INCOME FROM INVESTED FUNDS, CONTINGENT UPON MEETING ALL FUNDING AMOUNTS ESTABLISHED PURSUANT TO PARAGRAPHS (A), (B), (C), (D), (E), (F), (L), (M), (N), (P), (Q), (R) AND (S) OF THIS SUBDIVISION, PARAGRAPH (A) OF SUBDIVISION NINE OF SECTION TWENTY-EIGHT HUNDRED SEVEN-J OF THIS ARTICLE, AND PARAGRAPHS (A), (I) AND (K) OF SUBDIVISION ONE OF SECTION TWENTY-EIGHT HUNDRED SEVEN-L OF THIS ARTICLE FOR PURPOSES OF SERVICES AND EXPENSES RELATED TO THE HEALTHY NEW YORK INDIVIDUAL PROGRAM ESTABLISHED PURSUANT TO SECTIONS FORTY-THREE HUNDRED TWENTY-SIX AND FORTY-THREE HUNDRED TWENTY-SEVEN OF THE INSURANCE LAW FROM THE TOBACCO CONTROL AND INSURANCE INITIATIVES POOL ESTABLISHED FOR THE FOLLOWING PERIODS IN THE FOLLOWING AMOUNTS: <A]

[A> (I) UP TO SIX MILLION DOLLARS FOR THE PERIOD JANUARY FIRST, TWO THOUSAND ONE THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND ONE; <A]

[A> (II) UP TO TWENTY-NINE MILLION DOLLARS FOR THE PERIOD JANUARY FIRST, TWO THOUSAND TWO THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND TWO; AND <A]

[A> (III) UP TO TWENTY-ONE MILLION DOLLARS FOR THE PERIOD JANUARY FIRST, TWO THOUSAND THREE THROUGH JUNE THIRTIETH, TWO THOUSAND THREE. <A]

[A> (I) FUNDS SHALL BE RESERVED AND ACCUMULATED FROM YEAR TO YEAR BY THE COMMISSIONER AND SHALL BE AVAILABLE, INCLUDING INCOME FROM INVESTED FUNDS, CONTINGENT UPON MEETING ALL FUNDING AMOUNTS ESTABLISHED PURSUANT TO PARAGRAPHS (A), (B), (C), (D), (E), (F), (L), (M), (N), (P), (Q), (R) AND (S) OF THIS SUBDIVISION, PARAGRAPH (A) OF SUBDIVISION NINE OF SECTION TWENTY-EIGHT HUNDRED SEVEN-J OF THIS ARTICLE, AND PARAGRAPHS (A), (I) AND (K) OF SUBDIVISION ONE OF SECTION TWENTY-EIGHT HUNDRED SEVEN-L OF THIS ARTICLE FOR PURPOSES OF SERVICES AND EXPENSES RELATED TO THE HEALTHY NEW YORK GROUP PROGRAM ESTABLISHED PURSUANT TO SECTIONS FORTY-THREE HUNDRED TWENTY-SIX AND FORTY-THREE HUNDRED TWENTY-SEVEN OF THE INSURANCE LAW FROM THE TOBACCO CONTROL AND INSURANCE INITIATIVES POOL ESTABLISHED FOR THE FOLLOWING PERIODS IN THE FOLLOWING AMOUNTS: <A]

[A> (I) UP TO THIRTY-FOUR MILLION DOLLARS FOR THE PERIOD JANUARY FIRST, TWO THOUSAND ONE THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND ONE; <A]

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[A> (II) UP TO SEVENTY-SEVEN MILLION DOLLARS FOR THE PERIOD JANUARY FIRST, TWO THOUSAND TWO THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND TWO; AND <A]

[A> (III) UP TO FIFTY-TWO MILLION DOLLARS FOR THE PERIOD JANUARY FIRST, TWO THOUSAND THREE THROUGH JUNE THIRTIETH, TWO THOUSAND THREE. <A]

