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P.L. 2004, CHAPTER 68, *approved June 30, 2004*  
Assembly, No. 3108

1 **AN ACT** authorizing the issuance of cigarette tax securitization bonds,  
2 notes or other obligations by the New Jersey Economic  
3 Development Authority for the purposes of providing revenue to  
4 meet appropriations in any State fiscal year commencing on or after  
5 July 1, 2004, providing a source of payment and security for such  
6 bonds, notes or other obligations, supplementing P.L.1974, c.80  
7 (C.34:1B-1 et seq.) and amending P.L.1997, c.264..

8  
9 **BE IT ENACTED** by the Senate and General Assembly of the State  
10 of New Jersey:

11  
12 1. (New section) This act shall be known and may be cited as the  
13 "Cigarette Tax Securitization Act of 2004."

14  
15 2. (New section) The following words or terms as used in this act  
16 shall have the following meanings unless a different meaning clearly  
17 appears from the context:

18 "Authority" means the New Jersey Economic Development  
19 Authority created pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.);

20 "Bonds" means any bonds, notes or other obligations issued or  
21 entered into by the authority pursuant to this act;

22 "Cigarette Tax" means the tax imposed by the State pursuant to the  
23 "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.), as amended  
24 and supplemented, on the sale, use or possession for sale or use within  
25 the State of each cigarette;

26 "Cigarette Tax Securitization Fund" means the fund by that name  
27 created and established pursuant to section 7 of this act;

28 "Cigarette Tax Securitization Proceeds Fund" means the fund by  
29 that name created and established pursuant to section 3 of this act;

30 "Dedicated Cigarette Tax Revenue Fund" means the fund by that  
31 name created and established pursuant to section 5 of this act;

32 "Dedicated Cigarette Tax Revenues" means an amount equal to the  
33 revenue collected by the State during each State fiscal year beginning  
34 on and after July 1, 2006 from \$0.0325 of the cigarette tax; and

35 "Refunding Bonds" means any bonds, notes or other obligations  
36 issued by the authority to refinance bonds, notes or other obligations  
37 previously issued or entered into by the authority pursuant to this act.

38  
39 3. (New section) a. The authority shall establish and maintain a

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 special nonlapsing fund to be known as the "Cigarette Tax  
2 Securitization Proceeds Fund" into which shall be deposited the  
3 following moneys:

4 (1) the proceeds from the sale of all bonds (other than refunding  
5 bonds) issued by the authority pursuant to this act which are remaining  
6 after any required deposit to any reserve or other fund established for  
7 such bonds or any refunding bonds in accordance with subsection a.  
8 of section 4 of this act and after the payment of all costs, fees and  
9 other expenses related to, or incurred by the authority or the State in  
10 connection with, the issuance of such bonds or any refunding bonds;

11 (2) any amounts which shall be appropriated by the Legislature for  
12 the purposes of such fund; and

13 (3) any other amounts or funds which the authority shall determine  
14 to deposit into such fund.

15 Moneys on deposit in the Cigarette Tax Securitization Proceeds  
16 Fund shall be invested in such obligations as the authority may  
17 determine or as shall otherwise be provided in any contract between  
18 the authority and the State Treasurer authorized and entered into  
19 pursuant to section 6 of this act, and interest or other earnings on any  
20 such investments shall be credited to such fund.

21 b. Amounts on deposit in the Cigarette Tax Securitization  
22 Proceeds Fund shall be withdrawn by the authority from time to time,  
23 upon written request of the State Treasurer or as otherwise provided  
24 in any contract between the authority and the State Treasurer  
25 authorized and entered into pursuant to section 6 of this act, and paid  
26 to the State Treasurer for deposit into either the General Fund of the  
27 State or the Cigarette Tax Securitization Fund, as determined by the  
28 State Treasurer, and used for any lawful purpose of the State for  
29 which moneys on deposit in the General Fund may be used. All  
30 amounts withdrawn from the Cigarette Tax Securitization Proceeds  
31 Fund and deposited into the General Fund of the State as provided in  
32 this subsection shall represent financial resources and revenues of the  
33 State from that fund as certified by the Governor pursuant to Article  
34 VIII, Section II, paragraph 2 of the State Constitution for the State  
35 annual appropriation act for such State fiscal year, and as may be  
36 applicable for such annual appropriation act as may be amended and  
37 supplemented from time to time. Notwithstanding any provision of  
38 this subsection to the contrary, the State Treasurer shall not request  
39 the authority to pay, and the authority shall not pay, to the State  
40 Treasurer during any State fiscal year amounts on deposit in the  
41 Cigarette Tax Securitization Proceeds Fund which are in excess of the  
42 amounts anticipated as revenues from such fund.

43

44 4. (New section) Notwithstanding the provisions of any law, rule,  
45 regulation or order to the contrary:

46 a. The authority shall have the power, pursuant to and in

1 accordance with the provisions of this act and P.L.1974, c.80  
2 (C.34:1B-1 et seq.), to issue bonds and refunding bonds, incur  
3 indebtedness and borrow money secured, in whole or in part, by  
4 money received pursuant to this act for the purpose of providing funds  
5 (1) for deposit into the Cigarette Tax Securitization Proceeds  
6 Fund;  
7 (2) in the case of refunding bonds, to apply to the refunding,  
8 purchase or payment of any bonds issued pursuant to this act;  
9 (3) to fund any capitalized interest on such bonds or refunding  
10 bonds;  
11 (4) to fund any reserve or other fund as may be established by the  
12 authority for such bonds or refunding bonds and to further secure such  
13 bonds and refunding bonds as may be determined by the authority; and  
14 (5) to pay all costs, fees and other expenses related to, or incurred  
15 by the authority or the State in connection with, the issuance of such  
16 bonds or refunding bonds.

17 b. The authority may, in any resolution authorizing the issuance of  
18 bonds or refunding bonds issued by the authority pursuant to this act,  
19 pledge any contract entered into with the State Treasurer pursuant to  
20 section 6 of this act, or any part thereof, to secure the payment,  
21 purchase or redemption of bonds or refunding bonds or any  
22 obligations of the authority under any contract or agreement entered  
23 into by the authority pursuant of subsection c. of this section 4, and  
24 covenant as to the use and disposition of money available to the  
25 authority for the payment, purchase or redemption of bonds and  
26 refunding bonds and the payment of any obligations of the authority  
27 under any contract or agreement entered into by the authority pursuant  
28 to subsection c. of this section 4. All costs, fees and other expenses  
29 related to, or incurred by the authority or the State in connection with,  
30 the issuance of bonds or refunding bonds by the authority for the  
31 purposes set forth in this act may be paid by the authority from  
32 amounts it receives from the proceeds of the bonds or refunding bonds  
33 and from amounts it receives pursuant to sections 5 and 6 of this act,  
34 which costs, fees and other expenses may include, but are not limited  
35 to, any initial or annual administrative costs and fees of the authority  
36 attributable to any bonds or refunding bonds issued pursuant to this  
37 act, all legal, accounting, trustee or other professional fees, costs and  
38 expenses, and all other costs, fees, expenses, liabilities or obligations  
39 attributable to any agreement, contract or other commitment described  
40 in subsection c. of this section and any required rebate or other  
41 payment to the United States of America. The bonds or refunding  
42 bonds shall be authorized by resolution adopted by the authority,  
43 which shall stipulate the manner of execution and form of the bonds,  
44 whether the bonds or refunding bonds are to be issued in one or more  
45 series, the date or dates of issue, time or times of maturity, which shall  
46 not exceed 40 years, the rate or rates of interest payable on the bonds,

