

SENATE BILL 532

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2001 Regular Session
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By: **Senators Miller, Dyson, and Middleton and the President**
(Administration)

Introduced and read first time: February 2, 2001

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Cigarette Restitution Fund - Implementation of the Southern Maryland**
3 **Regional Strategy-Action Plan for Agriculture - Issuance of Bonds**

4 FOR the purpose of expanding the charge of the Maryland Economic Development
5 Corporation to include assisting in the implementation of the Southern
6 Maryland Regional Strategy-Action Plan for Agriculture; authorizing the
7 Corporation to issue agricultural assistance bonds under certain circumstances;
8 authorizing the State to sell to the Corporation certain rights, title and interest
9 in a certain portion of the stream of payments from the Master Settlement
10 Agreement to the Cigarette Restitution Fund under certain circumstances;
11 authorizing the execution of a purchasing agreement between the State and the
12 Corporation; prohibiting a certain portion of the stream of payments and the
13 total obligations authorized under this Act from exceeding certain limits;
14 requiring the proceeds from the sale of the agricultural assistance bonds to be
15 used for certain purposes; providing that the obligations issued under this Act
16 do not constitute obligations of the State or political subdivisions of the State;
17 requiring the Executive Director of the Corporation to certify certain
18 information each year; providing that certain interest shall be credited to the
19 Cigarette Restitution Fund; requiring the Governor to include certain
20 appropriations to the Corporation from the Cigarette Restitution Fund under
21 certain conditions; defining certain terms; providing for the effective date of this
22 Act; and generally relating to the issuance of obligations for the implementation
23 of the Southern Maryland Regional Strategy-Action Plan for Agriculture.

24 BY repealing and reenacting, with amendments,
25 Article 83A - Department of Business and Economic Development
26 Section 5-202(b)
27 Annotated Code of Maryland
28 (1998 Replacement Volume and 2000 Supplement)

29 BY adding to
30 Article 83A - Department of Business and Economic Development
31 Section 5-206.1

1 Annotated Code of Maryland
2 (1998 Replacement Volume and 2000 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article - State Finance and Procurement
5 Section 7-317
6 Annotated Code of Maryland
7 (1995 Replacement Volume and 2000 Supplement)

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

10 **Article 83A - Department of Business and Economic Development**

11 5-202.

12 (b) The General Assembly further declares and finds that the establishment of
13 a State public corporation to develop certain vacant or underutilized industrial sites
14 and facilities as well as other economic resources in which the private sector has not
15 demonstrated serious and significant interest or development capability would serve
16 the public interest. It would complement existing State marketing programs
17 administered by the Department and through the Department's financial assistance
18 programs such as those of the Maryland Industrial Development Financing Authority,
19 the Maryland Industrial Land Act, and the Maryland Industrial and Commercial
20 Redevelopment Fund Act. The General Assembly finds that the State lacks and needs
21 direct property development capability for economic development purposes. THE
22 GENERAL ASSEMBLY FURTHER DECLARES AND FINDS THAT THE PUBLIC
23 CORPORATION SHALL ASSIST IN THE IMPLEMENTATION OF THE SOUTHERN
24 MARYLAND REGIONAL STRATEGY-ACTION PLAN FOR AGRICULTURE ADOPTED BY
25 THE TRI-COUNTY COUNCIL FOR SOUTHERN MARYLAND.

26 5-206.1.

27 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
28 INDICATED.

29 (2) "AGRICULTURAL ASSISTANCE BONDS" MEANS THE OBLIGATIONS
30 ISSUED UNDER THIS SECTION AND PAYABLE SOLELY FROM THE SECURITIZED
31 PORTION TO FINANCE OR ASSIST IN THE FINANCING OF THE SOUTHERN MARYLAND
32 REGIONAL STRATEGY-ACTION PLAN FOR AGRICULTURE.

33 (3) "CIGARETTE RESTITUTION FUND" MEANS THE CIGARETTE
34 RESTITUTION FUND ESTABLISHED UNDER § 7-317 OF THE STATE FINANCE AND
35 PROCUREMENT ARTICLE.

