

# Senate Amendment 5619

## Amendment Text

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1 1 Amend [House File 2579](#), as amended, passed, and  
1 2 reprinted by the House, as follows:  
1 3 #1. By striking everything after the enacting  
1 4 clause and inserting the following:  
1 5 "Section 1. FINDINGS AND INTENT.  
1 6 1. The general assembly finds that certain leading  
1 7 United States tobacco product manufacturers have  
1 8 entered into the master settlement agreement with  
1 9 various states and commonwealths of the United States,  
1 10 including this state, obligating the manufacturers, in  
1 11 return for a release of past, present, and certain  
1 12 future claims against them as described in the  
1 13 agreement, to pay substantial sums to the states,  
1 14 subject to future adjustments.  
1 15 2. Due to uncertainties related to any future  
1 16 adjustments in the sums to be paid under the master  
1 17 settlement agreement, it is the intent of the general  
1 18 assembly to determine if it is in the best interest of  
1 19 the state to develop a plan to provide for alternative  
1 20 funding options for conversion of all or a portion of  
1 21 the future payments into current funds, which, in  
1 22 turn, would be invested to provide a stable and secure  
1 23 source of future revenue.  
1 24 3. It is also the intent of the general assembly  
1 25 that a determination be made regarding whether, in  
1 26 order to provide for the receipt of payments under the  
1 27 master settlement agreement, to provide for issuance  
1 28 of bonds, and to provide that the bonds and the  
1 29 administration of the bonds be separate from the  
1 30 general credit of the state, it is in the best  
1 31 interest of the state to create a separate and  
1 32 distinct state instrumentality to which all or a  
1 33 portion of the amounts received under the master  
1 34 settlement agreement might be transferred and to grant  
1 35 this instrumentality necessary powers and duties. If  
1 36 it is in the best interest of the state, such an  
1 37 instrumentality would necessarily benefit the people  
1 38 of the state by better securing a future source of  
1 39 revenues to meet the needs and goals of the state and  
1 40 to avoid obligations by the state, and by performing  
1 41 an essential government function in carrying out its  
1 42 powers and duties. Such an instrumentality would not  
1 43 create any obligation of this state or any political  
1 44 subdivision of this state within the meaning of any  
1 45 constitutional or statutory debt limitation.  
1 46 Sec. 2. EVALUATION REPORT TO LEGISLATIVE  
1 47 COUNCIL AND GOVERNOR.  
1 48 1. In order to make the determinations specified  
1 49 in section 1 of this Act, a task force shall be  
1 50 assembled to evaluate alternative funding options and  
2 1 to propose a structure for the administration of any  
2 2 funding options.  
2 3 a. Any such funding options may include, but are  
2 4 not limited to, selling or pledging all or a portion  
2 5 of the state's share to a separate and distinct state  
2 6 instrumentality to issue bonds to provide for future  
2 7 revenues.

2 8 b. Any bonds issued would be payable solely from  
2 9 and secured solely by the sums received under the  
2 10 master settlement agreement and other funds pledged by  
2 11 the instrumentality. The bonds would not, in any  
2 12 event, constitute a claim against the full faith and  
2 13 credit or taxing powers of the state.

2 14 c. Any sale or pledge of all or a portion of the  
2 15 state's share would be irrevocable during the time  
2 16 when bonds are outstanding and would not be a part of  
2 17 the contractual obligation owed to the bondholders.  
2 18 The sale would constitute and be treated as a true  
2 19 sale and absolute transfer of the property so  
2 20 transferred and not as a pledge or other security  
2 21 interest for any borrowing. The characterization of  
2 22 such a sale as an absolute transfer would not be  
2 23 negated or adversely affected by the fact that only a  
2 24 portion of the state's share was being sold, or by the  
2 25 state's acquisition or retention of an ownership  
2 26 interest in the residual assets.

2 27 d. On or after the effective date of such sale,  
2 28 the state would have no right, title, or interest in  
2 29 the portion of the master settlement agreement sold  
2 30 and such portion would be the property of the  
2 31 instrumentality and not the state, and would be owned,  
2 32 received, held, and disbursed by the instrumentality  
2 33 or its trustee or assignee, and not the state.

2 34 2. The task force shall include all of the  
2 35 following members:

2 36 a. The treasurer of state, or the treasurer's  
2 37 designee.

2 38 b. The auditor of state, or the auditor's  
2 39 designee.

2 40 c. The director of the department of management,  
2 41 or the director's designee.

2 42 d. The attorney general, or the attorney general's  
2 43 designee.

2 44 e. One member of the senate, selected by the  
2 45 majority leader and one member of the senate, selected  
2 46 by the minority leader.

2 47 f. One member of the house of representatives,  
2 48 selected by the majority leader, and one member of the  
2 49 house of representatives, selected by the minority  
2 50 leader.

3 1 3. The task force shall receive testimony and  
3 2 shall develop a program plan. The program plan shall  
3 3 include but is not limited to all of the following:

3 4 a. An analysis of alternative funding options.

3 5 b. The proposed structure of any state  
3 6 instrumentality to administer any funding option.

3 7 c. The investment criteria to be used in investing  
3 8 funds.

3 9 d. Recommendations to the governor and the general  
3 10 assembly regarding necessary statutory changes to  
3 11 implement any funding option.

3 12 e. Recommendations as to the immediacy required  
3 13 for implementation of any funding option, including  
3 14 whether immediate action by the general assembly is  
3 15 required.

3 16 4. The task force shall submit the program plan to  
3 17 the legislative council and to the governor on or  
3 18 before September 1, 2000.

3 19 5. For the purposes of this Act:

3 20 a. "Master settlement agreement" means the master  
3 21 settlement agreement as defined in section 453C.1.

3 22 b. "State's share" means all of the state's  
3 23 monetary rights and interests, all rights of  
3 24 enforcement, and all rights necessary and convenient

3 25 for enforcement of those monetary rights and interests  
3 26 in the master settlement agreement.

3 27 Sec. 3. EFFECTIVE DATE. This Act, being deemed of  
3 28 immediate importance, takes effect upon enactment."

3 29 #2. Title page, by striking lines 1 and 2, and  
3 30 inserting the following: "An Act establishing a task  
3 31 force to evaluate funding options for the funds  
3 32 received under the tobacco master settlement  
3 33 agreement, and providing an effective date."

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3 37 COMMITTEE ON JUDICIARY AMENDMENT,

3 38 ANDY McKEAN, CHAIRPERSON

3 39 HF 2579.5 03 78

3 40 pf/as