1 which may be at fixed rates or variable rates, and which interest may  
2 be current interest or may accrue, the denomination or denominations  
3 in which the bonds are issued, conversion or registration privileges,  
4 the sources and medium of payment and place or places of payment,  
5 terms of redemption, privileges of exchangeability or  
6 interchangeability, and entitlement to priorities of payment or security  
7 in the amounts to be received by the authority pursuant to sections 5  
8 and 6 of this act. The bonds may be sold at a public or private sale at  
9 a price or prices determined by the authority. The authority is  
10 authorized to enter into any agreements necessary or desirable to  
11 effectuate the purposes of this section, including agreements to sell  
12 bonds or refunding bonds to any person and to comply with the laws  
13 of any jurisdiction relating thereto.

14 c. In connection with any bonds or refunding bonds issued or to be  
15 issued pursuant to this act, the authority may also enter into any  
16 revolving credit agreement, agreement establishing a line of credit or  
17 letter of credit, reimbursement agreement, interest rate exchange  
18 agreement, currency exchange agreement, interest rate floor or cap,  
19 options, puts or calls to hedge payment, currency, rate, spread or  
20 similar exposure, or similar agreements (and in connection therewith,  
21 agreements establishing a line of credit, letter of credit, insurance or  
22 relating to the collateralization of the obligations thereunder), float  
23 agreements, forward agreements, insurance contract, surety bond,  
24 commitment to purchase or sell bonds, purchase or sale agreement, or  
25 commitments or other contracts or agreements and other security  
26 agreements as shall be determined and approved by the authority.

27 d. No resolution adopted by the authority authorizing the issuance  
28 of bonds or refunding bonds pursuant to this act shall be adopted or  
29 otherwise made effective without the approval in writing of the State  
30 Treasurer. Except as provided by subsection i. of section 4 of  
31 P.L.1974, c.80 (C.34:1B-4), bonds or refunding bonds may be issued  
32 without obtaining the consent of any department, division,  
33 commission, board, bureau or agency of the State, other than the  
34 approval as required by this subsection, and without any other  
35 proceedings or the occurrence of any other conditions or other things  
36 other than those proceedings, conditions or things which are  
37 specifically required by this act.

38 e. Bonds and refunding bonds issued by the authority pursuant to  
39 this act shall be special and limited obligations of the authority payable  
40 from, and secured by, such funds and moneys determined by the  
41 authority in accordance with this section. Neither the members of the  
42 authority nor any other person executing the bonds or refunding bonds  
43 shall be personally liable with respect to payment of interest and  
44 principal on these bonds or refunding bonds. Bonds or refunding  
45 bonds issued pursuant to the provisions of this act shall not be a debt  
46 or liability of the State or any agency or instrumentality thereof, other

1 than a special and limited obligation of the authority, either legal,  
2 moral or otherwise, and nothing contained in this act shall be  
3 construed to authorize the authority to incur any indebtedness on  
4 behalf of or in any way to obligate the State or any political  
5 subdivision thereof other than the authority, and all bonds and  
6 refunding bonds issued by the authority shall contain a statement to  
7 that effect on their face.

8 f. The authority is authorized to engage, subject to the approval of  
9 the State Treasurer and in such manner as the State Treasurer shall  
10 determine, the services of bond counsel, financial advisors and experts,  
11 placement agents, underwriters, trustees, verification agents,  
12 remarketing agents, auction agents, broker-dealers, appraisers, and  
13 such other advisors, consultants and agents as may be necessary to  
14 effectuate the purposes of this act.

15 g. All bonds or refunding bonds issued by the authority pursuant  
16 to this act are deemed to be issued by a body corporate and politic of  
17 the State for an essential governmental purpose, and the interest  
18 thereon and the income derived from all funds, revenues, incomes and  
19 other moneys received for or to be received by the authority and  
20 pledged and available to pay or secure the payment of bonds or  
21 refunding bonds and the interest thereon, shall be exempt from all  
22 taxes levied pursuant to the provisions of Title 54 of the Revised  
23 Statutes or Title 54A of the New Jersey Statutes, except for transfer  
24 inheritance and estate taxes levied pursuant to Subtitle 5 of Title 54 of  
25 the Revised Statutes.

26 h. The State hereby pledges and covenants with the holders of any  
27 bonds or refunding bonds issued pursuant to the provisions of this act,  
28 that it will not limit or alter the rights or powers vested in the  
29 authority by this act, nor limit or alter the rights or powers of the State  
30 Treasurer in any manner which would jeopardize the interest of the  
31 holders or any trustee of such holders, or inhibit or prevent  
32 performance or fulfillment by the authority or the State Treasurer with  
33 respect to the terms of any agreement made with the holders of these  
34 bonds or refunding bonds or agreements made pursuant to subsection  
35 c. of this section, except that the failure of the Legislature to  
36 appropriate moneys for any purpose of this act shall not be deemed a  
37 violation of this section.

38 i. Notwithstanding any restriction contained in any other law, rule,  
39 regulation or order to the contrary, the State and all political  
40 subdivisions of the State, their officers, boards, commissioners,  
41 departments or other agencies, all banks, bankers, trust companies,  
42 savings banks and institutions, building and loan associations, saving  
43 and loan associations, investment companies and other persons  
44 carrying on a banking or investment business, all insurance companies,  
45 insurance associations and other persons carrying on an insurance  
46 business, and all executors, administrators, guardians, trustees and

1 other fiduciaries, and all other persons whatsoever who now are or  
2 may hereafter be authorized to invest in bonds or other obligations of  
3 the State, may properly and legally invest any sinking funds, moneys  
4 or other funds, including capital, belonging to them or within their  
5 control, in any bonds or refunding bonds issued by the authority under  
6 the provisions of this act; and said bonds and refunding bonds are  
7 hereby made securities which may properly and legally be deposited  
8 with, and received by any State or municipal officers or agency of the  
9 State, for any purpose for which the deposit of bonds or other  
10 obligations of the State is now, or may hereafter be, authorized by law.

