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Cigarette Tax To Fund Brain and Stem Cell Research. Initiative Statute.

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January 10, 2014

VIA FEDEX

Office of the Attorney General
State of California
Attention: Ashley Johansson,
Initiative Coordinator
1300 I Street
Sacramento, California 95814

RECEIVED

JAN 14 2014

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Re: Request for Title and Summary of Proposed Initiative (14-0003)
California Brain Research and Tobacco Tax Act of 2014 Initiative

Dear Ms. Johansson:

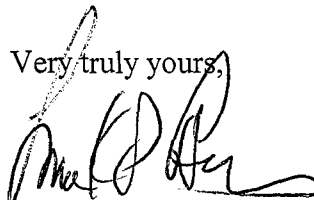
As the proponent of the subject statewide initiative measure, I am submitting to you an amended version of the "California Brain research and Tobacco Tax Act of 2014" and, pursuant to Section 10(d) of Article II of the California Constitution and Section 9001 of the California elections Code, am requesting that your office prepare a title and summary of the measure.

For ease of your review, the language changes are in Section 3(a) of the "Purpose and Intent" and in the following sections of the Act: 130161, subdivisions (e)(1), (e)(2) and (e)(3); 130163, subdivision (d)(2); 130164, subdivisions(c)(2) and new (c)(4); and 130165, subdivisions (b)(2) and new (b)(4).

Should you have any questions or require additional information, please do not hesitate to contact me.

Thank you for your attention in this matter.

Very truly yours,



Frank P. Barbaro

Text of Proposed Law

THE CALIFORNIA BRAIN RESEARCH AND TOBACCO TAX ACT OF 2014

STATUTORY AMENDMENT

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the California Constitution.

This initiative adds provisions to the Health and Safety Code and the Revenue and Taxation Code. New provisions proposed to be added are printed in *italic type* to indicate they are new.

SECTION 1. Title. This measure shall be known and may be cited as the "California Brain Research and Tobacco Tax Act of 2014."

SECTION 2. Findings and declarations. The people of California find and declare as follows:

(a) There is a compelling need in California to find new treatments and cures for conditions and diseases that affect the brain and central nervous system.

(b) California universities and research institutions lead the world in developing treatments and potential cures of known diseases, including cancer, Alzheimer's disease, Parkinson's disease, Huntington's disease, stroke, spinal cord injury, autism, schizophrenia, attention deficit hyperactivity disorder, post-traumatic stress disorder, and addiction to substances or behavior.

(c) California universities and research institutions are also engaged in cutting-edge science in brain mapping to advance the understanding of the structure and future of the human brain.

(d) Providing additional revenues to these California universities and research institutions will enhance their ability to make progress in all of these areas and provide job creating investment in California technology, science and biomedicine.

(e) Cigarette smoking and the use of other tobacco products has been determined to cause cancer in the brain and other organs.

(f) Cigarette smoking and the use of tobacco products has been linked to a wide range of other diseases and conditions that affect the brain and central nervous system, including Alzheimer's disease, dementia, and stroke.

(g) Cigarette smoking produces a rapid distribution of nicotine to the brain, which results in addiction. The California Brain Research and Tobacco Tax Act of 2014 will fund research and treatments into a wide range of brain disorders, including addiction to tobacco products and other substances.

(h) California taxes cigarettes at only \$0.87 per pack, and ranks 33rd among the states in tobacco tax rates, reflecting one of the lowest tobacco taxes in the United States.

(i) The California Legislature set the cigarette tax at \$0.12 per pack and has not raised it since 1994. California's voters have raised the cigarette tax through the initiative process twice – by \$0.25 per pack in 1988 (Proposition 99) and by \$0.50 per pack in 1998 (Proposition 10).

(j) In 1988, prior to the approval of Proposition 99, 23.7 percent of Californians smoked. As a result of the increased cigarette taxes and the anti-smoking education programs funded by Proposition 99 and Proposition 10 (in 1998), the percentage of Californians who smoke, as of 2010, was cut in half to under 12 percent.

(k) A recent study published in the New England Journal of Medicine states that the single most effective way to reduce smoking and the millions of deaths it causes is by dramatically raising the price of cigarettes. This is particularly important for reducing smoking among teenagers, as studies in the United States have shown that 90% of smokers started before they were 18 and the best way to reduce teenage smoking is to increase the cost of cigarettes.