36 (4) "MASTER SETTLEMENT AGREEMENT" MEANS THE 1998 AGREEMENT,
37 AS MAY BE AMENDED FROM TIME TO TIME, EXECUTED BY THE STATE TOGETHER
38 WITH VARIOUS OTHER STATES, THE DISTRICT OF COLUMBIA, THE COMMONWEALTH
39 OF PUERTO RICO, GUAM, THE U.S. VIRGIN ISLANDS, AMERICAN SAMOA, AND THE

1 NORTHERN MARIANAS AND PARTICIPATING TOBACCO MANUFACTURERS TO SETTLE
2 TOBACCO LITIGATION MATTERS.

3 (5) "PURCHASE AGREEMENT" MEANS A CONTRACT, AS AUTHORIZED
4 UNDER SUBSECTION (B) OF THIS SECTION BETWEEN THE CORPORATION AND THE
5 STATE.

6 (6) "RESIDUAL INTEREST" MEANS THAT PORTION OF THE PAYMENTS
7 RECEIVED FROM THE CIGARETTE RESTITUTION FUND BY THE CORPORATION WHICH
8 IS NOT ANNUALLY REQUIRED TO:

9 (I) REPAY THE HOLDERS OF THE AGRICULTURAL ASSISTANCE
10 BONDS;

11 (II) ESTABLISH AND REPLENISH ANY RESERVE FUNDS CREATED IN
12 CONNECTION WITH THE ISSUANCE OF THE AGRICULTURAL ASSISTANCE BONDS;

13 (III) PAY ANY OTHER COSTS OF THE CORPORATION INCURRED IN
14 CONNECTION WITH THE ISSUANCE OF THE AGRICULTURAL ASSISTANCE BONDS; OR

15 (IV) PAY THE ACTUAL, REASONABLE, AND NECESSARY EXPENSES
16 OF THE CORPORATION TO IMPLEMENT THIS SECTION.

17 (7) "SECURITIZED PORTION" MEANS THAT PORTION OF THE
18 APPROPRIATION TO THE CORPORATION FROM THE CIGARETTE RESTITUTION FUND
19 NEEDED TO PAY:

20 (I) IN THE FISCAL YEAR THE AGRICULTURAL ASSISTANCE BONDS
21 ARE ISSUED:

22 1. THE PRINCIPAL AND INTEREST ON THE AGRICULTURAL
23 ASSISTANCE BONDS PAYABLE FIRST IN THAT FISCAL YEAR;

24 2. COSTS OF ISSUANCE OF THE AGRICULTURAL ASSISTANCE
25 BONDS IN AN AMOUNT NOT TO EXCEED 3% OF THE INITIAL PRINCIPAL AMOUNT OF
26 THE BONDS;

27 3. ANY REQUIRED RESERVE FUNDS IN AN AMOUNT NOT TO
28 EXCEED 10% OF THE INITIAL PRINCIPAL AMOUNT OF THE AGRICULTURAL
29 ASSISTANCE BONDS;

30 4. THE COSTS OF ANY OTHER CREDIT OR LIQUIDITY
31 ENHANCEMENT FOR THE AGRICULTURAL ASSISTANCE BONDS IN AN AMOUNT NOT
32 TO EXCEED 1.5% OF THE INITIAL PRINCIPAL AMOUNT OF THE BONDS; AND

33 5. REASONABLE AND NECESSARY EXPENSES OF THE
34 CORPORATION AND ANY TRUSTEE TO IMPLEMENT THIS SECTION, NOT TO EXCEED
35 0.5% OF THE INITIAL PRINCIPAL AMOUNT OF THE AGRICULTURAL ASSISTANCE
36 BONDS; AND

1 (II) IN ALL SUBSEQUENT FISCAL YEARS:

2 1. THE PRINCIPAL AND INTEREST ON THE AGRICULTURAL
3 ASSISTANCE BONDS PAYABLE FIRST IN THAT FISCAL YEAR;

4 2. ANY FUNDS NECESSARY TO REPLENISH THE INITIAL
5 REQUIRED RESERVE FUNDS IN AN AMOUNT NOT TO EXCEED 10% OF THE PRINCIPAL
6 AMOUNT OF THE AGRICULTURAL ASSISTANCE BONDS;