11

12 5. (New section) a. There is hereby created and established in the  
13 Department of the Treasury a separate nonlapsing fund to be known  
14 as the "Dedicated Cigarette Tax Revenue Fund." During the State  
15 fiscal year beginning July 1, 2006 and during each succeeding State  
16 fiscal year in which the authority has outstanding bonds or refunding  
17 bonds which have been issued pursuant to this act or is obligated to  
18 make any payments under any contract or agreement entered into by  
19 the authority pursuant of subsection c. of section 4 of this act, the  
20 State Treasurer shall credit to such Fund, on a monthly basis, an  
21 amount equivalent to the dedicated cigarette tax revenues received by  
22 the State during each calendar month of such fiscal year. Provided  
23 however, that:

24 (1) no credits of dedicated cigarette tax revenues shall be made to  
25 the Dedicated Cigarette Tax Revenue Fund in any State fiscal year  
26 until the deposits of revenue from the cigarette tax required by section  
27 4 of P.L.1997, c.264 (C.26:2H-18.58g) into the Health Care Subsidy  
28 Fund have been fully made in such fiscal year, and

29 (2) in each month of a State fiscal year beginning after the month  
30 in which the final deposits of revenue from the cigarette tax required  
31 by section 4 of P.L.1997, c.264 (C.26:2H-18.58g) into the Health  
32 Care Subsidy Fund have been fully made for such fiscal year, the State  
33 Treasurer shall credit to the Dedicated Cigarette Tax Revenue Fund  
34 an amount equivalent to all revenue collected by the State from the  
35 cigarette tax during such calendar month until the amount credited to  
36 the Dedicated Cigarette Tax Revenue Fund from the beginning of such  
37 fiscal year equals the amount that would have been credited to such  
38 Fund since the beginning of such fiscal year in accordance with the  
39 preceding sentence if the deposits of revenue from the cigarette tax  
40 required by section 4 of P.L.1997, c.264 (C.26:2H-18.58g) into the  
41 Health Care Subsidy Fund were not required to have been made.

42 b. In each State fiscal year during which the authority has  
43 outstanding bonds or refunding bonds which have been issued  
44 pursuant to this act or is obligated to make any payments under any  
45 contract or agreement entered into by the authority pursuant of  
46 subsection c. of section 4 of this act, the State Treasurer shall pay to



1 the authority solely from the Dedicated Cigarette Tax Revenue Fund  
2 in accordance with the provisions of any contract between the  
3 authority and the State Treasurer authorized and entered into pursuant  
4 to section 6 of this act, an amount equal to the debt service payable on  
5 the authority's then outstanding bonds or refunding bonds issued  
6 pursuant to this act during such fiscal year and any amounts required  
7 to be paid by the authority during such fiscal year under any contract  
8 or agreement entered into by the authority pursuant of subsection c.  
9 of section 4 of this act and such other additional amounts as shall be  
10 authorized by this act and required to be paid to the authority pursuant  
11 to any contract between the authority and the State Treasurer  
12 authorized and entered into pursuant to section 6 of this act; provided,  
13 however, that the payment of all such amounts to the authority shall  
14 be subject to and dependent upon appropriations being made from time  
15 to time by the Legislature of the amounts thereof for the purposes of  
16 this act. Notwithstanding any other provision of any law, rule,  
17 regulation or order to the contrary, the authority shall be paid only  
18 such amounts as shall be required by the provisions of any contract  
19 between the authority and the State Treasurer authorized and entered  
20 into pursuant to section 6 of this act and the incurrence of any  
21 obligation of the State under any such contract, including any  
22 payments to be made thereunder from the Dedicated Cigarette Tax  
23 Revenue Fund, shall be subject to and dependent upon appropriations  
24 being made from time to time by the Legislature for the purposes of  
25 this act.

26 c. If the authority no longer has outstanding bonds or refunding  
27 bonds which have been issued pursuant to this act and is no longer  
28 obligated to make any payments under any contract or agreement  
29 entered into by the authority pursuant of subsection c. of section 4 of  
30 this act or to pay any other costs, fees, expenses, liabilities and other  
31 obligations incurred by the authority and the State pursuant to this act,  
32 then all monies on deposit in the Dedicated Cigarette Tax Revenue  
33 Fund shall be transferred to the General Fund.

34  
35 6. (New section) The State Treasurer and the authority are  
36 authorized to enter into one or more contracts to implement the  
37 payment arrangement that is provided for in section 5 of this act. The  
38 contract or contracts shall provide for payment by the State Treasurer  
39 of the amounts required to be paid from the Dedicated Cigarette Tax  
40 Revenue Fund pursuant to section 5 of this act and shall set forth the  
41 procedure for the transfer of moneys for the purpose of paying such  
42 amounts. The contract or contracts shall contain such terms and  
43 conditions as are determined by the authority and the State Treasurer,  
44 and shall include, but not be limited to, terms and conditions necessary  
45 and desirable to secure any bonds or refunding bonds of the authority  
46 issued pursuant to this act or any obligations of the authority under

1 any contract or agreement entered into by the authority pursuant of  
2 subsection c. of section 4 of this act; provided however, that  
3 notwithstanding any other provision of any law, rule, regulation or  
4 order to the contrary, the authority shall be paid only such amounts as  
5 shall be required by the provisions of any contract or contracts, and  
6 the incurrence of any obligation of the State under any such contract  
7 or contracts, including any payments to be made thereunder from the  
8 Dedicated Cigarette Tax Revenue Fund, which shall be subject to and  
9 dependent upon appropriations being made from time to time by the  
10 Legislature for the purposes of this act.

11

12 7. (New section) There is hereby created and established in the  
13 Department of the Treasury a separate non-lapsing fund to be known  
14 as the "Cigarette Tax Securitization Fund." Revenue derived from the  
15 proceeds of bonds issued by the authority pursuant to this act may be  
16 deposited into the Cigarette Tax Securitization Fund and balances  
17 therein may be transferred to the General Fund.