[A> (J) FUNDS SHALL BE RESERVED AND ACCUMULATED FROM YEAR TO YEAR BY THE COMMISSIONER AND SHALL BE AVAILABLE, INCLUDING INCOME FROM INVESTED FUNDS, CONTINGENT UPON MEETING ALL FUNDING AMOUNTS ESTABLISHED PURSUANT TO PARAGRAPHS (A), (B), (C), (D), (E), (F), (L), (M), (N), (P), (Q), (R) AND (S) OF THIS SUBDIVISION, PARAGRAPH (A) OF SUBDIVISION NINE OF SECTION TWENTY-EIGHT HUNDRED SEVEN-J OF THIS ARTICLE, AND PARAGRAPHS (A), (I) AND (K) OF SUBDIVISION ONE OF SECTION TWENTY-EIGHT HUNDRED SEVEN-L OF THIS ARTICLE FOR PURPOSES OF SERVICES AND EXPENSES RELATED TO THE TOBACCO USE PREVENTION AND CONTROL PROGRAM ESTABLISHED PURSUANT TO SECTIONS THIRTEEN HUNDRED NINETY-NINE-II AND THIRTEEN HUNDRED NINETY-NINE-JJ OF THIS CHAPTER, FROM THE TOBACCO CONTROL AND INSURANCE INITIATIVES POOL ESTABLISHED FOR THE FOLLOWING PERIODS IN THE FOLLOWING AMOUNTS: <A]

[A> (I) UP TO THIRTY MILLION DOLLARS FOR THE PERIOD JANUARY FIRST, TWO THOUSAND THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND; <A]

[A> (II) UP TO FORTY MILLION DOLLARS FOR THE PERIOD JANUARY FIRST, TWO THOUSAND ONE THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND ONE; <A]

[A> (III) UP TO FORTY MILLION DOLLARS FOR THE PERIOD JANUARY FIRST, TWO THOUSAND TWO THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND TWO; AND <A]

[A> (IV) UP TO TWENTY MILLION DOLLARS FOR THE PERIOD JANUARY FIRST, TWO THOUSAND THREE THROUGH JUNE THIRTIETH, TWO THOUSAND THREE. <A]

[A> (K) FUNDS SHALL BE DEPOSITED BY THE COMMISSIONER, WITHIN AMOUNTS APPROPRIATED, AND THE STATE COMPTROLLER IS HEREBY AUTHORIZED AND DIRECTED TO RECEIVE FOR DEPOSIT TO THE CREDIT OF THE STATE SPECIAL REVENUE FUND-OTHER, HCRA TRANSFER FUND, HEALTH CARE SERVICES ACCOUNT, CONTINGENT UPON MEETING ALL FUNDING AMOUNTS ESTABLISHED PURSUANT TO PARAGRAPHS (A), (B), (C), (D), (E), (F), (L), (M), (N), (P), (Q), (R) AND (S) OF THIS SUBDIVISION, PARAGRAPH (A) OF SUBDIVISION NINE OF SECTION TWENTY-EIGHT HUNDRED SEVEN-J OF THIS ARTICLE, AND PARAGRAPHS (A), (I) AND (K) OF SUBDIVISION ONE OF SECTION TWENTY-EIGHT HUNDRED SEVEN-L OF THIS ARTICLE FOR PURPOSES OF SERVICES AND EXPENSES RELATED TO PUBLIC HEALTH PROGRAMS FROM THE TOBACCO CONTROL AND INSURANCE

