WEST VIRGINIA LEGISLATURE
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ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 185

(By Senators Tomblin, Mr. President, and Caruth,
By Request of the Executive)

[Passed March 10, 2007; in effect from passage.]
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COMMITTEE SUBSTITUTE

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(BY SENATORS TOMBLIN, MR. PRESIDENT, AND CARUTH,
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[Passed March 10, 2007; in effect from passage.]

AN ACT to amend and reenact §4-11A-1, §4-11A-2 and §4-11A-3 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto fourteen new sections, designated §4-11A-1a, §4-11A-6, §4-11A-7, §4-11A-8, §4-11A-9, §4-11A-10, §4-11A-11, §4-11A-12, §4-11A-13, §4-11A-14, §4-11A-15, §4-11A-16, §4-11A-17 and §4-11A-18, all relating to legislative appropriation of tobacco settlement funds; setting forth legislative findings
and purposes; receipt of settlement funds and required deposit in West Virginia Tobacco Settlement Medical Trust Fund; receipt of settlement funds and required deposit in the West Virginia Tobacco Settlement Fund; creating Tobacco Settlement Finance Authority and providing for general powers; establishing governing board of the authority; defining staff of the authority; limiting liability; providing certain definitions; authorizing sale of rights in a master settlement agreement; authorizing bonds of the authority; providing for the use of proceeds of bonds of the authority; providing an exemption from state purchasing provisions; providing bankruptcy provisions; establishing the dissolution of the authority; ensuring a revenue source remains for the unfunded liabilities of the Old Fund to replace previous legislative appropriation of tobacco settlement funds for the benefit of the Old Fund; and construction of article.

Be it enacted by the Legislature of West Virginia:

That §4-11A-1, §4-11A-2 and §4-11A-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto fourteen new sections, designated §4-11A-1a, §4-11A-6, §4-11A-7, §4-11A-8, §4-11A-9, §4-11A-10, §4-11A-11, §4-11A-12, §4-11A-13, §4-11A-14, §4-11A-15, §4-11A-16, §4-11A-17 and §4-11A-18, all to read as follows:

ARTICLE 11A. LEGISLATIVE APPROPRIATION OF TOBACCO SETTLEMENT FUNDS; CREATION OF TOBACCO SETTLEMENT FINANCE AUTHORITY.

§4-11A-1. Legislative findings and purpose.

1 (a) On the twenty-third day of November, one thousand nine hundred ninety-eight, tobacco product
manufacturers entered into a settlement agreement with the state. This master settlement agreement releases those manufacturers from past, present and specific future claims against them in return for payment of annual sums of money to the state, obligates the manufacturers to change their advertising and marketing practices and requires the establishment by the manufacturers of a national foundation for the interests of public health.

(b) The revenues received pursuant to the master settlement agreement are directly related to the past, present and future costs incurred by the state for the treatment of tobacco-related illnesses. The receipt of revenues in the future is subject to the ongoing risk of litigation against manufacturers or other events that may adversely affect the financial strength of the manufacturers. The purpose of this article is to preserve the revenues received from the settlement.

(c) The receipt of funds in accordance with the master settlement agreement shall be deposited only in accordance with the provisions of this article.

(d) The state receives revenue each year under the terms of the master settlement agreement with the tobacco manufacturers. This revenue is used to fund programs of vital importance to the people of West Virginia and the Legislature finds that it is in the best interest of the people of this state to protect these revenues by the sale of the state's share to the Tobacco Settlement Finance Authority created in section six of this article.
§4-11A-1a. Legislative findings related to securitization of moneys received pursuant to master settlement agreement and previously dedicated to the Workers' Compensation Debt Reduction Fund.