18

19 8. Section 4 of P.L.1997, c.264 (C.26:2H-18.58g) is amended to  
20 read as follows:

21 4. Notwithstanding the provisions of any other law to the contrary,  
22 a. commencing July 1, 1998 and ending June 30, 2006: after the  
23 deposit required pursuant to section 5 of P.L.1982, c.40  
24 (C.54:40A-37.1), the first \$150,000,000 of revenue collected annually  
25 from the cigarette tax imposed pursuant to P.L.1948, c.65  
26 (C.54:40A-1 et seq.) and the first \$5,000,000 of revenue collected  
27 annually from the "Tobacco Products Wholesale Sales and Use Tax  
28 Act." P.L.1990, c.39 (C.54:40B-1 et seq.), shall be deposited into the  
29 Health Care Subsidy Fund established pursuant to section 8 of  
30 P.L.1992, c.160 (C.26:2H-18.58); and the next \$390,000,000 of  
31 revenue collected annually from the cigarette tax imposed pursuant to  
32 P.L.1948, c.65 (C.54:40A-1 et seq.) shall be appropriated annually for  
33 health programs, and the next \$50,000,000 of revenue collected  
34 annually from the cigarette tax imposed pursuant to P.L.1948, c.65  
35 (C.54:40A-1 et seq.) shall be appropriated annually to the New Jersey  
36 Economic Development Authority for payment of debt service  
37 incurred by the authority for school facilities projects and in fiscal  
38 years commencing July 1, 2002 and July 1, 2003, the next \$30,000,000  
39 of revenue collected annually from the cigarette tax imposed pursuant  
40 to P.L.1948, c.65 (C.54:40A-1 et seq.) shall be directed to the  
41 Department of Health and Senior Services to fund anti-smoking  
42 initiatives, except that the amount shall be \$40,000,000 in the fiscal  
43 year commencing July 1, 2004 and \$45,000,000 in the fiscal [years]  
44 year commencing July 1, 2005 [and thereafter] ; and

45 b. commencing with fiscal years beginning on and after July 1,  
46 2006, after the deposit required pursuant to section 5 of P.L.1982,

1 c.40 (C.54:40A-37.1), the first \$150,000,000 of revenue collected  
2 annually from the cigarette tax imposed pursuant to P.L.1948, c.65  
3 (C.54:40A-1 et seq.) and the first \$5,000,000 of revenue collected  
4 annually from the "Tobacco Products Wholesale Sales and Use Tax  
5 Act," P.L.1990, c.39 (C.54:40B-1 et seq.), shall be deposited into the  
6 Health Care Subsidy Fund established pursuant to section 8 of  
7 P.L.1992, c.160 (C.26:2H-18.58).

8 (cf: P.L.2003, c.115, s.3)

9  
10 9. (New section) The provisions of this act shall be severable, and  
11 if any of the provisions hereof shall be held to be unconstitutional or  
12 otherwise invalid, such decision shall not affect the validity of any of  
13 the remaining provisions of this act.

14  
15 10. This act shall take effect immediately.

#### 16 17 18 STATEMENT

19  
20 This bill authorizes the New Jersey Economic Development  
21 Authority ("EDA") to issue bonds, notes or other obligations  
22 ("bonds") primarily for the purpose of providing revenue to meet State  
23 appropriations in any State fiscal year commencing on or after July 1,  
24 2004. This bill also authorizes the EDA to issue refunding bonds,  
25 notes or other obligations to refinance any bonds previously issued or  
26 entered into by the EDA pursuant to this bill. Proceeds of the bonds  
27 or refunding bonds may also be used to fund any capitalized interest  
28 on such bonds or refunding bonds or any reserve or other fund  
29 established by the EDA to further secure such bonds or refunding  
30 bonds, and to pay all costs, fees and other expenses related to, or  
31 incurred by the EDA or the State in connection with the issuance  
32 thereof.

33 This bill requires the EDA to establish and maintain a Cigarette Tax  
34 Securitization Proceeds Fund into which shall be deposited the  
35 proceeds from the sale of all bonds (other than refunding bonds) issued  
36 by the EDA which are remaining after any required deposit to any  
37 reserve or other fund and after the payment of all costs, fees and other  
38 expenses related to, or incurred by the EDA or the State in connection  
39 with, the issuance of such bonds or any refunding bonds. Amounts on  
40 deposit in the Cigarette Tax Securitization Proceeds Fund are to be  
41 withdrawn by the EDA from time to time and paid to the State  
42 Treasurer for deposit into either the General Fund of the State or the  
43 Cigarette Tax Securitization Fund created by this bill, as determined  
44 by the State Treasurer, and used for any lawful purpose of the State  
45 for which moneys on deposit in the General Fund may be used. All  
46 amounts withdrawn from the Cigarette Tax Securitization Proceeds

1 Fund and deposited into the General Fund of the State shall represent  
2 financial resources of the State and revenues of the State upon deposit  
3 into the General Fund.

4 The bonds and refunding bonds issued by the EDA are payable  
5 solely from a dedicated portion of the revenue collected by the State  
6 during each State fiscal year beginning on and after July 1, 2006 from  
7 the cigarette tax imposed by the State pursuant to P.L.1948, c.65, as  
8 amended and supplemented, on the sale, use or possession for sale or  
9 use within the State of each cigarette. The dedicated portion of the  
10 cigarette tax revenues received by the State in each fiscal year  
11 commencing on and after July 1, 2006 are credited to a Dedicated  
12 Cigarette Tax Revenue Fund created in the Department of the  
13 Treasury pursuant to this bill.

14 In each State fiscal year during which the EDA has outstanding  
15 bonds or refunding bonds or is obligated to make any payments under  
16 any contract or agreement entered into pursuant to this bill, the State  
17 Treasurer shall pay to the EDA, solely from amounts on deposit in the  
18 Dedicated Cigarette Tax Revenue Fund, an amount equal to the debt  
19 service payable on the outstanding bonds or refunding bonds during  
20 such fiscal year and any amounts required to be paid by the EDA  
21 during such fiscal year under any such contract or agreement and such  
22 other additional amounts as shall be authorized by this bill; provided,  
23 however, that the payment of all such amounts to the EDA is subject  
24 to and dependent upon appropriations being made from time to time  
25 by the Legislature. Since the State Treasurer is only authorized to pay  
26 the EDA from amounts on deposit in the Dedicated Cigarette Tax  
27 Revenue Fund, the holder of the bonds or refunding bonds is accepting  
28 the risk that the amounts on deposit in such Fund will be sufficient to  
29 make all such required payments thereon.

30 This bill also authorizes the EDA and the State Treasurer to enter  
31 into a contract or contracts to implement the payment arrangement  
32 provided for in this bill. The contract or contracts shall require the  
33 State Treasurer to pay the proper amounts and shall establish the  
34 procedures for transferring moneys for payment; provided, however,  
35 that the incurrence of any obligation of the State under the contract,  
36 including payments from the Dedicated Cigarette Tax Revenue Fund,  
37 shall be subject to appropriations made by the Legislature.

38 The bonds or refunding bonds must be authorized by resolution.  
39 The resolution shall stipulate, among other things: the manner of  
40 execution and form of the bonds; whether the bonds are in one or  
41 more series; the date or dates of issue; the time or times of maturity;  
42 the rate or rates of interest payable on the bonds, which may be fixed  
43 or variable; the denominations in which the bonds are issued; the  
44 conversion or registration privileges; the sources, medium and place  
45 of payment; and the terms of redemption.

46 The bonds may be sold at a public or private sale at a price or

1 prices determined by the EDA. The EDA is authorized to enter into  
2 any agreements necessary or desirable to effectuate the purposes of  
3 this bill, including agreements to sell bonds or refunding bonds.

