

Department of Planning and Budget 2002 Fiscal Impact Statement

1. Bill Number: HB698

House of Origin	<input type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input checked="" type="checkbox"/> Engrossed
Second House	<input checked="" type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: Byron

3. Committee: Senate Finance

4. Title: Securitization of payments under Master Settlement Agreement

5. Summary/Purpose: The bill authorizes the Governor to sell up to 50 percent of the revenues derived from the Master Settlement Agreement. Proceeds from the sales shall be deposited into the Tobacco Indemnification and Community Revitalization Endowment Fund. The income of the endowment, and up to ten percent of the corpus of the endowment (fifteen percent with a two-thirds vote of approval from the Tobacco Indemnification and Community Revitalization Commission) shall be paid annually to the Tobacco Indemnification and Community Revitalization Fund (established pursuant to § 3.1-1111) to be used to compensate tobacco growers and tobacco quota holders for economic loss and to promote economic growth and development in tobacco dependent communities.

The bill also creates the Tobacco Settlement Financing Corporation as a public body corporate, an independent instrumentality of the Commonwealth. The Tobacco Settlement Financing Corporation is empowered to issue obligations and use the proceeds to purchase from the Commonwealth its future tobacco settlement payments. Any bonds issued by the corporation would not be considered a debt or pledge of the faith or credit of the Commonwealth. The Department of the Treasury would staff the Tobacco Settlement Financing Corporation. The engrossed House substitute removes language that provides for members of the Board of the Corporation to serve at the pleasure of the Governor.

The engrossed House substitute specifies that no part of the endowment, either corpus or income, shall revert to the general fund of the state treasury. Further, money received by the endowment or the funds shall not be included in general fund revenue calculations for the purposes of the Personal Property Tax Relief Act. It also includes a provision that employees of the commissions shall be treated as state employees for purposes of participation in benefits offered to Commonwealth classified employees.

The substitute provides for an annual audit of the Corporation by a certified public accounting firm employed by the Auditor of Public Accounts and paid for by the commission. Although the Auditor of Public Accounts is authorized to examine the accounts and books of the corporation, the corporation shall not be deemed to be a state or governmental agency for purposes of Chapter 14 of Title 30, Code of Virginia.

Finally, the engrossed House substitute states that the amounts received as a result of the sale of all or a portion of the commission's allocations shall be subject to appropriation, and that the bill hereby appropriates to the endowment all of the proceeds of any sale of the commission allocation pursuant to this act between the effective date and June 30, 2004.

6. Fiscal Impact Estimates are: See Item 8.

7. Budget amendment necessary: Yes, Item 509 of HB/SB 30. Currently, funding from the Master Settlement Agreement for the Tobacco Indemnification and Community Revitalization Fund (\$73 million in FY03 and \$64 million in FY04) is appropriated through a central account transfer in the budget bill. Under the proposed legislation, an annual appropriation will be needed for the interest income from the endowment and portion of the corpus, subject to the restrictions of the bill, to replace the current appropriation.

8. Fiscal implications: According to the Tobacco Indemnification and Community Revitalization Commission, securitizing up to 50 percent of the Commonwealth's Master Settlement Agreement payments in 2003 through 2027 would generate net proceeds of approximately \$645 million if financed in an equal split between taxable and tax-exempt financing to be deposited to the Tobacco Indemnification and Community Revitalization Endowment.

The Tobacco Indemnification and Community Revitalization Commission advises that on a present value basis, the net proceeds from securitization (net of issuance and interest costs) would be approximately 99 percent of the present value of the annual Master Settlement Agreement revenue over the same time period (approximately \$7 million difference). The analysis assumes a discount rate of 7.06 percent which reflects the mix of taxable and tax-exempt bonds.

9. Specific agency or political subdivisions affected: Tobacco Indemnification and Community Revitalization Commission, Department of the Treasury, and Treasury Board.

10. Technical amendment necessary: No.

11. Other comments: Senate Bill 457 is a companion bill introduced by Senator Hawkins. As engrossed by the Senate, the bill differs from House Bill 698 in that it provides for members of the Board of the Corporation to serve at the pleasure of the Governor, and it does not provide for an annual audit of the Corporation by a certified public accounting firm employed by the Auditor of Public Accounts and review of the accounts by the Auditor of Public Accounts.

Date: 2/19/02 kbs

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cc: Secretary of Finance

Secretary of Commerce and Trade