(a) In December, two thousand five, the Governor issued a proclamation regarding the privatization of the workers' compensation system pursuant to section eleven, article two-c, chapter twenty-three of this code, thereby proclaiming that a revenue source had been secured to satisfy the Old Fund liabilities as they occur;

(b) A portion of the revenue source secured to satisfy the Old Fund liabilities as they occur was the first thirty million dollars received pursuant to section IX(c)(1) of the master settlement agreement and the anticipated strategic compensation payments to be received pursuant to section IX(c)(2) of the master settlement agreement;

(c) For purposes of the proclamation, it was assumed that the first thirty million dollars received pursuant to section IX(c)(1) of the master settlement agreement and the anticipated strategic compensation payments to be received pursuant to section IX(c)(2) of the master settlement agreement as calculated pursuant to subsection (a), section twelve of this article would on a calendar year basis provide a maximum of forty-five million dollars per year to satisfy the Old Fund liabilities as they occur;

(d) The Legislature finds and declares that replacing the first thirty million dollars received pursuant to section IX(c)(1) of the master settlement agreement and the anticipated strategic compensation payments to be
received pursuant to section IX(c)(2) of the master
settlement agreement with fifty million, four hundred
doctorls pursuant to section eighteen of this
article for the benefit of the Old Fund, in combination
with the remaining portions of the revenue sources
secured for the unfunded liabilities of the Old Fund as
established in Enrolled Senate Bill No. 1004 during the
first extraordinary session of the Legislature, two
thousand five, will ensure that a revenue source has
been and will continue to remain secured to satisfy the
Old Fund liabilities as they occur; and thus all
conditions precedent to the issuance of the
proclamation by the Governor remain in effect.

§4-11A-2. Receipt of settlement funds and required deposit in
West Virginia Tobacco Settlement Medical Trust
Fund until the first day of June, two thousand
five, then to Workers' Compensation Debt
Reduction Fund; deposit of strategic
compensation payments; transfer of trust fund
moneys.

(a) The Legislature finds and declares that certain
dedicated revenues should be preserved in trust for the
purpose of stabilizing the state's health-related
programs and delivery systems. It further finds and
declares that these dedicated revenues should be
preserved in trust for the purpose of educating the
public about the health risks associated with tobacco
usage and establishing a program designed to reduce
and stop the use of tobacco by the citizens of this state
and in particular by teenagers.

(b) There is hereby created a special account in the
State Treasury, designated the West Virginia Tobacco
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13 Settlement Medical Trust Fund, which shall be an
14 interest-bearing account and may be invested in the
15 manner permitted by section nine, article six, chapter
16 twelve of this code, with the interest income a proper
17 credit to the fund. Unless contrary to federal law, fifty
18 percent of all revenues received pursuant to the master
19 settlement agreement shall be deposited in this fund.
20 Funds paid into the account may also be derived from
21 the following sources:

22 (1) All interest or return on investment accruing to the
23 fund;

24 (2) Any gifts, grants, bequests, transfers or donations
25 which may be received from any governmental entity or
26 unit or any person, firm, foundation or corporation;

27 (3) Any appropriations by the Legislature which may
28 be made for this purpose; and

29 (4) Any funds or accrued interest remaining in the
30 Board of Risk and Insurance Management Physicians'
31 Mutual Insurance Company account created pursuant
32 to section seven, article twenty-f, chapter thirty-three of
33 this code on or after the first day of July, two thousand
34 four.

35 (c) (1) The moneys from the principal in the trust fund
36 may not be expended for any purpose, except that on
37 the first day of April, two thousand three, the Treasurer
38 shall transfer to the Board of Risk and Insurance
39 Management Physicians' Mutual Insurance Company
40 account created by section seven, article twenty-f, chapter thirty-three of this code, twenty-four million
dollars from the West Virginia Tobacco Settlement
Medical Trust Fund for use as the initial capital and surplus of the Physicians' Mutual Insurance Company created pursuant to said article. The remaining moneys in the trust fund resulting from interest earned on the moneys in the fund and the return on investments of the moneys in the fund shall be available only upon appropriation by the Legislature as part of the state budget and expended in accordance with the provisions of section three of this article.