4 In connection with bonds or refunding bonds, the EDA may enter  
5 into any revolving credit agreement, agreement establishing a line of  
6 credit or letter of credit, reimbursement agreement, interest rate  
7 exchange agreement, currency exchange agreement, interest rate floor  
8 or cap, options, puts or calls to hedge payment, currency, rate, spread  
9 or similar exposure, or similar agreements (and in connection  
10 therewith, agreements establishing a line of credit, letter of credit,  
11 insurance or relating to the collateralization of the obligations  
12 thereunder), float agreements, forward agreements, insurance contract,  
13 surety bond, commitment to purchase or sell bonds, purchase or sale  
14 agreement, or commitments or other contracts or agreements and  
15 other security agreements as shall be determined and approved by the  
16 EDA.

17 Any bonds or refunding bonds issued by the EDA pursuant to this  
18 bill would be special and limited obligations of the EDA. The bonds  
19 or refunding bonds would not be a debt or liability of the State or any  
20 political subdivision thereof other than a special and limited obligation  
21 of the EDA, and they must contain a statement on their face to that  
22 effect.

23 Subject to the approval of the State Treasurer, the EDA is  
24 authorized to engage bond counsel, financial advisors and experts,  
25 placement agents, underwriters, trustees, verification agents,  
26 remarketing agents, auction agents, broker-dealers, appraisers, and  
27 such other advisors, consultants and agents as may be necessary to  
28 effectuate the purposes of this bill.

29 The bonds issued under this bill are deemed to be for an essential  
30 governmental purpose, and the interest thereon and the income derived  
31 from funds to pay or secure the payment of the bonds shall be exempt  
32 from all State taxes, except transfer inheritance and estate taxes.

33 The State pledges with the holders of the bonds or refunding bonds  
34 under this bill that it will not change the rights or powers of the EDA  
35 or the State Treasurer in any way that would jeopardize the interest of  
36 the holders or inhibit the EDA or the Treasurer from performing the  
37 terms of the bond agreements. Failure of the State to appropriate  
38 moneys for this bill shall not be deemed a violation of this section.

39

40

41

42 The "Cigarette Tax Securitization Act of 2004."

# ASSEMBLY, No. 3108

## STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED JUNE 21, 2004

**Sponsored by:**

**Assemblyman ALBIO SIRES**

**District 33 (Hudson)**

**Assemblyman JOSEPH J. ROBERTS, JR.**

**District 5 (Camden and Gloucester)**

**Co-Sponsored by:**

**Senator Kenny**

**SYNOPSIS**

The "Cigarette Tax Securitization Act of 2004."

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/25/2004)**

A3108 SIRES, ROBERTS

2

1 AN ACT authorizing the issuance of cigarette tax securitization bonds,  
2 notes or other obligations by the New Jersey Economic  
3 Development Authority for the purposes of providing revenue to  
4 meet appropriations in any State fiscal year commencing on or after  
5 July 1, 2004, providing a source of payment and security for such  
6 bonds, notes or other obligations, supplementing P.L.1974, c.80  
7 (C.34:1B-1 et seq.) and amending P.L.1997, c.264..  
8

9 **BE IT ENACTED** by the Senate and General Assembly of the State  
10 of New Jersey:

11  
12 1. (New section) This act shall be known and may be cited as the  
13 "Cigarette Tax Securitization Act of 2004."  
14

15 2. (New section) The following words or terms as used in this act  
16 shall have the following meanings unless a different meaning clearly  
17 appears from the context:

18 "Authority" means the New Jersey Economic Development  
19 Authority created pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.);

20 "Bonds" means any bonds, notes or other obligations issued or  
21 entered into by the authority pursuant to this act;

22 "Cigarette Tax" means the tax imposed by the State pursuant to the  
23 "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.), as amended  
24 and supplemented, on the sale, use or possession for sale or use within  
25 the State of each cigarette;

26 "Cigarette Tax Securitization Fund" means the fund by that name  
27 created and established pursuant to section 7 of this act;

28 "Cigarette Tax Securitization Proceeds Fund" means the fund by  
29 that name created and established pursuant to section 3 of this act;

30 "Dedicated Cigarette Tax Revenue Fund" means the fund by that  
31 name created and established pursuant to section 5 of this act;

32 "Dedicated Cigarette Tax Revenues" means an amount equal to the  
33 revenue collected by the State during each State fiscal year beginning  
34 on and after July 1, 2006 from \$0.0325 of the cigarette tax; and

35 "Refunding Bonds" means any bonds, notes or other obligations  
36 issued by the authority to refinance bonds, notes or other obligations  
37 previously issued or entered into by the authority pursuant to this act.  
38

39 3. (New section) a. The authority shall establish and maintain a  
40 special nonlapsing fund to be known as the "Cigarette Tax  
41 Securitization Proceeds Fund" into which shall be deposited the  
42 following moneys:

43 (1) the proceeds from the sale of all bonds (other than refunding

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 bonds) issued by the authority pursuant to this act which are remaining  
2 after any required deposit to any reserve or other fund established for  
3 such bonds or any refunding bonds in accordance with subsection a.  
4 of section 4 of this act and after the payment of all costs, fees and  
5 other expenses related to, or incurred by the authority or the State in  
6 connection with, the issuance of such bonds or any refunding bonds;

7 (2) any amounts which shall be appropriated by the Legislature for  
8 the purposes of such fund; and

9 (3) any other amounts or funds which the authority shall determine  
10 to deposit into such fund.

11 Moneys on deposit in the Cigarette Tax Securitization Proceeds  
12 Fund shall be invested in such obligations as the authority may  
13 determine or as shall otherwise be provided in any contract between  
14 the authority and the State Treasurer authorized and entered into  
15 pursuant to section 6 of this act, and interest or other earnings on any  
16 such investments shall be credited to such fund.

17 b. Amounts on deposit in the Cigarette Tax Securitization  
18 Proceeds Fund shall be withdrawn by the authority from time to time,  
19 upon written request of the State Treasurer or as otherwise provided  
20 in any contract between the authority and the State Treasurer  
21 authorized and entered into pursuant to section 6 of this act, and paid  
22 to the State Treasurer for deposit into either the General Fund of the  
23 State or the Cigarette Tax Securitization Fund, as determined by the  
24 State Treasurer, and used for any lawful purpose of the State for  
25 which moneys on deposit in the General Fund may be used. All  
26 amounts withdrawn from the Cigarette Tax Securitization Proceeds  
27 Fund and deposited into the General Fund of the State as provided in  
28 this subsection shall represent financial resources and revenues of the  
29 State from that fund as certified by the Governor pursuant to Article  
30 VIII, Section II, paragraph 2 of the State Constitution for the State  
31 annual appropriation act for such State fiscal year, and as may be  
32 applicable for such annual appropriation act as may be amended and  
33 supplemented from time to time. Notwithstanding any provision of  
34 this subsection to the contrary, the State Treasurer shall not request  
35 the authority to pay, and the authority shall not pay, to the State  
36 Treasurer during any State fiscal year amounts on deposit in the  
37 Cigarette Tax Securitization Proceeds Fund which are in excess of the  
38 amounts anticipated as revenues from such fund.