(l) An increase in the tobacco tax will have an immediate effect on reducing smoking and is the most appropriate mechanism to fund services to prevent tobacco use, help people quit smoking and discourage many people from taking up smoking. These beneficial impacts are greatest among the young and the poor.

SECTION 3. Purpose and intent. It is the intent of the people of California in enacting this measure to increase the tax on cigarettes and tobacco products to fund the following:

(a) Grants and loans for biomedical, epidemiological, behavioral, health services, and other research in California to enhance the state of medical knowledge regarding the prevention, early detection, treatments, complementary treatments, rehabilitation and potential cures of brain disorders, diseases and dysfunctional conditions and diseases and dysfunctional conditions of the central nervous system, including, but not limited to, Alzheimer's disease, dementia, Parkinson's disease, Huntington's disease, stroke, spinal cord injury, cancer, autism, schizophrenia, attention deficit hyperactivity disorder, post-traumatic stress disorder and addiction to substances or behavior.

(b) Creation, staffing and equipping of California research facilities engaged in neurotechnological, biomedical, epidemiological, behavioral, health services, and other research whose primary focus is to identify and refine promising prevention, early detection, treatments, complementary treatments, rehabilitation and potential cures of brain disorders, diseases and dysfunctional conditions.

SECTION 4. California Brain Research and Tobacco Tax Act of 2014.

Division 108.5 (commencing with Section 130160) is added to the Health and Safety Code to read in its entirety as follows:

Division 108.5. California Brain Research and Tobacco Tax Act of 2014

130160. This division shall be known and may be cited as the "California Brain Research and Tobacco Tax Act of 2014."

130161. There is hereby created a program in the state for the purposes of funding the activities described in Section 130162 to promote, support and improve brain research. The programs authorized by this act shall be administered by the California Brain Research Citizen's Oversight Committee.

130162. The California Brain Research Trust Fund is hereby created in the State Treasury.

(a) The California Brain Research Trust Fund shall consist of moneys collected pursuant to the taxes imposed by Section 30132.2 of the Revenue and Taxation Code.

(b) The California Brain Research Trust Fund and all funds, subfunds or subaccounts of that fund are trust funds established solely to carry out the purposes of this act. Funds deposited into the California Brain Research Trust Fund are hereby continuously appropriated for the purposes of this act without regard to fiscal year, and shall not be subject to appropriation, reversion or transfer by the Legislature, the Governor or the Director of Finance for any other purposes and may not be loaned to the General Fund, or any other fund, for any purpose.

(c) Funds deposited in the California Brain Research Trust Account may be placed in the Pooled Money Investment account for investment only, and interest earned shall be credited to the fund and deposited, apportioned and expended only in accordance with the provisions of this act and its purposes.

(d) All costs to implement this act shall be paid from moneys deposited in the California Brain Research Trust Fund.

(e) Revenue deposited into the California Brain Research Trust Fund shall be allocated and appropriated as follows:

(1) 50 percent shall be deposited in a Research Subfund for the purposes of grants and loans to support research in California into brain mapping and into the identification, causes,

prevention, early detection, treatments, repair, rehabilitation and potential cures of brain disorders, diseases and dysfunctional conditions and diseases and dysfunctional conditions of the central nervous system, including, but not limited to, Alzheimer's disease, dementia, Parkinson's disease, Huntington's disease, stroke, spinal cord injury, cancer, autism, schizophrenia, attention deficit hyperactivity disorder, post-traumatic stress disorder and addiction to substances or behavior, which shall be awarded on the basis of scientific merit as determined by an open, competitive peer review process that assures objectivity, consistency and high quality. All qualified researchers, regardless of institutional affiliation, shall have equal access and opportunity to compete for the funds in this act. The peer review process for the selection of grants and loans awarded under this program shall be modeled on the process used by the National Institutes of Health in its grantmaking process. Not more than 15 percent of the funds deposited in the Research Subfund may be used for the purposes of grants and loans to provide facilities, including but not limited to those buildings, building leases and capital improvements and equipment, as may be found necessary and appropriate by the committee to further approved research.

