

SENATE NO. 657

AN ACT TO RESTORE THE TRUST BY RE-ESTABLISHING THE VOTER MANDATED HEALTH PROTECTION FUND AND THE TOBACCO SETTLEMENT FUND

*Be it enacted by the Senate and House of Representatives in General Court assembled,
And by the authority of the same, as follows:*

1 SECTION 1. Chapter 29 of the General Laws, as appearing in the 2000 Official Edition is hereby
2 amended by adding the following section:-

3 Section 2GG. There shall be established and set up on the books of the commonwealth a separate fund
4 to be known as the Health Protection Fund. There shall be credited to said fund all amounts collected
5 pursuant to section seven C of chapter sixty-four C, together with any penalties, forfeitures, interest,
6 costs of suits and fines collected in connection therewith, less all amounts refunded or abated in
7 connection therewith, all as determined by the commissioner of revenue according to his best
8 information and belief; any appropriation, grant, gift, or other contribution explicitly made to said
9 fund; and any income derived from the investment of amounts credited to said fund.

10 Amounts credited to said fund shall be expended, subject to appropriation, to supplement existing
11 levels of funding for the following purposes:

12 (a) for comprehensive school health education programs, to be administered by the department of
13 education; provided, however, that such programs shall incorporate information relating to the

14 hazards of tobacco use and such programs shall be approved by the department of public
15 health;

16 (b) for workplace-based and community smoking prevention and smoking cessation programs, for
17 tobacco-related public service counter marketing and for tobacco education programs, to be
18 administered by the department of public health;

19 (c) for the support of community health centers and their programs of prenatal and maternal care,
20 under the supervision of said department of public health; provided, however, that such
21 prenatal and maternal care programs incorporate smoking cessation assistance and guidance
22 regarding the harmful effects of smoking on fetal development; and

23 (d) for ongoing activities, by said department of public health, relating to the monitoring of
24 morbidity and mortality from cancer and other tobacco-related illnesses in the commonwealth.

25 In conjunction with the preparation of the commonwealth's comprehensive annual financial report, the
26 comptroller shall prepare and issue an annual report detailing the revenues and expenditures of said
27 fund.

28 SECTION 2. Said chapter 29, as so appearing, is hereby further amended by adding the following
29 section:-

30 Section 2XX. (a) There shall be established and set up on the books of the commonwealth a separate
31 fund to be known as the Tobacco Settlement Fund. There shall be credited to said fund: (1) starting in
32 fiscal year 2007 and thereafter, 50 per cent of all payments received by the commonwealth each year
33 pursuant to the master settlement agreement in the action known as Commonwealth of Massachusetts
34 v. Phillip Morris, Inc. et. Al., Middlesex Superior Court, No. 95-7378, 50 percent of any monies
35 generated by any other claim or action undertaken by the attorney general against a manufacturer of
36 cigarettes to recover the amount of medical assistance provided pursuant to chapter 118E or any other

37 claim or action taken by the attorney general against a manufacturer of cigarettes; (3) for fiscal year
38 2007 and thereafter 30 per cent of all payments received by the commonwealth each year pursuant to
39 the master settlement agreement in the action known as Commonwealth of Massachusetts v. Phillip
40 Morris, Inc. et. Al., Middlesex Superior Court, No. 95-7378, 30 percent of the earnings generated each
41 year from the Health Care Security Trust as certified by the comptroller pursuant to paragraph (f) of
42 section 3 of said chapter 29D, and 30 per cent of any monies generated by any other claim or action
43 undertaken by the attorney general against a manufacturer of cigarettes to recover the amount of
44 medical assistance provided pursuant to chapter 118E or any other claim or action taken by the
45 attorney general against a manufacturer of cigarettes; (4) any federal reimbursement received pursuant
46 to Title XIX and Title XXI of the Social Security Act, or a successor statute, as a result of the
47 operation of programs funded by the expenditures from said fund; (5) any fees, fines, premiums, co-
48 payments, assessments or other revenues collected as a result of the operation of programs funded by
49 expenditures from said fund; (6) any appropriation, grant, gift, or other contribution explicitly made to
50 said fund; and any income derived from the investment of amounts credited to said fund.

51 (b) Amounts credited to said fund shall be expended, subject to appropriations, to supplement existing
52 levels of funding for the purpose of funding health related services and programs including, but
53 not limited to, services and programs intended to control or reduce the use of tobacco in the
54 commonwealth.

55 (c) In conjunction with the preparation of the commonwealth's comprehensive annual financial
56 report, the comptroller shall prepare and issue an annual report detailing the revenues and
57 expenditures of said fund.

58 SECTION 3. Section 3 of Chapter 29D of the General Laws, as so appearing, is hereby amended by
59 striking out the words “General Fund” and inserting in place thereof, in each instance, the following
60 words:-

61 Tobacco Settlement Fund.

62 SECTION 4. Said section 3 of chapter 29D of the General Laws, as so appearing, is hereby further
63 amended in subsection (b) by adding at the end thereof the following:-

64 , which shall include, but not be limited to smoking prevention and tobacco control education
65 programs, youth smoking prevention and tobacco control programs, related enforcement activities of
66 local boards of health; tobacco tax enforcement, coordinated tobacco cessation resources, the Quit
67 Line or its equivalent and Quit Works or its equivalent; and regional tobacco reduction partnerships,
68 and provided further, for fiscal year 2007 and thereafter, such funding for tobacco control purposes
69 shall be not less than the amount recommended by the Centers for Disease Control and Prevention for
70 the then current tobacco control and prevention state funding.

