

HOUSE BILL 751

Unofficial Copy  
J1

1999 Regular Session  
(91r0371)

**ENROLLED BILL**  
-- Appropriations/Budget and Taxation --

Introduced by **Delegates Rosenberg, Taylor, Busch, Dewberry, Doory, Guns,  
Howard, Kopp, Menes, Montague, Rawlings, and Vallario**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Cigarette Restitution Fund**

3 FOR the purpose of establishing a Cigarette Restitution Fund; providing for the  
4 distribution of certain revenues to the Fund; providing for expenditures from  
5 the Fund by appropriation; ~~requiring the Legislative Policy Committee to make~~  
6 ~~certain determinations; requiring the Legislative Policy Committee to submit~~  
7 ~~certain budget recommendations to the Governor;~~ prohibiting the Fund from  
8 being expended in violation of certain restrictions or limitations; requiring the  
9 Fund to be expended for certain purposes; requiring that priority be given to  
10 certain purposes; providing that disbursements from the Fund to certain  
11 programs be used in a certain manner; authorizing certain funds to be expended  
12 for any legal purpose; requiring the Governor to prepare a certain plan;  
13 requiring the Governor to submit a certain plan to the General Assembly by a  
14 certain date; requiring the Governor to include certain information in the  
15 annual State budget submission; requiring the Governor to report certain  
16 information; providing that this Act applies to certain funds estimated in a

1 certain State budget; and generally relating to the Cigarette Restitution Fund.

2 BY adding to

3 Article - State Finance and Procurement

4 Section 7-317

5 Annotated Code of Maryland

6 (1995 Replacement Volume and 1998 Supplement)

7 Preamble

8 WHEREAS, The State of Maryland has agreed to the settlement of litigation  
9 against tobacco manufacturers; and

10 WHEREAS, The basis of the tobacco settlement is injury to State finances  
11 caused by smoking-related illnesses of Maryland citizens; and

12 WHEREAS, The federal government may seek recoupment of a portion of the  
13 tobacco settlement revenues if those revenues are not used for certain purposes; and

14 WHEREAS, African American publications contain approximately 12% more  
15 cigarette advertising than other widespread publications and the density of tobacco  
16 billboard advertising is consistently highest in African American communities; and

17 WHEREAS, The General Assembly finds it is necessary to establish a process to  
18 account for and allocate the tobacco settlement funds in a manner that meets critical  
19 needs and retains State control of the funds; now, therefore,

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article - State Finance and Procurement**

23 7-317.

24 (A) THERE IS A CIGARETTE RESTITUTION FUND.

25 (B) (1) THE FUND IS A CONTINUING, NONLAPSING FUND THAT IS NOT  
26 SUBJECT TO ~~THE PROVISIONS OF~~ § 7-302 OF THIS SUBTITLE.

27 (2) THERE SHALL BE CREDITED TO THE FUND ALL REVENUES  
28 CONSISTING OF FUNDS RECEIVED BY THE STATE FROM ANY SOURCE ~~AS A DIRECT OR~~  
29 ~~INDIRECT RESULT OF~~ RESULTING, DIRECTLY OR INDIRECTLY, FROM ANY JUDGMENT  
30 AGAINST OR SETTLEMENT WITH TOBACCO PRODUCT MANUFACTURERS, TOBACCO  
31 RESEARCH ASSOCIATIONS, OR ANY OTHER PERSON IN THE TOBACCO INDUSTRY  
32 RELATING TO LITIGATION, ADMINISTRATIVE PROCEEDINGS, OR ANY OTHER CLAIMS  
33 MADE OR PROSECUTED BY THE STATE TO RECOVER DAMAGES FOR VIOLATIONS OF  
34 STATE LAW.

35 (C) THE TREASURER SHALL:

1 (1) INVEST AND REINVEST THE FUND IN THE SAME MANNER AS OTHER  
2 STATE FUNDS; AND

3 (2) CREDIT ANY INVESTMENT EARNINGS TO THE FUND.

4 (D) EXPENDITURES FROM THE FUND SHALL BE MADE BY AN APPROPRIATION  
5 IN THE ANNUAL STATE BUDGET.

6 (E) (1) THE FUND SHALL BE EXPENDED SUBJECT TO ANY RESTRICTIONS ON  
7 ITS USE OR OTHER LIMITATIONS ON ITS ALLOCATION THAT ARE:

8 (I) EXPRESSLY PROVIDED BY STATUTE;

9 (II) REQUIRED AS A CONDITION OF THE ACCEPTANCE OF FUNDS;  
10 OR

11 (III) DETERMINED TO BE NECESSARY TO AVOID RECOUPMENT BY  
12 THE FEDERAL GOVERNMENT OF MONEY PAID TO THE FUND.