(2) 30 percent shall be allocated to the California Institute for Regenerative Medicine, established by Article XXXV of the California Constitution and the statutes comprising the California Stem Cell Research and Cures Act (commencing with Section 125290.10 of the Health and Safety Code), to make grants and loans for stem cell research in California, with an emphasis on basic research, therapies, protocols and/or medical procedures that seek to cure, treat and/or substantially mitigate brain disorders, diseases and dysfunctional conditions and diseases and dysfunctional conditions of the central nervous system described in subparagraph (1). Not more than 6 percent of the funds allocated to the California Institute for Regenerative Medicine may be expended for the costs and expenses associated with general administration and administration of the authorized research. In the event the California Institute for Regenerative Medicine for any reason declines or is unable to receive this allocation, or in the event the California Institute for Regenerative Medicine no longer exists and operates following the effective date of the act adding this section, the allocation referenced in this subparagraph shall instead be deposited in the Research Subfund and used by the committee for the purposes described in subparagraph (1).

(3) 15 percent shall be deposited in a Tobacco and Substance Prevention and Cessation Subfund for carrying out comprehensive brain research in California to advance human understanding and knowledge about the causes, early detection, effective treatment, prevention and cessation of the use of cigarettes, other tobacco products, and other addictive substances and behaviors.

(4) 2 percent shall be deposited in an Administration Subfund for expenditures by the committee for the costs and expenses of the general administrative functions of the committee.

(5) 3 percent shall be deposited in an Unallocated Subfund for expenditures by the committee for any of the purposes of this act described in Section 130161 provided that none of these moneys shall be expended for the general administrative functions of the committee.

(6) Any moneys allocated and appropriated to any of the subfunds described in subparagraphs (1), (3), (4) and (5) that are not encumbered or expended within any applicable period prescribed by law shall (together with any accrued interest on the amount) revert to and remain in the same subfund for the next fiscal period. Notwithstanding the foregoing, the committee may transfer any unencumbered or expended moneys in the Administrative Subfund to any of the subfunds described in subparagraphs (1), (3) or (5) for the next fiscal period.

(f) All grants, gifts or bequests of money made to or for the benefit of the California Brain Research Citizen's Oversight Committee from public or private sources to be used solely for brain research programs shall be deposited into the California Brain Research Trust Fund and expended for the specific purpose for which the grant, gift or bequest was made. The amount of any such grant, gift or bequest shall not be considered in computing the amount allocated and appropriated to the committee pursuant to subdivision (e).

130163. (a) There is hereby established within the government of the state a California Brain Research Citizen's Oversight Committee. Except as otherwise indicated otherwise, all references in this act to the "committee" are to the California Brain Research Citizen's Oversight Committee. The committee shall consist of eleven voting members, appointed as follows:

(1) Four members appointed by the Governor.

(A) The terms of office for two of the initially appointed members, as designated by the Governor, shall commence on the effective date of this act and continue for 4 years after the effective date of this act; the terms of office for the other two initially appointed members shall commence on the effective date of this act and continue for 2 years after the effective date of this act. Thereafter, all appointments shall be for 4-year terms.

(B) No person who is required to register as a lobbyist under the provisions of any law of the United States, the State of California or any local government is eligible for appointment. An appointed member of the committee who registers with any governmental entity as a lobbyist is deemed to have resigned from the committee and his or her office is deemed vacant as of the date of registration as a lobbyist.

(C) Except for vacancies that occur as set forth in paragraph 1(B), such appointed members shall continue to serve until their replacement is selected. If a vacancy occurs within a term, the Governor shall appoint a replacement member to serve the remainder of the term within 30 days of the date of the vacancy.

(D) Members appointed by the Governor shall receive one hundred dollars (\$100) per day for each day occupied with attendance at public meetings of the committee and reimbursement for their usual and ordinary expenses, as provided by the general law.

(2) The president of the University of California. The president shall not be compensated for his or her service on the committee. The president may designate a person to attend meetings of the committee in his or her place, so long as that person is employed in the office of the president.