71 SECTION 5. Said section 3 of said chapter 29D, as so appearing, is hereby further amended by
72 striking out paragraph (f) and inserting in place thereof the following paragraph:-

73 (f) Not later than October 31 of each year, the comptroller shall certify to the trustees, the fiscal
74 affairs division, the house and senate committees on ways and means, the joint committee on
75 health care finance and the advisory committee on health care and tobacco control the balance
76 in the Health Care Security Trust Fund and the total return generated by the principal of said
77 trust fund during the prior 12 month period ending on June 30. For fiscal years 2007 and
78 thereafter, the comptroller shall transfer 30 percent of said return, as so certified by the
79 comptroller in the previous October, from the Health Care Security Trust to the Tobacco
80 Settlement Fund, which shall be available for expenditure.

81 SECTION 6. Section 4 of said chapter 29D, as so appearing, is hereby amended by striking out the
82 words “General Fund” and inserting in place thereof the following words:-

83 Tobacco Settlement Fund

84 SECTION 7. Section 5 of said chapter 29D, as so appearing , is hereby amended by striking out
85 subsection (h) and inserting in place thereof the following subsection:-

86 (g) Beginning on the first Wednesday of October , 2007, and every 2 years thereafter, said
87 commission shall conduct a review to evaluate: (1) the present and future health needs of the
88 citizens of the commonwealth; (2) the financial stability of the trust in light of the return on
89 investment and any adjustment factors or other factors affecting the future stream of payments
90 from the tobacco settlement, based upon the recommendations by the board of trustees of said
91 trust; (3) whether, and to what extent, the present health needs of the commonwealth, when
92 balanced against future needs, warrant recommending a change in the allocation of monies
93 between the trust and the Tobacco Settlement Fund. After such review, the commission shall
94 prepare a report with its recommendations and shall file said report with the office of the
95 governor, the fiscal affairs division, the house and senate committees on ways and means, the
96 joint committee on health care finance and with the clerk of the house of representatives and
97 the clerk of the senate.

98 SECTION 7. Section 5 of said chapter 29D, as so appearing , is hereby amended by striking out
99 subsection (b) and inserting in place thereof the following subsection:-

100 Said committee shall consist of 20 members: one of whom shall be the secretary of health and human
101 services, or his designee, who shall be a nonvoting member; on of whom shall be the commissioner of
102 public health, or his designee, who shall be a nonvoting member; one of whom shall be the director of
103 the office of Medicaid, or his designee, who shall be a nonvoting member; and 13 of whom shall be

104 appointed by the governor: one member representing the Massachusetts Public Health Association;
105 one member representing Tobacco Free Mass; one member representing the American Cancer Society,
106 New England Division; one member representing the American Heart Association; one member
107 representing the Asthma and Allergy Foundation of America, New England chapter; one member
108 representing the American Lung Association; one member representing the Massachusetts Medical
109 Society; one member representing the Massachusetts Municipal Association; one member representing
110 the Massachusetts Association of Health Boards; one member representing the Massachusetts
111 Association of Health Plans; one member representing the Massachusetts League of Community
112 Health Centers; one member representing the Boston Public Health Commission; one member
113 representing the Springfield Health Department; and one member representing the Worcester Health
114 Department; and two members appointed by the speaker of the house, one of whom shall be a
115 representative of a public or private institution with expertise in tobacco cessation and control and one
116 of whom shall be a representative from a community disproportionately affected by tobacco health
117 disparities; and two members to be appointed by the senate president, one of whom shall be a
118 representative of a public or private institution with expertise in tobacco cessation and control and one
119 of whom shall be a representative from a community disproportionately affected by tobacco health
120 disparities. In the event that an organization, association or other entity or successor organization,
121 association or other entity named herein ceases to exist, the governor shall appoint a comparable
122 replacement appointee. All appointments shall be for term of three years. Once established, the
123 committee shall elect a chairperson and establish by-laws which will govern all aspects of its
124 operation.

125 Said committee shall monitor the performance and effectiveness of tobacco control programs and
126 services in the Commonwealth and shall make recommendations for the expansion or contraction of

127 existing services and/or the provision of new services. Said recommendations shall be based, to the
128 extent feasible and appropriate, upon an evaluation of scientific data and research, current tobacco use
129 and trends data, outcomes from current programs and services, and thee Best Practices Guidelines of
130 the Centers for Disease Control and Prevention for comprehensive tobacco control programs. Said
131 committee shall meet not less than quarterly and shall file an annual report at the end of each fiscal
132 year with the Office of the Governor, the Clerk of the House of Representatives and the Clerk of the
133 Senate. Said report shall include, but not be limited to, an analysis of revenues received that fiscal
134 year from the Tobacco Settlement Fund and tobacco taxes, the percent of such funds allocated to
135 tobacco control programs, trends in youth and adult smoking rates and tobacco-related disease, and
136 recommendations for implementing and improving programs and services.