(B) In the absence of the filing with the [D> tax commission <D] [A> COMMISSIONER <A] of satisfactory proof of a lesser cost of doing business of the agent making the sale, the cost of doing business by the agent shall be presumed to be seven-eighths of one percent of the basic cost of cigarettes for sales to wholesale dealers [A> PLUS ONE CENT PER PACKAGE OF TEN CIGARETTES, TWO CENTS PER PACKAGE OF TWENTY CIGARETTES AND IN THE CASE OF A PACKAGE CONTAINING MORE THAN TWENTY CIGARETTES, TWO CENTS AND ONE-HALF OF A CENT FOR EACH FIVE CIGARETTES IN EXCESS OF TWENTY CIGARETTES <A] , one and one-half percent of the basic cost of cigarettes for sales to chain stores [A> PLUS ONE CENT PER PACKAGE OF TEN CIGARETTES, TWO CENTS PER PACKAGE OF TWENTY CIGARETTES AND IN THE CASE OF A PACKAGE CONTAINING MORE THAN TWENTY CIGARETTES, TWO CENTS AND ONE-HALF OF A CENT FOR EACH FIVE CIGARETTES IN EXCESS OF TWENTY CIGARETTES <A] and three and seven-eighths percent of the basic cost of cigarettes with respect to sales to retail dealers [A> PLUS ONE CENT PER PACKAGE OF TEN CIGARETTES, TWO CENTS PER PACKAGE OF TWENTY CIGARETTES AND IN THE CASE OF A PACKAGE CONTAINING MORE THAN TWENTY CIGARETTES, TWO CENTS AND ONE-HALF OF A CENT FOR EACH FIVE CIGARETTES IN EXCESS OF TWENTY CIGARETTES AND THE FOREGOING CENTS PER PACK SHALL BE INCLUDED IN THE "COST OF DOING BUSINESS BY THE AGENT" REFERRED TO IN PARAGRAPHS TWO AND THREE OF THIS SUBDIVISION <A] .

Section 93. Section 1399-ii of the public health law is REPEALED and a new section 1399-ii is added to read as follows:

[A> SECTION 1399-II. TOBACCO USE PREVENTION AND CONTROL PROGRAM. 1. TO IMPROVE THE HEALTH, QUALITY OF LIFE, AND ECONOMIC WELL-BEING OF ALL NEW YORK STATE CITIZENS, THERE IS HEREBY ESTABLISHED WITHIN THE DEPARTMENT A COMPREHENSIVE STATEWIDE TOBACCO USE PREVENTION AND CONTROL PROGRAM. <A]

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[A> 2. THE DEPARTMENT SHALL SUPPORT TOBACCO USE PREVENTION AND CONTROL ACTIVITIES INCLUDING, BUT NOT LIMITED TO: <A]

[A> (A) COMMUNITY PROGRAMS TO PREVENT AND REDUCE TOBACCO USE THROUGH LOCAL INVOLVEMENT AND PARTNERSHIPS; <A]

[A> (B) SCHOOL-BASED PROGRAMS TO PREVENT AND REDUCE TOBACCO USE; <A]

[A> (C) MARKETING AND ADVERTISING TO DISCOURAGE TOBACCO USE; <A]

[A> (D) TOBACCO CESSATION PROGRAMS FOR YOUTH AND ADULTS; <A]

[A> (E) SPECIAL PROJECTS TO REDUCE THE DISPARITIES IN SMOKING PREVALENCE AMONG VARIOUS POPULATIONS; <A]

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[A> (F) RESTRICTION OF YOUTH ACCESS TO TOBACCO PRODUCTS: <A]

[A> (G) SURVEILLANCE OF SMOKING RATES; AND <A]

[A> (H) ANY OTHER ACTIVITIES DETERMINED BY THE COMMISSIONER TO BE NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION. <A]

[A> SUCH PROGRAMS SHALL BE SELECTED BY THE COMMISSIONER THROUGH AN APPLICATION PROCESS WHICH TAKES INTO ACCOUNT WHETHER A PROGRAM UTILIZES METHODS RECOGNIZED AS EFFECTIVE IN REDUCING SMOKING AND TOBACCO USE. ELIGIBLE APPLICANTS MAY INCLUDE, BUT NOT BE LIMITED TO, A HEALTH CARE PROVIDER, SCHOOLS, A COLLEGE OR UNIVERSITY, A LOCAL PUBLIC HEALTH DEPARTMENT, A PUBLIC HEALTH ORGANIZATION, A HEALTH CARE PROVIDER ORGANIZATION, ASSOCIATION OR SOCIETY, OR A PROFESSIONAL EDUCATION ORGANIZATION. <A]