(2) Notwithstanding any other provision of this code to the contrary, on the effective date of the amendment and reenactment of this section during the regular session of the Legislature in two thousand six, all moneys in the trust fund and any interest or other return earned thereon shall be transferred to the revenue shortfall reserve fund - Part B created in section twenty, article two, chapter eleven-b of this code and the trust fund shall be closed. No provisions of the amendments made to this section during the regular session of the Legislature in two thousand six may be construed to change the requirements of this section for the deposit of revenues received pursuant to the master settlement agreement into the Workers' Compensation Debt Reduction Fund.

(d) Notwithstanding the preceding subsections to the contrary, the first thirty million dollars of all revenues received after the thirtieth day of June, two thousand five, pursuant to section IX(c)(1) of the master settlement agreement shall in the fiscal year beginning the first day of July, two thousand five, and each fiscal year thereafter, be deposited in the Workers' Compensation Debt Reduction Fund established in the State Treasury in section five, article two-d, chapter
twenty-three of this code. Receipts in excess of thirty million dollars shall be deposited into the tobacco settlement fund provided in section three of this article.

(e) Notwithstanding anything in this code to the contrary, strategic compensation payments received pursuant to section IX(c)(2) of the master settlement agreement, beginning in two thousand eight, shall be deposited in their entirety in the Workers' Compensation Debt Reduction Fund.

(f) Notwithstanding anything in this code to the contrary, on the effective date of the sale of the state's share to the authority as authorized in this article, the deposits and transfers provided in this section shall cease and no longer be required.

§4-11A-3. Receipt of settlement funds and required deposit in the West Virginia Tobacco Settlement Fund.

(a) There is hereby created in the State Treasury a special revenue account, designated the Tobacco Settlement Fund, which shall be an interest-bearing account and may be invested in the manner permitted by the provisions of article six, chapter twelve of this code, with the interest income a proper credit to the fund. Unless contrary to federal law, fifty percent of all revenues received pursuant to the master settlement agreement shall be deposited in this fund. These funds shall be available only upon appropriation by the Legislature as part of the state budget: Provided, That for the fiscal year two thousand, the first five million dollars received into the fund shall be transferred to the Public Employees Insurance Reserve Fund created in article two, chapter five-a of this code.
(b) Appropriations from the Tobacco Settlement Fund are limited to expenditures for the following purposes:

1. Reserve funds for continued support of the programs offered by the Public Employees Insurance Agency established in article sixteen, chapter five of this code;
2. Funding for expansion of the federal-state Medicaid program as authorized by the Legislature or mandated by the federal government;
3. Funding for public health programs, services and agencies; and
4. Funding for any state-owned or -operated health facilities.

(c) Notwithstanding anything in this code to the contrary, on the effective date of the sale of the state's share to the authority as authorized in this article, the deposits and transfers provided in this section shall cease and no longer be required.

§4-11A-6. Creation of Tobacco Settlement Finance Authority.

(a) The Tobacco Settlement Finance Authority is hereby created and constitutes a body corporate and politic, constituting a public corporation and government instrumentality of the state and the exercise of its powers pursuant to this article is an essential governmental function.

(b) The authority shall not create any obligation of this state or any political subdivision of this state within
(c) The authority shall not pledge the credit or taxing power of the state or any political subdivision of this state, or make its debts payable out of any moneys except those of the authority specifically pledged for their payment.


Unless the context clearly indicates otherwise, as used in this article:

(a) "Authority" means the Tobacco Settlement Finance Authority created in this article.

(b) "Board" means the governing board of the authority.

(c) "Bonds" means bonds, notes and other obligations and financing arrangements issued or entered into by the authority pursuant to this article.

(d) "Complementary legislation" means article nine-d, chapter sixteen of this code.