7 3. ANY ANNUAL PAYMENT DUE AND PAYABLE FOR ANY
8 OTHER CREDIT OR LIQUIDITY ENHANCEMENT ON THE AGRICULTURAL ASSISTANCE
9 BONDS IN AN AMOUNT NOT TO EXCEED 1.5% OF THE PRINCIPAL AMOUNT OF THE
10 BONDS; AND

11 4. REASONABLE AND NECESSARY ANNUAL EXPENSES OF
12 THE CORPORATION AND ANY TRUSTEE TO IMPLEMENT THIS SECTION, NOT TO
13 EXCEED 0.5% OF THE INITIAL PRINCIPAL AMOUNT OF THE AGRICULTURAL
14 ASSISTANCE BONDS.

15 (8) "SOUTHERN MARYLAND REGIONAL STRATEGY-ACTION PLAN FOR
16 AGRICULTURE" MEANS THE SOUTHERN MARYLAND REGIONAL STRATEGY-ACTION
17 PLAN FOR AGRICULTURE ADOPTED BY THE TRI-COUNTY COUNCIL FOR SOUTHERN
18 MARYLAND AS PROVIDED FOR UNDER § 7-317(F) OF THE STATE FINANCE AND
19 PROCUREMENT ARTICLE AND APPROVED BY THE SECRETARY OF AGRICULTURE.

20 (B) (1) FOR THE PURPOSE OF IMPLEMENTING THE SOUTHERN MARYLAND
21 REGIONAL STRATEGY-ACTION PLAN FOR AGRICULTURE, THE STATE MAY SELL TO
22 THE CORPORATION ALL OF THE STATE'S RIGHT, TITLE, AND INTEREST IN AND TO
23 THAT PORTION OF THE STREAM OF PAYMENTS DEPOSITED INTO THE CIGARETTE
24 RESTITUTION FUND FROM THE MASTER SETTLEMENT AGREEMENT EQUAL TO THE
25 SECURITIZED PORTION, IN EXCHANGE FOR:

26 (I) A CASH PAYMENT IN THE AMOUNT OF THE NET SALES
27 PROCEEDS OF THE AGRICULTURAL ASSISTANCE BONDS; AND

28 (II) DELIVERY OF THE RESIDUAL INTEREST TO THE CIGARETTE
29 RESTITUTION FUND.

30 (2) THE SECURITIZED PORTION MAY NOT EXCEED \$6,300,000 IN A FISCAL
31 YEAR AND \$94,500,000 IN THE AGGREGATE.

32 (3) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE TERMS
33 AND CONDITIONS OF THE PURCHASE AGREEMENT SHALL BE DETERMINED JOINTLY
34 BY THE SECRETARY OF AGRICULTURE AND THE SECRETARY OF BUDGET AND
35 MANAGEMENT, AFTER CONSULTATION WITH THE ATTORNEY GENERAL AND THE
36 TRI-COUNTY COUNCIL FOR SOUTHERN MARYLAND, WHICH DETERMINATION SHALL
37 BE CONCLUSIVELY EVIDENCED BY THEIR EXECUTION OF THE PURCHASE
38 AGREEMENT.

1 (C) (1) IN ACCORDANCE WITH THIS SECTION, THE CORPORATION MAY
2 ISSUE AGRICULTURAL ASSISTANCE REVENUE BONDS, NOTES, AND OTHER
3 OBLIGATIONS, INCLUDING AGRICULTURAL ASSISTANCE REFUNDING REVENUE
4 BONDS AT OR BEFORE MATURITY, IN AN AMOUNT NOT TO EXCEED \$60,000,000 AND
5 FOR AN INITIAL TERM NOT TO EXCEED 15 YEARS, TO FINANCE, OR ASSIST IN THE
6 FINANCING OF THE SOUTHERN MARYLAND REGIONAL STRATEGY-ACTION PLAN FOR
7 AGRICULTURE.