[A> 3. (A) THERE SHALL BE ESTABLISHED A TOBACCO USE PREVENTION AND CONTROL ADVISORY BOARD TO ADVISE THE COMMISSIONER ON TOBACCO USE PREVENTION AND CONTROL ISSUES, INCLUDING METHODS TO PREVENT AND REDUCE TOBACCO USE IN THE STATE. <A]

→ [A> (B) THE BOARD SHALL CONSIST OF SEVENTEEN MEMBERS WHO SHALL BE APPOINTED AS FOLLOWS: NINE MEMBERS BY THE GOVERNOR; THREE MEMBERS BY THE SPEAKER OF THE ASSEMBLY; THREE MEMBERS BY THE TEMPORARY PRESIDENT OF THE SENATE AND ONE MEMBER EACH BY THE MINORITY LEADER OF THE SENATE AND MINORITY LEADER OF THE ASSEMBLY. ANY VACANCY OR SUBSEQUENT APPOINTMENT SHALL BE FILLED IN THE SAME MANNER AND BY THE SAME APPOINTING AUTHORITY AS THE ORIGINAL APPOINTMENT. THE CHAIRPERSON OF THE BOARD SHALL BE DESIGNATED BY THE GOVERNOR FROM AMONG THE MEMBERS OF THE BOARD. <A]

[A> (C) THE MEMBERS SHALL SERVE FOR TERMS OF TWO YEARS COMMENCING ON THE EFFECTIVE DATE OF THIS SECTION. MEMBERS OF THE BOARD SHALL RECEIVE NO COMPENSATION BUT SHALL BE REIMBURSED FOR REASONABLE TRAVEL AND OTHER EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES HEREUNDER. <A]

[A> (D) THE BOARD SHALL MEET AS OFTEN AS IT DEEMS NECESSARY, BUT NO LESS THAN FOUR TIMES A YEAR. NO NOMINEE TO THE BOARD SHALL HAVE ANY PAST OR CURRENT AFFILIATION WITH THE TOBACCO INDUSTRY OR ANY INDUSTRY, CONTRACTOR, AGENT, OR ORGANIZATION THAT ENGAGES IN THE MANUFACTURING, MARKETING, DISTRIBUTING, OR SALE OF TOBACCO PRODUCTS. THE BOARD SHALL BE APPOINTED IN FULL WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SECTION. <A]

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[A> (E) THE DEPARTMENT SHALL PREPARE AND SUBMIT TO THE BOARD A SPENDING PLAN FOR THE TOBACCO USE PREVENTION AND CONTROL PROGRAM AUTHORIZED PURSUANT TO THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION NO LATER THAN THIRTY DAYS AFTER THE SUBMISSION OF THE BUDGET TO THE LEGISLATURE. <A]

Section 94. Section 1399-jj of the public health law, as added by chapter 433 of the laws of 1997, is amended to read as follows:

Section 1399-jj. Evaluation requirements. 1. The commissioner shall evaluate the effectiveness of the efforts by state and local governments to reduce the use of tobacco products among minors [A> AND ADULTS <A]. The principal measurements of effectiveness shall include negative attitudes toward tobacco use and reduction of tobacco use among [D> a <D] [A> THE GENERAL POPULATION, AND <A] given target [D> population <D] [A> POPULATIONS <A].

2. The commissioner shall ensure that, to the extent practicable, the most current research findings regarding mechanisms to reduce and change attitudes toward tobacco use are used in tobacco education programs administered by the department.