39  
40 4. (New section) Notwithstanding the provisions of any law, rule,  
41 regulation or order to the contrary:

42 a. The authority shall have the power, pursuant to and in  
43 accordance with the provisions of this act and P.L.1974, c.80  
44 (C.34:1B-1 et seq.), to issue bonds and refunding bonds, incur  
45 indebtedness and borrow money secured, in whole or in part, by  
46 money received pursuant to this act for the purpose of providing funds



A3108 SIRES, ROBERTS

1 (1) for deposit into the Cigarette Tax Securitization Proceeds  
2 Fund;  
3 (2) in the case of refunding bonds, to apply to the refunding,  
4 purchase or payment of any bonds issued pursuant to this act;  
5 (3) to fund any capitalized interest on such bonds or refunding  
6 bonds;  
7 (4) to fund any reserve or other fund as may be established by the  
8 authority for such bonds or refunding bonds and to further secure such  
9 bonds and refunding bonds as may be determined by the authority; and  
10 (5) to pay all costs, fees and other expenses related to, or incurred  
11 by the authority or the State in connection with, the issuance of such  
12 bonds or refunding bonds.

13 b. The authority may, in any resolution authorizing the issuance of  
14 bonds or refunding bonds issued by the authority pursuant to this act,  
15 pledge any contract entered into with the State Treasurer pursuant to  
16 section 6 of this act, or any part thereof, to secure the payment,  
17 purchase or redemption of bonds or refunding bonds or any  
18 obligations of the authority under any contract or agreement entered  
19 into by the authority pursuant of subsection c. of this section 4, and  
20 covenant as to the use and disposition of money available to the  
21 authority for the payment, purchase or redemption of bonds and  
22 refunding bonds and the payment of any obligations of the authority  
23 under any contract or agreement entered into by the authority pursuant  
24 to subsection c. of this section 4. All costs, fees and other expenses  
25 related to, or incurred by the authority or the State in connection with,  
26 the issuance of bonds or refunding bonds by the authority for the  
27 purposes set forth in this act may be paid by the authority from  
28 amounts it receives from the proceeds of the bonds or refunding bonds  
29 and from amounts it receives pursuant to sections 5 and 6 of this act,  
30 which costs, fees and other expenses may include, but are not limited  
31 to, any initial or annual administrative costs and fees of the authority  
32 attributable to any bonds or refunding bonds issued pursuant to this  
33 act, all legal, accounting, trustee or other professional fees, costs and  
34 expenses, and all other costs, fees, expenses, liabilities or obligations  
35 attributable to any agreement, contract or other commitment described  
36 in subsection c. of this section and any required rebate or other  
37 payment to the United States of America. The bonds or refunding  
38 bonds shall be authorized by resolution adopted by the authority,  
39 which shall stipulate the manner of execution and form of the bonds,  
40 whether the bonds or refunding bonds are to be issued in one or more  
41 series, the date or dates of issue, time or times of maturity, which shall  
42 not exceed 40 years, the rate or rates of interest payable on the bonds,  
43 which may be at fixed rates or variable rates, and which interest may  
44 be current interest or may accrue, the denomination or denominations  
45 in which the bonds are issued, conversion or registration privileges,  
46 the sources and medium of payment and place or places of payment,

1 terms of redemption, privileges of exchangeability or  
2 interchangeability, and entitlement to priorities of payment or security  
3 in the amounts to be received by the authority pursuant to sections 5  
4 and 6 of this act. The bonds may be sold at a public or private sale at  
5 a price or prices determined by the authority. The authority is  
6 authorized to enter into any agreements necessary or desirable to  
7 effectuate the purposes of this section, including agreements to sell  
8 bonds or refunding bonds to any person and to comply with the laws  
9 of any jurisdiction relating thereto.

10 c. In connection with any bonds or refunding bonds issued or to be  
11 issued pursuant to this act, the authority may also enter into any  
12 revolving credit agreement, agreement establishing a line of credit or  
13 letter of credit, reimbursement agreement, interest rate exchange  
14 agreement, currency exchange agreement, interest rate floor or cap,  
15 options, puts or calls to hedge payment, currency, rate, spread or  
16 similar exposure, or similar agreements (and in connection therewith,  
17 agreements establishing a line of credit, letter of credit, insurance or  
18 relating to the collateralization of the obligations thereunder), float  
19 agreements, forward agreements, insurance contract, surety bond,  
20 commitment to purchase or sell bonds, purchase or sale agreement, or  
21 commitments or other contracts or agreements and other security  
22 agreements as shall be determined and approved by the authority.

23 d. No resolution adopted by the authority authorizing the issuance  
24 of bonds or refunding bonds pursuant to this act shall be adopted or  
25 otherwise made effective without the approval in writing of the State  
26 Treasurer. Except as provided by subsection i. of section 4 of  
27 P.L.1974, c.80 (C.34:1B-4), bonds or refunding bonds may be issued  
28 without obtaining the consent of any department, division,  
29 commission, board, bureau or agency of the State, other than the  
30 approval as required by this subsection, and without any other  
31 proceedings or the occurrence of any other conditions or other things  
32 other than those proceedings, conditions or things which are  
33 specifically required by this act.

34 e. Bonds and refunding bonds issued by the authority pursuant to  
35 this act shall be special and limited obligations of the authority payable  
36 from, and secured by, such funds and moneys determined by the  
37 authority in accordance with this section. Neither the members of the  
38 authority nor any other person executing the bonds or refunding bonds  
39 shall be personally liable with respect to payment of interest and  
40 principal on these bonds or refunding bonds. Bonds or refunding  
41 bonds issued pursuant to the provisions of this act shall not be a debt  
42 or liability of the State or any agency or instrumentality thereof, other  
43 than a special and limited obligation of the authority, either legal,  
44 moral or otherwise, and nothing contained in this act shall be  
45 construed to authorize the authority to incur any indebtedness on  
46 behalf of or in any way to obligate the State or any political

1 subdivision thereof other than the authority, and all bonds and  
2 refunding bonds issued by the authority shall contain a statement to  
3 that effect on their face.

4 f. The authority is authorized to engage, subject to the approval of  
5 the State Treasurer and in such manner as the State Treasurer shall  
6 determine, the services of bond counsel, financial advisors and experts,  
7 placement agents, underwriters, trustees, verification agents,  
8 remarketing agents, auction agents, broker-dealers, appraisers, and  
9 such other advisors, consultants and agents as may be necessary to  
10 effectuate the purposes of this act.