(3) *The chancellors of the University of California at San Francisco, Berkeley, Davis, San Diego, Los Angeles and Irvine. The chancellors shall not be compensated for their service on the committee. Each chancellor may designate a person to attend meetings of the committee in his or her place, so long as that person is employed at his or her respective campus and that employment provides background or experience in neurotechnological, biomedical, epidemiological, behavioral, health services, and other research regarding brain disorders, diseases and dysfunctional conditions.*

(b) *The members of the committee, by majority vote, shall annually select one of their number to serve as chair of the committee and preside over its meetings and perform any other duties as may be delegated by the committee.*

(c) *Actions of the committee may be taken only by a majority vote of a quorum of the committee.*

(d) *The committee is vested with the power and authority to do all of the following:*

(1) *Oversee the operations of the California Brain Research Trust Fund and its subfunds and subaccounts and to act as trustee of the trust funds created by this act.*

(2) *Appoint a chief executive officer. The chief executive officer shall have the power to appoint as employees as are necessary for the administration of the fund and the performance of those duties imposed upon the committee by law, except that, notwithstanding any other provision of law, no officer or employee of the committee shall be an officer, employee, director, independent contractors, or grant recipient of any company or business engaged in the manufacture, marketing, distribution or sale of cigarettes or tobacco products, or have received any grants or payments for services of any kinds from any such company or business during the past two years.*

(3) *Establish subfunds and subaccounts with the California Brain Research Trust Fund and apportion moneys in the fund into those subfunds and subaccounts, as is found necessary and appropriate for administration of this act.*

(4) *Establish a process for soliciting, reviewing, and awarding grants and loans for research, facilities and patient treatment.*

(5) *Establish and appoint committees and advisory bodies as it deems necessary and appropriate to carry out its duties.*

(6) *Develop annual and long-term strategic research and financial plans for the fund, including an annual budget for administration of this act.*

(7) *Make final decisions on the award of loans and grants, and to revoke or rescind loans and grants that do not conform to approved research standards.*

(8) *Employ auditors to prepare an annual financial audit of the fund's operations.*

(9) Issue, at least annually, public reports on the activities of the committee and the fund.

(10) Establish policies regarding intellectual property rights arising from research funded by the committee, which shall be consistent with those implemented by the University of California.

(11) Establish rules and guidelines for the operation of the fund and its employees.

(12) Periodically review the income and expenditures of the fund.

(13) Reimburse the State Board of Equalization for the cost of services required by this act.

(14) Pursuant to Section 19990 of the Government Code, adopt rules governing the application of this paragraph, including a provision to provide notice of its requirements to all officers and employees.

The following activities are inconsistent, incompatible or in conflict with the duties of members of the committee or its officers or employees:

(A) Using the prestige or influence of the state or the committee for the officer's or employee's private gain or advantage or the private gain of another.

(B) Using state time, facilities, equipment, or supplies for private gain or advantage.

(C) Using, or having access to, confidential information available by virtue of state employment for private gain or advantage or providing confidential information to persons to whom issuance of this information has not been authorized.

(D) Receiving or accepting money or any other consideration from anyone other than the state for the performance of his or her duties as a state officer or employee.

(E) Performance of an act in other than his or her capacity as a state officer or employee knowing that the act may later be subject, directly or indirectly to the control, inspection, review, audit, or enforcement by the officer or employee.

(F) Receiving or accepting, directly or indirectly, any gift, including money, or any service, gratuity, favor, entertainment, hospitality, loan, or any other thing of value from anyone who is doing or is seeking to do business of any kind with the officer's or employee's appointing authority or whose activities are regulated or controlled by the appointing authority under circumstances from which it reasonably could be substantiated that the gift was intended to influence the officer or employee in his or her official duties or was intended as a reward for any official actions performed by the officer or employee.

(G) Subject to any other laws, rules, or regulations as pertain thereto, not devoting his or her full time, attention, and efforts to his or her state office or employment during his or her hours of duty as a state officer or employee.

(15) Adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of this article, and to govern the procedures of the committee, in accordance with the provisions of the Administrative Procedure Act, Article 6 (commencing with Section 11340) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code.

(16) Perform all other acts necessary or appropriate in the exercise of its power, authority, and jurisdiction.

130164. Public Meetings.

(a) The committee shall hold at least two public meetings per year, one of which will be designated as the committee's annual meeting. The committee may hold additional meetings as it determines are necessary or appropriate.

(b) The Bagley-Keene Open Meeting Act, Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, shall apply to all meetings of the committee, except as otherwise provided in this section. The committee shall award all grants, loans and contracts in public meetings and shall adopt all governance, scientific, medical and regulatory standards in public meetings.