(e) "Interest rate agreement" means an interest rate swap or exchange agreement, an agreement establishing an interest rate floor or ceiling or both, or any similar agreement. Any agreement may include the option to enter into or cancel the agreement or to reverse or extend the agreement.

(f) "Master settlement agreement" means the master
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settlement agreement as defined in section one of this article.

(g) "Net proceeds" means the amount of proceeds remaining following each sale of bonds which are not required by the authority to establish and fund reserve funds, to fund an operating expense reserve for the authority, to fund capitalized interest, if any, and to pay the costs of issuance and other expenses and fees related to the authorization and issuance of bonds.

(h) "Notes" means notes, warrants, loan agreements and all other forms of evidence of indebtedness authorized under this article.

(i) "Qualified investments" means investments of the authority authorized pursuant to this article as established by the authority pursuant to subdivision (11), subsection (a), section eleven of this article.

(j) "Qualifying statute" has the meaning given that term in the master settlement agreement, constituting article nine-b, chapter sixteen of this code.

(k) "Sales agreement" means any agreement authorized pursuant to this article in which the state provides for the sale of all or a portion of the state's share to the authority.

(l) "State's share" means all of the following:

(1) All payments required to be made by tobacco product manufacturers to the state, and the state's rights to receive the payments, under the master settlement agreement.

(a) The powers of the authority are vested in and shall be exercised by a board of five individuals, consisting of the Secretary of the Department of Administration, who shall act as chairperson, the Treasurer of the State of West Virginia, and three individuals, each appointed by the Governor, who shall have skill and experience in finance.

(b) Three members of the board constitute a quorum.

(c) The members shall elect a vice chairperson and secretary, annually, and other officers as the members determine necessary.

(d) Meetings of the board shall be held at the call of the chairperson or when a majority of the members request a meeting.

(e) The members of the board shall not receive compensation by reason of their membership on the board.

(f) Of the initial appointments made by the Governor to the authority, two shall be for a term of two years and two shall be for a term of three years. Members appointed to the authority subsequent to the initial appointments shall serve for terms of four years. Any member whose term has expired shall serve until his or her successor has been duly appointed and qualified. Any person appointed to fill a vacancy shall serve only
§4-11A-9. Staff; assistance by state officers, agencies and departments.

(a) The Secretary of the Department of Administration shall furnish to the authority any secretarial, clerical, technical, research and other services that are necessary to the conduct of the business of the authority.

(b) State officers, agencies and departments may render services to the authority within their respective functions, as requested by the authority.

§4-11A-10. Limitation of liability.

Members of the board and persons acting on the authority's behalf, while acting within the scope of their employment or agency, are not subject to personal liability resulting from carrying out the powers and duties conferred on them under this article.


(a) The authority has all the general powers necessary to carry out its purposes and duties and to exercise its specific powers, including, but not limited to, the power to:

(1) Enter into sales agreements and acquire by purchase, grant, lease, gift or otherwise from the state its right, title and interest in and to the state's share, including, without limitation, the rights of the state to receive the moneys due to it under this article and the rights in any collateral securing or otherwise assuring
the receipt of the moneys;

(2) Sell, pledge or assign, as security or consideration, the state's share sold to the authority pursuant to one or more sales agreements, to provide for and secure the issuance and repayment of its bonds or to implement alternative funding options;

(3) Issue and sell one or more series or classes of bonds, notes or other obligations through public bidding, private placement or negotiated underwriting to finance the acquisition referred to in this article;

(4) Refund and refinance the authority's debts and obligations and to manage its funds, obligations and investments as necessary and if consistent with its purpose;

(5) Enter into funding options consistent with this article, including refunding and refinancing its debt and obligations;

(6) Enter into credit enhancements, liquidity agreements or interest rate agreements;

(7) Have perpetual succession as a public instrumentality and agency of the state, until dissolved in accordance with this article;

(8) Sue and be sued in its own name;