11 g. All bonds or refunding bonds issued by the authority pursuant  
12 to this act are deemed to be issued by a body corporate and politic of  
13 the State for an essential governmental purpose, and the interest  
14 thereon and the income derived from all funds, revenues, incomes and  
15 other moneys received for or to be received by the authority and  
16 pledged and available to pay or secure the payment of bonds or  
17 refunding bonds and the interest thereon, shall be exempt from all  
18 taxes levied pursuant to the provisions of Title 54 of the Revised  
19 Statutes or Title 54A of the New Jersey Statutes, except for transfer  
20 inheritance and estate taxes levied pursuant to Subtitle 5 of Title 54 of  
21 the Revised Statutes.

22 h. The State hereby pledges and covenants with the holders of any  
23 bonds or refunding bonds issued pursuant to the provisions of this act,  
24 that it will not limit or alter the rights or powers vested in the  
25 authority by this act, nor limit or alter the rights or powers of the State  
26 Treasurer in any manner which would jeopardize the interest of the  
27 holders or any trustee of such holders, or inhibit or prevent  
28 performance or fulfillment by the authority or the State Treasurer with  
29 respect to the terms of any agreement made with the holders of these  
30 bonds or refunding bonds or agreements made pursuant to subsection  
31 c. of this section, except that the failure of the Legislature to  
32 appropriate moneys for any purpose of this act shall not be deemed a  
33 violation of this section.

34 i. Notwithstanding any restriction contained in any other law, rule,  
35 regulation or order to the contrary, the State and all political  
36 subdivisions of the State, their officers, boards, commissioners,  
37 departments or other agencies, all banks, bankers, trust companies,  
38 savings banks and institutions, building and loan associations, saving  
39 and loan associations, investment companies and other persons  
40 carrying on a banking or investment business, all insurance companies,  
41 insurance associations and other persons carrying on an insurance  
42 business, and all executors, administrators, guardians, trustees and  
43 other fiduciaries, and all other persons whatsoever who now are or  
44 may hereafter be authorized to invest in bonds or other obligations of  
45 the State, may properly and legally invest any sinking funds, moneys  
46 or other funds, including capital, belonging to them or within their

1 control, in any bonds or refunding bonds issued by the authority under  
2 the provisions of this act; and said bonds and refunding bonds are  
3 hereby made securities which may properly and legally be deposited  
4 with, and received by any State or municipal officers or agency of the  
5 State, for any purpose for which the deposit of bonds or other  
6 obligations of the State is now, or may hereafter be, authorized by law.

7

8 5. (New section) a. There is hereby created and established in the  
9 Department of the Treasury a separate nonlapsing fund to be known  
10 as the "Dedicated Cigarette Tax Revenue Fund." During the State  
11 fiscal year beginning July 1, 2006 and during each succeeding State  
12 fiscal year in which the authority has outstanding bonds or refunding  
13 bonds which have been issued pursuant to this act or is obligated to  
14 make any payments under any contract or agreement entered into by  
15 the authority pursuant of subsection c. of section 4 of this act, the  
16 State Treasurer shall credit to such Fund, on a monthly basis, an  
17 amount equivalent to the dedicated cigarette tax revenues received by  
18 the State during each calendar month of such fiscal year. Provided  
19 however, that:

20 (1) no credits of dedicated cigarette tax revenues shall be made to  
21 the Dedicated Cigarette Tax Revenue Fund in any State fiscal year  
22 until the deposits of revenue from the cigarette tax required by section  
23 4 of P.L.1997, c.264 (C.26:2H-18.58g) into the Health Care Subsidy  
24 Fund have been fully made in such fiscal year, and

25 (2) in each month of a State fiscal year beginning after the month  
26 in which the final deposits of revenue from the cigarette tax required  
27 by section 4 of P.L.1997, c.264 (C.26:2H-18.58g) into the Health  
28 Care Subsidy Fund have been fully made for such fiscal year, the State  
29 Treasurer shall credit to the Dedicated Cigarette Tax Revenue Fund  
30 an amount equivalent to all revenue collected by the State from the  
31 cigarette tax during such calendar month until the amount credited to  
32 the Dedicated Cigarette Tax Revenue Fund from the beginning of such  
33 fiscal year equals the amount that would have been credited to such  
34 Fund since the beginning of such fiscal year in accordance with the  
35 preceding sentence if the deposits of revenue from the cigarette tax  
36 required by section 4 of P.L.1997, c.264 (C.26:2H-18.58g) into the  
37 Health Care Subsidy Fund were not required to have been made.

38 b. In each State fiscal year during which the authority has  
39 outstanding bonds or refunding bonds which have been issued  
40 pursuant to this act or is obligated to make any payments under any  
41 contract or agreement entered into by the authority pursuant of  
42 subsection c. of section 4 of this act, the State Treasurer shall pay to  
43 the authority solely from the Dedicated Cigarette Tax Revenue Fund  
44 in accordance with the provisions of any contract between the  
45 authority and the State Treasurer authorized and entered into pursuant  
46 to section 6 of this act, an amount equal to the debt service payable on

1 the authority's then outstanding bonds or refunding bonds issued  
2 pursuant to this act during such fiscal year and any amounts required  
3 to be paid by the authority during such fiscal year under any contract  
4 or agreement entered into by the authority pursuant of subsection c.  
5 of section 4 of this act and such other additional amounts as shall be  
6 authorized by this act and required to be paid to the authority pursuant  
7 to any contract between the authority and the State Treasurer  
8 authorized and entered into pursuant to section 6 of this act; provided,  
9 however, that the payment of all such amounts to the authority shall  
10 be subject to and dependent upon appropriations being made from time  
11 to time by the Legislature of the amounts thereof for the purposes of  
12 this act. Notwithstanding any other provision of any law, rule,  
13 regulation or order to the contrary, the authority shall be paid only  
14 such amounts as shall be required by the provisions of any contract  
15 between the authority and the State Treasurer authorized and entered  
16 into pursuant to section 6 of this act and the incurrence of any  
17 obligation of the State under any such contract, including any  
18 payments to be made thereunder from the Dedicated Cigarette Tax  
19 Revenue Fund, shall be subject to and dependent upon appropriations  
20 being made from time to time by the Legislature for the purposes of  
21 this act.

22 c. If the authority no longer has outstanding bonds or refunding  
23 bonds which have been issued pursuant to this act and is no longer  
24 obligated to make any payments under any contract or agreement  
25 entered into by the authority pursuant of subsection c. of section 4 of  
26 this act or to pay any other costs, fees, expenses, liabilities and other  
27 obligations incurred by the authority and the State pursuant to this act,  
28 then all monies on deposit in the Dedicated Cigarette Tax Revenue  
29 Fund shall be transferred to the General Fund.