(c) The committee may conduct closed sessions as permitted by the Bagley-Keene Open Meeting Act, under Section 11126 of the Government Code. In addition, the committee may conduct closed sessions when it meets to consider or discuss:

(1) Matters involving information relating to patients or medical subjects, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(2) Matters involving confidential intellectual property, work product or business information, whether patentable or not, including, but not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information, which is not patented, which is known only to certain individuals who are using it to fabricate, produce, or compound an article of trade or a service having commercial value and which gives its user an opportunity to obtain a business advantage over competitors who do not know it or use it.

(3) Matters involving prepublication, confidential scientific research or data.

(4) Matters relating to peer review of applications for grants and loans. Final decisions of the committee on applications for grants and loans shall only be taken in open session.

(5) Matters concerning the appointment, employment, performance, compensation, or dismissal of committee officers and employees. Action on compensation of the committee's officers and employees shall only be taken in open session.

(d) The meeting required by subdivision (b) shall be deemed to be a special meeting for the purposes of Section 11125.4 of the Government Code.

130165. Public Records.

(a) The California Public Records Act, Article 1 (commencing with Section 6250) of Chapter 3.5 of Division 7 of Title 1 of the Government Code, shall apply to all records of the committee, except as otherwise provided in this section.

(b) Nothing in this section shall be construed to require disclosure of any records that are any of the following:

(1) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(2) Records containing or reflecting confidential intellectual property, work product or business information, whether patentable or not, including, but not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information, which is not patented, which is known only to certain individuals who are using it to fabricate, produce, or compound an article of trade or a service having commercial value and which gives its user an opportunity to obtain a business advantage over competitors who do not know it or use it.

(3) Prepublication scientific working papers or research data.

(4) Records relating to peer review of applications for grants and loans.

130166. Competitive Bidding.

(a) The committee shall, except as otherwise provided in this section, be governed by the competitive bidding requirements applicable to the University of California, as set forth in Article 1 (commencing with Section 10500) of Chapter 2.1 of Part 2 of Division 2 of the Public Contract Code.

(b) For all contracts, the committee shall follow the procedures required of the Regents by Article 1 (commencing with Section 10500) of Chapter 2.1 of Part 2 of Division 2 of the Public Contract Code with respect to contracts let by the University of California.

(c) The requirements of this section shall not be applicable to grants or loans approved by the committee.

(d) Except as provided in this section, the Public Contract Code shall not apply to contracts let by the committee.

130167. *Conflicts of Interest.*

(a) The Political Reform Act, Title 9 (commencing with Section 81000) of the Government Code, shall apply to the committee, except as provided in this section and in subdivision (e) of Section 125290.50.

(1) No member of the committee appointed by the Governor shall make, participate in making, or in any way attempt to use his or her official position to influence a decision to approve or award a grant, loan, or contract that financially benefits such member or his or her employer or that directly relates to services to be provided by such member or his or her employer, but such a member may participate in a decision to approve or award a grant, loan, or contract to a nonprofit entity in the same field as his or her employer.

(2) No member of the committee who is a member of the administration of any system of the University of California shall make, participate in making, or in any way attempt to use his or her official position to influence a decision to approve or award a grant, loan, or contract that financially benefits such member or that directly relates to services to be provided by such member, but such a member may participate in a decision to approve or award a grant, loan, or contract for the provision of services by other employees of any system of the University of California.

(3) A member of the committee may participate in a decision to approve or award a grant, loan, or contract to an entity for the purpose of research involving a disease from which a member or his or her immediate family suffers or in which the member has an interest as a representative of a disease advocacy organization.

(4) The adoption of standards is not a decision subject to this section.

(b) Service as a member of the committee by a member of the administration of any system of the University of California shall not, by itself, be deemed to be inconsistent, incompatible, in conflict with, or inimical to the duties of the committee member as a member of the administration of any system of the University of California and shall not result in the automatic vacation of either such office. Service as a member of the committee by a representative or employee of a disease advocacy organization, a nonprofit academic and research institution, or a life science commercial entity shall not be deemed to be inconsistent, incompatible, in conflict with, or inimical to the duties of the committee member as a representative or employee of that organization, institution, or entity.