(9) Make and execute agreements, contracts and other instruments with any public or private person, in accordance with this chapter;
(10) Retain or employ counsel, auditors, investment bankers, trustees, economic experts and any other private consultants and advisors, on a contract basis or otherwise, necessary or desirable for rendering legal, banking, financial or other professional, management or technical services or advice in connection with the acquisition and financing referred to in this article and pay for all of the services from the proceeds of the bonds;

(11) Establish investment guidelines, designate qualified investments and invest funds;

(12) Procure insurance, other credit enhancements, liquidity agreements and other financing arrangements and to execute instruments and contracts and to enter into agreements convenient or necessary to facilitate financing arrangements of the authority; and to fulfill the purposes of the authority under this article, including, but not limited to, any arrangements, instruments, contracts and agreements as municipal bond insurance, liquidity facilities, interest rate agreements and letters of credit;

(13) Determine, in connection with the issuance of bonds, and subject to the sales agreement, the terms, documentation and other details of the financing;

(14) Hold, use, sell, convey, mortgage, pledge, exchange or otherwise dispose of the state's share and any proceeds or further rights associated with the state's share;

(15) Establish a trust which is entitled to receive revenues and bond proceeds of the authority that are in
(16) Include in its agreements with the holders of the bonds the nonimpairment pledge as described in subdivision (8), subsection (c), section twelve of this article.

(b) Other than the payments of debt service on its bonds, the authority may not make payments or distributions to private interests or private individuals unless those payments are reasonable in amount and paid in exchange for the performance of services.

§4-11A-12. Authorization of the sale of rights in the master settlement agreement.

(a) The sale of the state’s share shall be authorized by an executive order issued by the Governor as authorized in this section. The executive order shall be received by the Secretary of State and filed in the State Register pursuant to section three, article two, chapter twenty-nine-a of this code: Provided, That the Governor shall not issue the executive order unless the aggregate collective amount of net sale proceeds received by the state from the sale of the state’s share is more than eight hundred million dollars.

(b) The Governor may sell and assign all or a portion of the state’s share to the authority pursuant to one or more sales agreements for the purpose of securitization of the amounts received by the state under the master settlement agreement.
(c) The terms and conditions of the sale established in any sales agreement shall include the following:

(1) A requirement that the state enforce its right to collect all moneys due from the participating tobacco manufacturers pursuant to the provisions of the master settlement agreement, including, without limitation, the state's share that has been sold to the authority under a sales agreement, and, in addition, that the state shall diligently enforce the qualifying statute as contemplated in section IX (d)(2)(b) of the master settlement agreement and the complementary legislation against all tobacco product manufacturers selling tobacco products in the state and that are not in compliance with the qualifying statute or the complementary legislation, in each case in the manner and to the extent considered necessary in the judgment of the Attorney General of the state;

(2) A requirement that the state not agree to any amendment of the master settlement agreement, the qualifying statute, the complementary legislation, this article or the sales agreement that materially and adversely affects the authority's ability or rights to receive the state's share that has been sold to the authority or the authority's rights and powers under this article and the sales agreement;

(3) An agreement that the anticipated use by the state of sale proceeds received pursuant to the sales agreement shall be for the purposes set forth in this article;

(4) A requirement that the aggregate collective amount of net sale proceeds received by the state from
the sale of the state's share shall not be less than eight hundred million dollars;

(5) A requirement that the proceeds received by the state from the sale of the state's share be applied by the state upon receipt to the Consolidated Public Retirement Board for deposit into the State Teachers Retirement System to redeem a portion of the unfunded actuarial accrued liability;

(6) A requirement that the state may receive from the authority, as the purchase price for the sale, any combination of cash, securities and direct or beneficial ownership interests in property, including, but not limited to, the allocable beneficial interest in the residual state's share cash flows not needed to meet the bond debt service allocable to the state's share purchased by the authority from the state, whether by an initial sale or sales of the authority's bonds;