8 (2) PROCEEDS FROM THE SALE OF THE AGRICULTURAL ASSISTANCE
9 BONDS AND OTHER MONEYS RECEIVED BY THE CORPORATION PURSUANT TO THE
10 PURCHASE AGREEMENT SHALL BE USED TO PAY THE STATE A CASH PAYMENT IN
11 THE AMOUNT OF THE NET SALES PROCEEDS OF THE BONDS AND MAY ALSO BE USED
12 TO:

13 (I) PAY THE COSTS OF ISSUANCE OF THE AGRICULTURAL
14 ASSISTANCE BONDS;

15 (II) ESTABLISH AND FUND RESERVE FUNDS;

16 (III) PURCHASE ANY NECESSARY CREDIT OR LIQUIDITY
17 ENHANCEMENT OR INSURANCE POLICY; AND

18 (IV) PAY OTHER NECESSARY AND REASONABLE EXPENSES AND
19 FEES RELATED TO THE ISSUANCE OF THE AGRICULTURAL ASSISTANCE BONDS.

20 (3) AGRICULTURAL ASSISTANCE BONDS ISSUED UNDER THIS SECTION
21 SHALL NOT BE DEEMED TO CONSTITUTE A DEBT, LIABILITY, OR A PLEDGE OF THE
22 FULL FAITH AND CREDIT OF THE STATE OF MARYLAND OR OF ANY POLITICAL
23 SUBDIVISION THEREOF AND SHALL BE PAYABLE SOLELY FROM, AND SECURED BY,
24 THE PAYMENTS OF THE SECURITIZED PORTION TO THE CORPORATION FROM THE
25 CIGARETTE RESTITUTION FUND.

26 (D) ON OR BEFORE AUGUST 30 OF EACH YEAR, THE EXECUTIVE DIRECTOR OF
27 THE CORPORATION SHALL CERTIFY TO THE SECRETARY OF BUDGET AND
28 MANAGEMENT THE ANNUAL SECURITIZED PORTION REQUIRED TO BE
29 APPROPRIATED TO THE CORPORATION FROM THE CIGARETTE RESTITUTION FUND IN
30 THE FOLLOWING FISCAL YEAR, AS PROVIDED IN THIS SECTION.

31 **Article - State Finance and Procurement**

32 7-317.

33 (a) There is a Cigarette Restitution Fund.

34 (b) (1) The fund is a continuing, nonlapsing fund that is not subject to §
35 7-302 of this subtitle.

36 (2) There shall be credited to the Fund all revenues consisting of:

1 (I) funds received by the State from any source resulting, directly
2 or indirectly, from any judgment against or settlement with tobacco product
3 manufacturers, tobacco research associations, or any other person in the tobacco
4 industry relating to litigation, administrative proceedings, or any other claims made
5 or prosecuted by the State to recover damages for violations of State law; AND

6 (II) ANY RESIDUAL INTEREST AS PROVIDED UNDER ARTICLE 83A, §
7 5-206.1 OF THE CODE.

8 (c) The Treasurer shall:

9 (1) invest and reinvest the Fund in the same manner as other State
10 funds; and

11 (2) credit any investment earnings to the Fund.

12 (d) Expenditures from the Fund shall be made by an appropriation in the
13 annual State budget.

14 (e) (1) The Fund shall be expended subject to any restrictions on its use or
15 other limitations on its allocation that are:

16 (i) expressly provided by statute;

17 (ii) required as a condition of the acceptance of funds; or

18 (iii) determined to be necessary to avoid recoupment by the federal
19 government of money paid to the Fund.

20 (2) Disbursements from the Fund to programs funded by the State or
21 with federal funds administered by the State shall be used solely to supplement, and
22 not to supplant, funds otherwise available for the programs under federal or State law
23 as provided in this section.