13 (2) DISBURSEMENTS FROM THE FUND TO PROGRAMS FUNDED BY THE  
14 STATE OR WITH FEDERAL FUNDS ADMINISTERED BY THE STATE SHALL BE USED  
15 SOLELY TO SUPPLEMENT, AND NOT TO SUPPLANT, FUNDS OTHERWISE AVAILABLE  
16 FOR SUCH THE PROGRAMS UNDER FEDERAL OR STATE LAW AS PROVIDED IN THIS  
17 SECTION.

18 (F) (1) ~~ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE LEGISLATIVE POLICY~~  
19 ~~COMMITTEE SHALL:~~

20 ~~(I) ASSESS AND DETERMINE THE RESPECTIVE NEEDS OF THE~~  
21 ~~RESIDENTS OF THE STATE AND DEVELOP RECOMMENDATIONS FOR THE~~  
22 ~~ALLOCATION AND DISBURSEMENT OF FUNDS IN ACCORDANCE WITH THOSE NEEDS~~  
23 ~~SUBJECT TO THE PROVISIONS OF SUBSECTION (E) OF THIS SECTION; AND~~

24 ~~(II) SUBJECT TO SUBSECTION (E)(1) OF THIS SECTION AND~~  
25 ~~NOTWITHSTANDING ANY OTHER PROVISION OF LAW, PREPARE AND SUBMIT TO THE~~  
26 ~~GOVERNOR A BUDGET RECOMMENDATION FOR THE NEXT FISCAL YEAR THAT~~  
27 ~~INCLUDES THE ESTIMATED AVAILABLE FUNDS AND PROPOSED EXPENDITURES~~  
28 ~~FROM THE CIGARETTE RESTITUTION FUND SHALL BE MADE FOR THE FOLLOWING~~  
29 ~~PURPOSES:~~

30 ~~1-~~ (I) REDUCTION OF THE USE OF TOBACCO PRODUCTS BY  
31 MINORS;

32 ~~2-~~ (II) IMPLEMENTATION OF THE SOUTHERN MARYLAND  
33 REGIONAL STRATEGY-ACTION PLAN FOR AGRICULTURE ADOPTED BY THE  
34 TRI-COUNTY COUNCIL FOR SOUTHERN MARYLAND WITH AN EMPHASIS ON  
35 ALTERNATIVE CROP USES FOR AGRICULTURAL LAND NOW USED FOR GROWING  
36 TOBACCO;

1                                   3.     ~~(III)~~     PUBLIC AND SCHOOL EDUCATION CAMPAIGNS TO  
 2 DECREASE TOBACCO USE WITH INITIAL EMPHASIS ON AREAS TARGETED BY  
 3 TOBACCO MANUFACTURERS IN MARKETING AND PROMOTING CIGARETTE AND  
 4 TOBACCO PRODUCTS;

5                                   4.     ~~(IV)~~     SMOKING CESSATION PROGRAMS;

6                                   5.     ~~(V)~~     ENFORCEMENT OF THE LAWS REGARDING TOBACCO  
 7 SALES;

8                                   6.     ~~(VI)~~     THE PURPOSES OF THE MARYLAND HEALTH CARE  
 9 FOUNDATION UNDER TITLE 20, SUBTITLE 5 OF THE HEALTH - GENERAL ARTICLE;

10                                  7.     ~~(VII)~~    PRIMARY HEALTH CARE IN RURAL AREAS OF THE  
 11 STATE AND AREAS TARGETED BY TOBACCO MANUFACTURERS IN MARKETING AND  
 12 PROMOTING CIGARETTE AND TOBACCO PRODUCTS;

13                                  8.     ~~(VIII)~~   PREVENTION, TREATMENT, AND RESEARCH  
 14 CONCERNING CANCER, HEART DISEASE, LUNG DISEASE, TOBACCO PRODUCT USE,  
 15 AND TOBACCO CONTROL, INCLUDING OPERATING COSTS AND RELATED CAPITAL  
 16 PROJECTS; ~~AND~~

17                                  ~~(IX)~~    ~~DRUG SUBSTANCE ABUSE TREATMENT AND PREVENTION~~  
 18 ~~PROGRAMS; AND~~

19                                  ~~(X)~~     ~~PROGRAMS THAT ENHANCE PUBLIC CLASSROOM INSTRUCTION~~  
 20 ~~BASED ON PROVEN RESEARCH ON THE BEST EDUCATIONAL AND DEVELOPMENTAL~~  
 21 ~~PRACTICES;~~

22                                  ~~(XI)~~    ~~PROGRAMS WITH DEMONSTRATED SUCCESS IN IMPROVING~~  
 23 ~~OUTCOMES FOR CHILDREN AND YOUTH AS DEFINED BY THE MARYLAND~~  
 24 ~~PARTNERSHIP FOR CHILDREN AND YOUTH THROUGH ITS RESULTS-BASED DELIVERY~~  
 25 ~~SYSTEM MODEL; AND~~

26                                  9.     ~~(XII)~~   ~~(X)~~     ANY OTHER PUBLIC PURPOSE.