(7) A requirement that the cost of issuance excluding fees for bond insurance, credit enhancements, liquidity facilities and rating agency fees, plus underwriter's discount and any other costs associated with the issuance shall not exceed, in the aggregate, the sum of one percent of the aggregate principal amount of the bonds issued; and

(8) A requirement that the state will pledge to and agree with the holders of the authority's bonds and with any person or entity that contracts with the authority in connection with the issuance of the bonds that the state will not alter, limit or impair: (i) The rights vested in the authority to receive the state's share, to exercise its powers, or the ability to fulfill the terms of any contract
entered into with the holders of the authority's bonds or
any person or entity with reference to the authority's
bonds; and (ii) the rights and remedies of the holders of
any of the authority's bonds. The state's pledge and
agreement shall continue in full force and effect until
the authority's legal commitments with respect to the
authority's bonds and contracts have been discharged in
full.

(d) Any sale made under this section shall be
irrevocable. Any sale shall constitute and be treated as
a true and absolute sale and absolute transfer of the
property transferred and not as a pledge or other
security interest for any borrowing.

(e) On or after the effective date of any sale, the state
shall not have any right, title or interest in the portion
of the state's share sold, and the portion of the state's
share sold shall be the property of the authority and not
the state. None of the property sold by the state
pursuant to this section shall be subject to garnishment,
levy, execution, attachment or other process, or remedy
in connection with the assertion or enforcement of any
debt, claim, settlement or judgment against the state.

(f) On or before the effective date of any sale, the state
shall notify the escrow agent under the master
settlement agreement of the sale and shall irrevocably
direct the escrow agent under the master settlement
agreement that, subsequent to that date, all payments
constituting the state's share or a portion thereof shall
be made directly to the authority or its designee.


(a) The authority may issue bonds in more than one
series and, if bonds are issued, shall use the net
proceeds to purchase the state's share pursuant to the
sales agreement to be applied as set forth in section
twelve of this article. In connection with the issuance of
bonds and subject to the terms of the sales agreement,
the authority shall determine the terms and other
details of the financing. Bonds issued pursuant to this
section may be secured by a pledge of the state's share
purchased by the authority. The authority may also
issue refunding bonds, including advance refunding
bonds, for the purpose of refunding previously issued
bonds, and may issue other types of bonds, notes or
other debt obligations and financing arrangements
necessary to fulfill its purposes or the purposes of this
article.

(b) The authority may issue its bonds in principal
amounts which, in the opinion of the authority, are
necessary to provide sufficient funds for achievement of
its purposes, the payment of interest on its bonds, the
establishment of reserves to secure the bonds, the costs
of issuance of its bonds and all other expenditures of
the authority incident to and necessary to carry out its
purposes or powers. The bonds are investment
securities and negotiable instruments within the
meaning of and for the purposes of article eight, chapter
forty-six of this code, subject only to the provisions of
the notes or bonds for registration, unless otherwise
provided by resolution of the authority.

(c) Bonds issued by the authority are payable solely
and only out of the moneys, assets or revenues pledged
by the authority and are not a general obligation or
indebtedness of the authority or an obligation or
indebtedness of the state or any subdivision of the state.
The authority shall not pledge the credit or taxing
power of the state or any political subdivision of the
state, or create a debt or obligation of the state, or make
its debts payable out of any moneys except those of the
authority.

(d) Bonds of the authority shall state on their face that
they are payable both as to principal and interest solely
out of the assets of the authority pledged for their
purpose and do not constitute an indebtedness of the
state or any political subdivision of the state; are
secured solely by and payable solely from assets of the
authority pledged for such purpose; constitute neither
a general, legal nor moral obligation of the state or any
of its political subdivisions; and that the state has no
obligation or intention to satisfy any deficiency or
default of any payment of the bonds.