(c) Section 1090 of the Government Code shall not apply to any grant, loan, or contract made by the committee except where both of the following conditions are met:

(1) The grant, loan, or contract financially benefits a member of the committee, directly relates to services to be provided by a member or, in the case of members appointed by the Governor, financially benefits the entity the member represents.

(2) *The member fails to recuse himself or herself from making, participating in making, or in any way attempting to use his or her official position to influence a decision on the grant loan or contract.*

130168. *The committee shall establish standards that require that all grants and loan awards be subject to intellectual property agreements that balance the opportunity of the State of California to benefit from the patents, royalties, and licenses that result from basic research, therapy development, and clinical trials with the need to assure that essential medical research is not unreasonably hindered by the intellectual property agreements.*

130169. *The committee shall establish standards to ensure that grantees purchase goods and services from California suppliers to the extent reasonably possible, in a good faith effort to achieve a goal of more than 50 percent of such purchases from California suppliers.*

130170. *Public and Financial Accountability Standards.*

(a) *The committee shall issue an annual report to the public which sets forth its activities, grants awarded and in progress, research accomplishments, and future program directions. Each annual report shall include, but not be limited to, the following: the number and dollar amounts of research, facilities and treatment grants; the administrative expenses of the committee, the fund, and the State Board of Equalization; a summary of research findings, including promising new research areas; an assessment of the relationship between the committee's grants and the overall strategy of its research programs; and a report of the committee's strategic research and financial plans.*

(b) *The committee shall annually commission an independent financial audit of its activities from a certified public accounting firm, which shall be provided to the State Controller, who shall review the audit and annually issue a public report of that review.*

(c) *There shall be a Citizen's Financial Accountability Oversight Committee chaired by the State Controller. This committee shall review the annual financial audit, the State Controller's report and evaluation of that audit, and the financial practices of the committee. The State Controller, the State Treasurer, the President pro Tempore of the Senate, the Speaker of the Assembly, and the chairperson of the California Brain Research Citizen's Oversight Committee shall each appoint a public member of the committee. Committee members shall have medical backgrounds and knowledge of relevant financial matters. The committee shall provide recommendations on the committee's financial practices and performance. The State Controller shall provide staff support. The committee shall hold a public meeting, with appropriate notice, and with a formal public comment period. The committee shall evaluate public comments and include appropriate summaries in its annual report. The California Brain Research Citizen's Oversight Committee shall provide funds for the per diem expenses of the committee members and for publication of the annual report.*

SECTION 5. Article 4 (commencing with Section 30132) is added to Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation Code to read as follows:

Article 4. California Brain Research Trust Fund Account

30132. Notwithstanding Section 30122, the California Brain Research Trust Fund is hereby created in the State Treasury for the exclusive purpose of funding those provisions of the California Brain Research and Tobacco Tax Act of 2014 that are set forth in Division 108.5 (commencing with Section 130160) of the Health and Safety Code.

30132.1. The following definitions apply for purposes of this article:

(a) "Cigarette" has the same meaning as in Section 30003, as it read on January 1, 2013.

(b) "Tobacco products" includes, but is not limited to, all forms of cigars, smoking tobacco, chewing tobacco, snuff, and any other articles or products made of, or containing at least 50 percent tobacco, but does not include cigarettes.

30132.2. (a) In addition to any other tax imposed upon the distribution of cigarettes by Article 1 (commencing with Section 30101), Article 2 (commencing with Section 30121), Article 3 (commencing with Section 30131), and any other taxes under this part, there shall be imposed an additional surtax upon every distributor of cigarettes at the rate of 50 mils (\$0.050) for each cigarette distributed.

(b)(1) In addition to any other tax imposed under this part, every dealer and wholesaler, for the privilege of holding or storing cigarettes for sale, use, or consumption, shall pay a floor stock tax for each cigarette in his or her possession or under his or her control in this state at 12:01 a.m. on the first day of the first calendar quarter commencing more than 90 days after the effective date of this section at the rate of 50 mils (\$0.050) for each cigarette.

(2) Every dealer and wholesaler shall file a return with the State Board of Equalization, on or before the first day of the first calendar quarter commencing more than 180 days after the effective date of this section, on a form prescribed by the board, showing the number of cigarettes in his or her possession or under his or her control at 12:01 a.m. on the first day of the first calendar quarter commencing more than 90 days after the effective date of this section. The amount of tax shall be computed and shown on the return.

