

**Key Medicaid/MSA/Cigarette Tax-Related Provisos**  
FY 2013-14 Executive Budget

January 11, 2013

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**Note:** Highlighting and editing marks are as made by the Office of State Budget.

**117.51.** (GP: Tobacco Funds) ~~The Tobacco Settlement Revenue Management Authority may determine by resolution that some or all of the amounts on deposit in the Healthcare Tobacco Settlement Trust Fund established pursuant to Section 11-11-170, whether in the form of principal or interest, may be used to refund bonds issued pursuant to Chapter 49, Title 11, to purchase such bonds, directly or indirectly, and/or to secure bonds issued to refund such bonds. Any amounts received by the Authority pursuant to the preceding clause in excess of the amount required to refund or purchase such bonds and all tobacco settlement receipts received by the State pursuant to Section 11-49-130 must be deposited directly with the Department of Health and Human Services for health care expenditures to achieve the maximum Medicaid match.~~

**118.3.** (SR: Tobacco Settlement) ~~Contingent upon the approval of the Tobacco Settlement Revenue Management Authority and parties to the trust agreement, the State Treasurer shall transfer an amount equal to \$8,481,912 from the unrestricted taxable proceeds portion of the principal of the Healthcare Tobacco Settlement Trust Fund established pursuant to Section 11-11-170(B)(1) of the 1976 Code to the Department of Health and Human Services to be expended for Medicaid. The State Treasurer is authorized and directed to transfer to the Office of the Attorney General from funds available to the Tobacco Settlement Management Authority such amounts as shall be necessary for the enforcement of Chapter 47 of Title 11, The Tobacco Escrow Fund Act, which will protect the payments to the State under the Master Settlement Agreement.~~

*(A) From the funds available to the Tobacco Settlement Revenue Management Authority following the discharge of the Series 2008 Tobacco Bonds, the State Treasurer is authorized and directed to transfer \$4,500,000 to the Department of Social Services to complete development of the Child Support Enforcement System and \$1,800,000 to the Department of Health and Human Services for the replacement and modernization of the Medicaid Management Information System. In addition, to enforce Chapter 47 of Title 11, the Tobacco Escrow Fund Act, the State Treasurer is authorized and directed to transfer \$1,253,000 to the Attorney General's Office for Diligent Enforcement and Arbitration Litigation; \$450,000 to the State Law Enforcement Division for Diligent Enforcement; \$325,000 to the Department of Revenue for Diligent Enforcement; and \$1,000,000 to the Department of Agriculture pursuant to Section 11-49-55 of the 1976 Code. Any balance remaining shall be transferred to the Department of Health and Human Services for Medicaid.*

*(B) From payments received by the State under the Tobacco Master Settlement Agreement ("MSA") during calendar year 2013, the State Treasurer is authorized and directed to transfer the funds received in accordance with the requirements of Section 11-11-170 of the 1976 Code.*

*(C) From payments received by the State under the Tobacco Master Settlement Agreement ("MSA") during calendar year 2014, the State Treasurer is authorized and directed to transfer \$36,202,909 to the Department of Education for EFA-IDEA Contingency Reserve. Any balance remaining shall be transferred to the Department of Health and Human Services for Medicaid.*

**118.8.** (SR: Health Care Maintenance of Effort Funding) The source of funds appropriated in this provision is ~~\$157,299,845~~ \$158,000,000 from the revenue collected during Fiscal Year ~~2011-12~~ 2012-13 and Fiscal Year ~~2012-13~~ 2013-14 from the 50 cent cigarette surcharge and deposited into the South Carolina Medicaid Reserve Fund and shall be utilized by the Department of Health and Human Services for the Medicaid Program's maintenance of effort. By this provision these funds are deemed to have been received and are available for appropriation.

~~The residual funds from the cigarette surcharge shall remain in the South Carolina Medicaid Reserve Fund and may be used by the director of the Department of Health and Human Services to ensure access to care in rural and underserved areas of the state. Within ninety days of the start of the fiscal year, the department shall develop methods and criteria for determining how access issues will be identified, assessed and addressed. Any use of these funds shall require thirty days prior notice to the Chairmen of the Senate Finance and House Ways and Means Committees. The department shall provide an assessment of access to care as part of the reporting requirements stipulated in Proviso 33.29, (DHHS: Medicaid Reporting). The director is not authorized to access any of the residual funds prior to January 31, 2013. The director must submit a proposal for any use of the funds to the General Assembly by January 1, 2013. If no action is taken on the proposal by the General Assembly by January 31, 2013, the director may access the residual funds as presented in the proposal.~~

Unexpended funds appropriated pursuant to this provision may be carried forward to succeeding fiscal years and expended for the same purposes.