3. To diminish tobacco use among minors [A> AND ADULTS <A], the commissioner shall ensure that, to the extent practicable, the following is achieved:

The department shall [D> develop a mechanism to evaluate local and state <D] [A> CONDUCT AN INDEPENDENT EVALUATION OF THE STATEWIDE <A] tobacco [D> education and cessation programs for minors <D] [A> USE PREVENTION AND CONTROL PROGRAM UNDER SECTION THIRTEEN HUNDRED NINETY-NINE-II OF THIS ARTICLE <A]. The purpose of this evaluation is to direct the most efficient allocation of state resources devoted to tobacco education and cessation to accomplish the maximum prevention and reduction of tobacco use among minors [A> AND ADULTS. SUCH EVALUATION SHALL BE PROVIDED TO THE GOVERNOR, THE MAJORITY LEADER OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY ON OR BEFORE SEPTEMBER FIRST, TWO THOUSAND ONE, AND ANNUALLY ON OR BEFORE SUCH DATE THEREAFTER <A]. The comprehensive evaluation design shall be guided by the following:

- (a) sound evaluation principles including, to the extent feasible, elements of controlled experimental methods;
- (b) an evaluation of the comparative effectiveness of individual program designs which shall be used in funding decisions and program modifications; and
- (c) an evaluation of other programs identified by state agencies, local lead agencies, and federal agencies.

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(3) Notwithstanding any other law, rule or regulation to the contrary, the commissioner of health is authorized to transfer and the comptroller is authorized to deposit, within amounts appropriated, those funds authorized for distribution in accordance with the provisions of paragraph (b-1) of subdivision 19 of section 2807-c of the public health law from monies accumulated and interest earned in the bad debt and charity care and capital statewide pool through an assessment charged to general hospitals pursuant to the provisions of subdivision 18 of section 2807-c of the public health law and those funds authorized for distribution in accordance with the provisions of paragraph (a) of subdivision 1 of section 2807-l of the public health law for the purposes of payment for administrative costs of the department of health related to the child health insurance plan program authorized pursuant to title [A] of article 25 of the public health law into the special revenue funds - other, miscellaneous special revenue fund - 339, child health insurance account established within the department of health.

(4) Notwithstanding any other law, rule, or regulation to the contrary, the commissioner of health is authorized to transfer and the comptroller is authorized to deposit within amounts appropriated those funds authorized for distribution in accordance with the provisions of section 906 of the public health law from monies accumulated and interest earned in the general health care services allowance statewide pool established pursuant to paragraph (d) of subdivision 14-b of section 2807-c of the public health law and those funds authorized for distribution in accordance with the provisions of paragraph (e) of subdivision 1 of section 2807-l of the public health law for the purpose of payment for administrative costs of the department of health related to the health occupation development and workplace demonstration program established pursuant to section 2807-h and the health workforce retraining program established pursuant to section 2807-g of the public health law into the special revenue funds-other, miscellaneous special revenue fund - 339, health occupation development and workplace demonstration program account established within the department of health.

Section 128. Notwithstanding any inconsistent provision of law, rule or regulation, the commissioner of health is authorized to transfer and the comptroller is authorized to deposit two million dollars (\$ 2,000,000), or so much thereof as may be necessary, annually of funds collected and accumulated and interest earned pursuant to section 2807-v of the public health law for the purpose of payment for administrative costs of the department of health related to administration of the state's tobacco control programs and cancer services provided pursuant to sections 2807-r and 1399-ii of the public health law into such accounts established within the department of health for such purposes.

Section 129. Section 59 of chapter 731 of the laws of 1993, amending the public health law and other laws relating to reimbursement, delivery and capital costs of ambulatory health care services and inpatient hospital services, as amended by chapter 639 of the laws of 1996, is amended to read as follows:

Section 59. Notwithstanding any inconsistent provision of law, the commissioner of health is authorized to transfer and deposit six hundred fifty thousand dollars (\$ 650,000), or so much thereof as may be necessary, annually of funds authorized for distribution in accordance with the