(e) Any amount pledged by the authority to be
received under any sales agreement is valid and binding
at the time the pledge is made. Amounts pledged and
then or thereafter received by the authority are
immediately subject to the lien of the pledge without
any physical delivery thereof or further act. The lien of
any pledge is valid and binding as against all parties
having claims of any kind against the authority whether
the parties have notice of the lien or not.
Notwithstanding any other provision of law, the pledge
is not subject to article nine, chapter forty-six of this
code. Notwithstanding any other provision to the
contrary, the resolution of the authority or any other
instrument by which a pledge is created need not be
recorded or filed to perfect the pledge.

(f) The proceeds of bonds issued by the authority may
be invested in any security or obligation approved by
the board and specified in the trust indenture or
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69 resolution pursuant to which the bonds must be issued, notwithstanding any other provision to the contrary provided that any sales proceeds derived from tax exempt bonds are invested in a manner prescribed by the board so as to maintain the tax exempt status of the bonds.

75 (g) The exercise of the powers granted to the authority by this article will be in all respects an essential governmental function and for the benefit of the people of the state and is a public purpose. The authority, its property, income and all bonds and all interest and income thereon are exempt from all taxation by this state and any county, municipality, political subdivision or agency thereof.

83 (h) Bonds of the authority shall comply with all of the following:

85 (1) The bonds may be issued in one or more series and shall be in a form, issued in denominations, carry such registration privileges and payable over terms and with rights of redemption as the board prescribes in the trust indenture or resolution authorizing their issuance;

90 (2) The bonds shall be fully negotiable instruments under the laws of this state and may be sold at prices, at public or private sale, and in a manner as prescribed by the board; and

94 (3) The bonds are subject to the terms, conditions and covenants providing for the payment of the principal, redemption premiums, if any, interest which may be fixed or variable, including, but not limited to, zero coupon bonds and capital appreciation bonds, during any period the bonds are outstanding, and other terms,
conditions, covenants and protective provisions safeguarding payment as determined by the trust indenture or resolution of the board authorizing their issuance.

(i) The bonds issued under this article are securities in which insurance companies and associations and other persons engaged in the business of insurance; banks, trust companies, savings associations, savings and loan associations and investment companies; administrators, guardians, executors, trustees and other fiduciaries; and other persons authorized to invest in bonds or other obligations of the state may properly and legally invest funds, including capital, in their control or belonging to them.

(j) Bonds must be authorized by a resolution of the board. A resolution authorizing the issuance of bonds may delegate to an officer of the authority the power to negotiate and fix the details of an issue of bonds and of their sale by an appropriate certificate of the authorized officer or by execution and delivery of a trust indenture or bond purchase agreement. The bonds and notes shall be executed by the chairperson and secretary of the authority, both of whom may use facsimile signatures. In case any officer whose signature, or a facsimile of whose signature, appears on any bonds or notes ceases to be an officer before delivery of the bonds or notes, the signature or facsimile is nevertheless sufficient for all purposes the same as if he or she had remained in office until the delivery.

(k) The authority may issue one or more series of bonds at any time or times so that interest on the bonds may be or remain exempt from federal taxation or to comply with the purposes specified in this article:
Provided, That the state shall covenant and agree to invest any funds received from the sales agreement which were derived from tax exempt bonds issued by the authority in a manner prescribed from the authority.

(l) In connection with the issuance of any bonds authorized and issued pursuant to this section, and in addition to the funds and accounts established elsewhere in this article, the board may, under the trust indenture or resolution pursuant to which the bonds are issued, establish any other accounts, subaccounts or reserves determined necessary by the board.

(m) While bonds of the authority are outstanding, the state shall not agree to any amendment of the master settlement agreement, the qualifying statute, the complementary legislation, this article or the sales agreement that materially and adversely affects the authority's ability or rights to receive the state's share that has been sold to the authority or the authority's rights and powers under this article and the sales agreement. The provision of this section shall be part of the contractual obligation owed to the holders of the authority's bonds.