27                                  (2)     THE PROVISIONS OF THIS SUBSECTION MAY NOT BE CONSTRUED TO  
 28 AFFECT THE GOVERNOR'S POWERS WITH RESPECT TO A REQUEST FOR AN  
 29 APPROPRIATION IN THE ANNUAL BUDGET BILL.

30                                  ~~(3)~~     ~~IN MAKING BUDGET RECOMMENDATIONS AND ALLOCATING THE~~  
 31 ~~APPROPRIATIONS TO BE MADE FROM THE CIGARETTE RESTITUTION FUND, THE~~  
 32 ~~LEGISLATIVE POLICY COMMITTEE AND THE GOVERNOR SHALL APPROPRIATE~~  
 33 ~~INCLUDE IN THE ANNUAL BUDGET BILL AT LEAST 50% OF THE FUNDS ON THOSE~~  
 34 ~~PURPOSES ENUMERATED IN PARAGRAPH (1) (II) 1 (I) THROUGH 7 (XI) OF THIS~~  
 35 ~~SUBSECTION.~~

36                                  ~~(4)~~     ~~FUNDS AVAILABLE IN EXCESS OF THOSE APPROPRIATED INCLUDED~~  
 37 ~~IN THE ANNUAL BUDGET BILL BY THE GOVERNOR FOR THE PURPOSES IN~~

1 ~~PARAGRAPH (1) (II) (I) THROUGH (XI) OF THIS SUBSECTION MAY BE SPENT ON ANY~~  
 2 ~~OTHER PURPOSE PERMITTED BY LAW.~~

3 (G) (1) AMOUNTS MAY ONLY BE EXPENDED FROM THE FUND THROUGH  
 4 APPROPRIATIONS IN THE STATE BUDGET BILL AS PROVIDED IN THIS SUBSECTION.

5 (2) THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL  
 6 APPROPRIATIONS FROM THE FUND EQUIVALENT TO THE LESSER OF \$100,000,000 OR  
 7 90% OF THE FUNDS ESTIMATED TO BE AVAILABLE TO THE FUND IN THE FISCAL YEAR  
 8 FOR WHICH THE APPROPRIATIONS ARE MADE.

9 (3) FOR EACH FISCAL YEAR FOR WHICH APPROPRIATIONS ARE MADE, AT  
 10 LEAST 50% OF THE APPROPRIATIONS SHALL BE MADE FOR THOSE PURPOSES  
 11 ENUMERATED IN SUBSECTION (F)(1)(I) THROUGH (IX) OF THIS SECTION SUBJECT TO  
 12 THE REQUIREMENT OF SUBSECTION (E)(2) OF THIS SECTION.

13 (4) ANY ADDITIONAL APPROPRIATIONS, NOT SUBJECT TO PARAGRAPH  
 14 (3) OF THIS SUBSECTION, MAY BE MADE FOR ANY LAWFUL PURPOSE.

15 ~~(G) (H)~~ FOR EACH PROGRAM, PROJECT OR ACTIVITY SUPPORTED UNDER  
 16 SUBSECTION (F)(1) RECEIVING FUNDS APPROPRIATED UNDER SUBSECTION (G)(3) OF  
 17 THIS SECTION, THE GOVERNOR SHALL:

18 (1) DEVELOP APPROPRIATE STATEMENTS OF VISION, MISSION, KEY  
 19 GOALS, KEY OBJECTIVES, AND KEY PERFORMANCE INDICATORS AND REPORT THESE  
 20 STATEMENTS IN A DISCRETE PART OF THE STATE BUDGET SUBMISSION, WHICH  
 21 SHALL ALSO PROVIDE DATA FOR KEY PERFORMANCE INDICATORS; AND

22 (2) REPORT ANNUALLY, SUBJECT TO § 2-1246 OF THE STATE  
 23 GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY NO LATER THAN OCTOBER 1  
 24 ON:

25 (I) TOTAL FUNDS EXPENDED, BY PROGRAM AND SUBDIVISION, IN  
 26 THE PRIOR FISCAL YEAR FROM THE ACCOUNT FUND ESTABLISHED UNDER THIS  
 27 SECTION; AND

28 (II) THE SPECIFIC OUTCOMES OR PUBLIC BENEFITS RESULTING  
 29 FROM THAT EXPENDITURE.

30 SECTION 2. AND BE IT FURTHER ENACTED, That the Governor shall  
 31 prepare a statewide plan for accessing funds available under the Public Education  
 32 Fund and the Tobacco Enforcement Fund established under the Master Tobacco  
 33 Settlement Agreement. This plan shall be submitted to the General Assembly no later  
 34 than January 1, 2000.

35 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall apply to  
 36 any funds estimated in the fiscal 2000 State Budget (Chapter (H.B. 120) of the  
 37 Acts of the General Assembly of 1999) and appropriated to the Dedicated Purpose  
 38 Fund.

1 SECTION ~~3.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take  
2 effect July 1, 1999.