## Current Permanent Law on the Use of Master Settlement Agreement Revenues

January 11, 2013

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**Note:** This is how the Executive Budget proposes to use the “first” ~\$70M MSA payment.

SECTION 11-11-170. Use of revenues payable pursuant to Master Settlement Agreement.

(A) All revenues payable to this State pursuant to the Master Settlement Agreement as described in Section 11-47-20(e) must be used in the manner specified in this section.

(B)(1) Seventy-three percent of the revenues must be used for healthcare programs. These revenues, or the funds obtained pursuant to Chapter 49, Title 11, must be deposited in a fund separate and distinct from the general fund and all other funds, which is hereby established in the State Treasury styled the Healthcare Tobacco Settlement Trust Fund. Earnings on this fund must be credited to the fund. The principal must remain in the fund and only the interest earnings may be appropriated and used for the following purposes:

(a) for fiscal year 2000-2001 only, the first twenty million dollars available from the principal derived from securitization must be used for hospital base increase;

(b) the South Carolina Seniors' Prescription Drug Program, as provided in Chapter 130, Title 44;

(c) home and community-based programs for seniors coordinated by the Department of Health and Human Services;

(d) youth smoking cessation and prevention programs coordinated by the Department of Health and Environmental Control and the Department of Alcohol and Other Drug Abuse Services;

(e) newborn infants hearing screening initiatives coordinated by the Department of Health and Environmental Control;

(f) disease prevention and elimination of health disparities: diabetes, HIV/AIDS, hypertension, and stroke, particularly in minority populations;

(g) other health related issues as determined by the General Assembly.

(2) Fifteen percent of the revenues, or the funds obtained pursuant to Chapter 49, Title 11, must be deposited in a fund separate and distinct from the general fund and all other funds, which is hereby established in the State Treasury styled the Tobacco Community Trust Fund. Earnings on the fund must be credited to the fund. This fund must be used to reimburse:

(a) tobacco growers, tobacco quota holders, and tobacco warehousemen for actual losses due to reduced quotas since 1998. For purposes of this subitem, "tobacco quota owner" and "tobacco grower" have the meaning provided in Section 46-30-210, and the reimbursement is for losses incurred in reduced cultivation of tobacco in this State. Reimbursements must be made pursuant to eligibility requirements established by the South Carolina Tobacco Community Development Board created pursuant to Section 46-30-230;

(b) after the reimbursement provided pursuant to subitem (a), the balance must be held in an escrow account through June 30, 2012, and used as provided in subitem (a). After June 30, 2012, any account balance must be transferred to the Healthcare Tobacco Settlement Trust Fund.

(3) Ten percent of the revenues, or the funds obtained pursuant to Chapter 49, Title 11, must be deposited in a fund separate and distinct from the general fund and all other funds, which is hereby established in the State Treasury styled the Tobacco Settlement Economic Development Fund. Earnings on the fund must be credited to the fund. This fund must be used for the following programs:

(a) the first eighty million dollars credited to the fund is set aside to be used for the purposes specified in this item except for subitem (b);

(b) for Fiscal Year 2000-2001 only, the next ten million dollars credited to the fund must be set aside to be available to be appropriated and used in accordance with the provisions of Section 12-37-2735; and

(c) the remaining revenue credited to the fund must be used to fund the South Carolina Water and Wastewater Infrastructure Fund as provided in Section 13-1-45.

(4) Two percent of the revenues, or the funds obtained pursuant to Chapter 49, Title 11, must be deposited in a fund separate and distinct from the general fund and all other funds, which is hereby established in the State Treasury styled the Tobacco Settlement Local Government Fund. Earnings on the fund must be credited to the fund. This fund must be used to fund the operation of and grants distributed by the Office of Local Government of the Division of Regional Development of the Budget and Control Board, or its successor in interest.

(C) In addition to those investments allowed pursuant to Section 11-9-660, the State Treasurer may invest and reinvest the revenues payable to the State pursuant to the Tobacco Master Settlement Agreement or funds raised pursuant to the provisions of Chapter 49 of this title and credited to the funds established by this section in any obligations of a corporation, state, or political subdivision denominated in United States dollars if the obligations bear an investment grade rating of at least two nationally recognized rating services.

HISTORY: 2000 Act No. 387, Part II, Section 69B; 2001 Act No. 7, Section 1.