§4-11A-14. Exemption from purchasing provisions.

The provisions of article three, chapter five-a of this code shall not apply to the authority with respect to contracts entered into by the authority in carrying out the public and essential governmental functions set forth in this article and are exempt from the laws of the state which provide for competitive bids and hearings in connection with contracts and for review as to the form of contracts by the office of the Attorney General

Notwithstanding any other provision of law, the authority is not authorized, and no governmental officer or organization shall authorize the authority to become a debtor in a case under the United States bankruptcy code, Title 11 of the United States Code, to make an assignment for the benefit of creditors or to become the subject of any similar case or proceeding. The provisions of this section shall be part of any contractual obligation owed to holders of any bonds issued pursuant to this article and shall not be modified by the state prior to the date which is three hundred sixty-six days after which the authority no longer has any bonds outstanding.

§4-11A-16. Dissolution of the authority; distribution of assets.

The authority shall dissolve not sooner than three hundred sixty-six days after it no longer has any bonds outstanding and no later than two years from the date of final payment of all outstanding bonds and the satisfaction of all outstanding obligations of the authority, except to the extent necessary to remain in existence to fulfill any outstanding covenants or provisions with bondholders or third parties made in accordance with this article. Upon dissolution of the authority, all assets of the authority shall be transferred to the state, and the authority shall execute any necessary assignments or instruments, including any assignment of any right, title or ownership to the state for receipt of payments under the master settlement agreement. In no event shall the authority dissolve while any bonds of the authority are outstanding.
§4-11A-17. Construction.

1 This article, being considered necessary for the 
2 welfare of the state and its people, shall be liberally 
3 construed to affect its purpose.

§4-11A-18. Dedication of personal income tax proceeds as 
replacement moneys for anticipated tobacco 
master settlement agreement proceeds to the Old Fund.

1 (a) There is hereby dedicated an annual amount of 
2 fifty million four hundred thousand dollars from annual 
3 collections of the tax imposed by article twenty-one, 
4 chapter eleven of this code as a portion of the revenue 
5 source dedicated to satisfy the Old Fund liabilities as 
6 they occur to provide a dollar for dollar replacement of 
7 the first thirty million dollars received pursuant to 
8 section IX(c)(1) of the master settlement agreement and 
9 the anticipated strategic compensation payments to be 
10 received pursuant to section IX(c)(2) of the master 
11 settlement agreement as previously dedicated to the Old 
12 Fund prior to the sale of state's share to the Tobacco 
13 Settlement Finance Authority. No portion of this 
14 amount may be pledged for payment of debt service on 
15 revenue bonds issued pursuant to article two-d, chapter 
16 twenty-three of this code.

17 (b) Notwithstanding any other provision of this code 
18 to the contrary, beginning immediately after the sale of 
19 the state's share to the Tobacco Settlement Finance 
20 Authority, fifty million four hundred thousand dollars 
21 from collections of the tax imposed by article twenty- 
22 one, chapter eleven of this code shall be deposited each 
23 calendar year to the credit of the Old Fund created in 
24 article two-d, chapter twenty-three of this code in
accordance with the following schedule. Each calendar month, except for July, August and September each year, five million six hundred thousand dollars shall be transferred, on or before the twenty-eighth day of the month, to the Workers' Compensation Debt Reduction Fund created in article two-d, chapter twenty-three of this code. The transfers pursuant to this section are in addition to the transfers pursuant to section ninety-six of article twenty-one, chapter eleven of this code.

(c) *Expiration.* — The transfers required by this section shall continue to be made until the governor certifies to the Legislature that an independent actuary study determined that the unfunded liability of the Old Fund, as defined in chapter twenty-three of this code, has been paid or provided for in its entirety. No transfer pursuant to this section shall be made thereafter.
Enr. Com. Sub. for S. B. No. 185] 28

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within *as approved* this 16th Day of July, 2007.

Governor