30132.3. Notwithstanding any other provision of law, the tax created by the California Brain Research and Tobacco Tax Act of 2014 and the revenue derived therefrom, including investment interest, shall be considered trust funds, to be expended solely for the purposes set forth in the act and shall not be considered to be part of the General Fund, as that term is used in Chapter 1 (commencing with Section 16300) of Part 2 of Division 4 of Title 2 of the Government Code, and shall not be considered General Fund revenue for purposes of Section 8 of Article XVI of the California Constitution, and its implementing statutes.

30132.4. (a) The State Board of Equalization shall determine within one year of the operative date of this article, and annually thereafter, the effect that the additional tax imposed on cigarettes by this article, and the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, have on the consumption of cigarettes and tobacco products in

this state. To the extent that a decrease in consumption is determined by the State Board of Equalization to be a direct result of the additional tax imposed by this article, or the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, the State Board of Equalization shall determine the fiscal effect the decrease in consumption has on the Cigarette and Tobacco Products Surtax Fund created by Section 30122 (Proposition 99 as approved by the voters at the November 8, 1988 statewide general election), the Breast Cancer Fund created by Section 30461.6, the California Children and Families Trust Fund created by Section 30131 (Proposition 10 as approved by the voters at the November 3, 1998 statewide general election), and the portion of the General Fund created by Section 30101.

(b) The Controller shall transfer funds from the California Brain Research Trust Fund to the Cigarette and Tobacco Products Surtax Fund, the Breast Cancer Fund, the California Children and Families Trust Fund, and the General Fund, to offset the revenue decrease directly resulting from imposition of additional taxes by this article. Such transfers shall occur, and at such times, as determined necessary to further the intent of this subdivision.

SECTION 6. Effective date. The California Brain Research and Tobacco Tax Act of 2014 and all provisions thereof shall, unless otherwise expressly herein provided, take effect and become operative on the date the Secretary of State certifies the results of the election at which the California Brain Research and Tobacco Tax Act of 2014 was approved.

SECTION 7. Competing, regulatory alternative.

A. In the event that another measure (“competing measure”) appears on the same ballot as the California Brain Research and Tobacco Tax Act of 2014 that seeks to adopt or impose provisions or requirements that differ in any regard to, or supplement, the provisions or requirements contained in the California Brain Research and Tobacco Tax Act of 2014, the voters hereby expressly declare their intent that if both the competing measure and the California Brain Research and Tobacco Tax Act of 2014 receive a majority of votes cast, and if the California Brain Research and Tobacco Tax Act of 2014 receives a greater number of votes than the competing measure, the California Brain Research and Tobacco Tax Act of 2014 shall prevail in its entirety over the competing measure without regard to whether specific provisions of each measure directly conflict with each other.

B. In the event that both the competing measure and the California Brain Research and Tobacco Tax Act of 2014 receive a majority of votes cast, and the competing measure receives a greater number of votes than the California Brain Research and Tobacco Tax Act of 2014, the California Brain Research and Tobacco Tax Act of 2014 shall be deemed complementary to the competing measure. To this end, and to the maximum extent permitted by law, the provisions of the California Brain Research and Tobacco Tax Act of 2014 shall be fully adopted except to the extent that specific provisions contained in each measure are deemed to be in direct conflict with

each other on a “provision-by-provision” basis pursuant to *Yoshisato v. Superior Court* (1992) 2 Cal.4th 978.

SECTION 8. Further implementation. The Legislature shall pass all laws necessary to carry out the provisions of the California Brain Research and Tobacco Tax Act of 2014.

SECTION 9. Amendment. The California Brain Research and Tobacco Tax Act of 2014 may be amended only by a vote of two-thirds of the membership of both houses of the Legislature. All amendments to the California Brain Research and Tobacco Tax Act of 2014 shall be to further the California Brain Research and Tobacco Tax Act of 2014 and must be consistent with its purposes.

SECTION 10. Liberal construction. The provisions of the California Brain Research and Tobacco Tax Act of 2014 shall be liberally construed to effectuate its purpose and intent.

SECTION 11. Severability. If any provision of the California Brain Research and Tobacco Tax Act of 2014, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of the California Brain Research and Tobacco Tax Act of 2014 are severable.