24 (f) (1) The Cigarette Restitution Fund shall be used to fund:

25 (i) the Tobacco Use Prevention and Cessation Program established
26 under Title 13, Subtitle 10 of the Health - General Article;

27 (ii) the Cancer Prevention, Education, Screening, and Treatment
28 Program established under Title 13, Subtitle 11 of the Health - General Article; and

29 (iii) other programs that serve the following purposes:

30 1. reduction of the use of tobacco products by minors;

31 2. implementation of the Southern Maryland Regional
32 Strategy-Action Plan for Agriculture adopted by the Tri-County Council for Southern
33 Maryland with an emphasis on alternative crop uses for agricultural land now used
34 for growing tobacco;

1 3. public and school education campaigns to decrease tobacco
2 use with initial emphasis on areas targeted by tobacco manufacturers in marketing
3 and promoting cigarette and tobacco products;

4 4. smoking cessation programs;

5 5. Enforcement of the laws regarding tobacco sales;

6 6. the purposes of the Maryland Health Care Foundation
7 under Title 20, Subtitle 5 of the Health - General Article;

8 7. primary health care in rural areas of the State and areas
9 targeted by tobacco manufacturers in marketing and promoting cigarette and tobacco
10 products;

11 8. prevention, treatment, and research concerning cancer,
12 heart disease, lung disease, tobacco product use, and tobacco control, including
13 operating costs and related capital projects;

14 9. substance abuse treatment and prevention programs; and

15 10. any other public purpose.

16 (2) The provisions of this subsection may not be construed to affect the
17 Governor's powers with respect to a request for an appropriation in the annual budget
18 bill.

19 (g) (1) Amounts may only be expended from the Fund through
20 appropriations in the State budget bill as provided in this subsection.

21 (2) The Governor shall include in the annual budget bill appropriations
22 from the Fund equivalent to the lesser of \$100,000,000 or 90% of the funds estimated
23 to be available to the Fund in the fiscal year for which the appropriations are made.

24 (3) (I) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, OF THE
25 FUNDS REQUIRED TO BE APPROPRIATED UNDER PARAGRAPH (2) OF THIS
26 SUBSECTION, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN
27 APPROPRIATION TO THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION IN
28 THE AMOUNT CERTIFIED BY THE EXECUTIVE DIRECTOR PURSUANT TO ARTICLE 83A,
29 § 5-206.1 OF THE CODE TO IMPLEMENT THE SOUTHERN MARYLAND REGIONAL
30 STRATEGY-ACTION PLAN FOR AGRICULTURE.

31 (II) IF THE FUNDS IN THE CIGARETTE RESTITUTION FUND ARE
32 INSUFFICIENT TO SATISFY THE REQUIRED APPROPRIATION, THE GOVERNOR SHALL
33 APPROPRIATE THE FUNDS THAT ARE AVAILABLE BUT SHALL HAVE NO OBLIGATION
34 TO APPROPRIATE FUNDS FROM ANY OTHER SOURCE.

35 [(3)] (4) For each fiscal year for which appropriations are made, at least
36 50% of the appropriations shall be made for those purposes enumerated in subsection

1 (f)(1)(i), (ii), and (iii) 1 through 9 of this section subject to the requirement of
2 subsection (e)(2) of this section.

3 [4] (5) Any additional appropriations, not subject to paragraph (3) of
4 this subsection, may be made for any lawful purpose.

5 (h) For each program, project or activity receiving funds appropriated under
6 subsection (g)(3) of this section, the Governor shall:

7 (1) develop appropriate statements of vision, mission, key goals, key
8 objectives, and key performance indicators and report these statements in a discrete
9 part of the State budget submission, which shall also provide data for key
10 performance indicators; and

11 (2) report annually, subject to § 2-1246 of the State Government Article,
12 to the General Assembly no later than October 1 on:

13 (i) total funds expended, by program and subdivision, in the prior
14 fiscal year from the Fund established under this section; and

15 (ii) the specific outcomes or public benefits resulting from that
16 expenditure.

17 SECTION 2. AND BE IT FURTHER ENACTED, That agricultural assistance
18 obligations issued under this Act shall contain on their face a statement to the effect
19 that neither the State of Maryland nor any political subdivision thereof shall be
20 obligated to pay the principal of or interest on the obligations except from revenues
21 specifically pledged to them and that neither the full faith and credit nor the taxing
22 power of the State or any political subdivision thereof is pledged to the payment of the
23 principal of or the interest on the agricultural assistance obligations.

24 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 June 1, 2001.