30  
31 6. (New section) The State Treasurer and the authority are  
32 authorized to enter into one or more contracts to implement the  
33 payment arrangement that is provided for in section 5 of this act. The  
34 contract or contracts shall provide for payment by the State Treasurer  
35 of the amounts required to be paid from the Dedicated Cigarette Tax  
36 Revenue Fund pursuant to section 5 of this act and shall set forth the  
37 procedure for the transfer of moneys for the purpose of paying such  
38 amounts. The contract or contracts shall contain such terms and  
39 conditions as are determined by the authority and the State Treasurer,  
40 and shall include, but not be limited to, terms and conditions necessary  
41 and desirable to secure any bonds or refunding bonds of the authority  
42 issued pursuant to this act or any obligations of the authority under  
43 any contract or agreement entered into by the authority pursuant of  
44 subsection c. of section 4 of this act; provided however, that  
45 notwithstanding any other provision of any law, rule, regulation or  
46 order to the contrary, the authority shall be paid only such amounts as

1 shall be required by the provisions of any contract or contracts, and  
2 the incurrence of any obligation of the State under any such contract  
3 or contracts, including any payments to be made thereunder from the  
4 Dedicated Cigarette Tax Revenue Fund, which shall be subject to and  
5 dependent upon appropriations being made from time to time by the  
6 Legislature for the purposes of this act.

7  
8 7. (New section) There is hereby created and established in the  
9 Department of the Treasury a separate non-lapsing fund to be known  
10 as the "Cigarette Tax Securitization Fund." Revenue derived from the  
11 proceeds of bonds issued by the authority pursuant to this act may be  
12 deposited into the Cigarette Tax Securitization Fund and balances  
13 therein may be transferred to the General Fund.

14  
15 8. Section 4 of P.L.1997, c.264 (C.26:2H-18.58g) is amended to  
16 read as follows:

17 4. Notwithstanding the provisions of any other law to the contrary,  
18 a. commencing July 1, 1998 and ending June 30, 2006: after the  
19 deposit required pursuant to section 5 of P.L.1982, c.40  
20 (C.54:40A-37.1), the first \$150,000,000 of revenue collected annually  
21 from the cigarette tax imposed pursuant to P.L.1948, c.65  
22 (C.54:40A-1 et seq.) and the first \$5,000,000 of revenue collected  
23 annually from the "Tobacco Products Wholesale Sales and Use Tax  
24 Act." P.L.1990, c.39 (C.54:40B-1 et seq.), shall be deposited into the  
25 Health Care Subsidy Fund established pursuant to section 8 of  
26 P.L.1992, c.160 (C.26:2H-18.58); and the next \$390,000,000 of  
27 revenue collected annually from the cigarette tax imposed pursuant to  
28 P.L.1948, c.65 (C.54:40A-1 et seq.) shall be appropriated annually for  
29 health programs, and the next \$50,000,000 of revenue collected  
30 annually from the cigarette tax imposed pursuant to P.L.1948, c.65  
31 (C.54:40A-1 et seq.) shall be appropriated annually to the New Jersey  
32 Economic Development Authority for payment of debt service  
33 incurred by the authority for school facilities projects and in fiscal  
34 years commencing July 1, 2002 and July 1, 2003, the next \$30,000,000  
35 of revenue collected annually from the cigarette tax imposed pursuant  
36 to P.L.1948, c.65 (C.54:40A-1 et seq.) shall be directed to the  
37 Department of Health and Senior Services to fund anti-smoking  
38 initiatives, except that the amount shall be \$40,000,000 in the fiscal  
39 year commencing July 1, 2004 and \$45,000,000 in the fiscal [years]  
40 year commencing July 1, 2005 [and thereafter] ; and

41 b. commencing with fiscal years beginning on and after July 1,  
42 2006, after the deposit required pursuant to section 5 of P.L.1982,  
43 c.40 (C.54:40A-37.1), the first \$150,000,000 of revenue collected  
44 annually from the cigarette tax imposed pursuant to P.L.1948, c.65  
45 (C.54:40A-1 et seq.) and the first \$5,000,000 of revenue collected  
46 annually from the "Tobacco Products Wholesale Sales and Use Tax

1 Act," P.L.1990, c.39 (C.54:40B-1 et seq.), shall be deposited into the  
2 Health Care Subsidy Fund established pursuant to section 8 of  
3 P.L.1992, c.160 (C.26:2H-18.58).

4 (cf: P.L.2003, c.115, s.3)

5  
6 9. (New section) The provisions of this act shall be severable, and  
7 if any of the provisions hereof shall be held to be unconstitutional or  
8 otherwise invalid, such decision shall not affect the validity of any of  
9 the remaining provisions of this act.

10  
11 10. This act shall take effect immediately.

12  
13  
14 STATEMENT

15  
16 This bill authorizes the New Jersey Economic Development  
17 Authority ("EDA") to issue bonds, notes or other obligations  
18 ("bonds") primarily for the purpose of providing revenue to meet State  
19 appropriations in any State fiscal year commencing on or after July 1,  
20 2004. This bill also authorizes the EDA to issue refunding bonds,  
21 notes or other obligations to refinance any bonds previously issued or  
22 entered into by the EDA pursuant to this bill. Proceeds of the bonds  
23 or refunding bonds may also be used to fund any capitalized interest  
24 on such bonds or refunding bonds or any reserve or other fund  
25 established by the EDA to further secure such bonds or refunding  
26 bonds, and to pay all costs, fees and other expenses related to, or  
27 incurred by the EDA or the State in connection with the issuance  
28 thereof.

29 This bill requires the EDA to establish and maintain a Cigarette Tax  
30 Securitization Proceeds Fund into which shall be deposited the  
31 proceeds from the sale of all bonds (other than refunding bonds) issued  
32 by the EDA which are remaining after any required deposit to any  
33 reserve or other fund and after the payment of all costs, fees and other  
34 expenses related to, or incurred by the EDA or the State in connection  
35 with, the issuance of such bonds or any refunding bonds. Amounts on  
36 deposit in the Cigarette Tax Securitization Proceeds Fund are to be  
37 withdrawn by the EDA from time to time and paid to the State  
38 Treasurer for deposit into either the General Fund of the State or the  
39 Cigarette Tax Securitization Fund created by this bill, as determined  
40 by the State Treasurer, and used for any lawful purpose of the State  
41 for which moneys on deposit in the General Fund may be used. All  
42 amounts withdrawn from the Cigarette Tax Securitization Proceeds  
43 Fund and deposited into the General Fund of the State shall represent  
44 financial resources of the State and revenues of the State upon deposit  
45 into the General Fund.

46 The bonds and refunding bonds issued by the EDA are payable

1 solely from a dedicated portion of the revenue collected by the State  
2 during each State fiscal year beginning on and after July 1, 2006 from  
3 the cigarette tax imposed by the State pursuant to P.L.1948, c.65, as  
4 amended and supplemented, on the sale, use or possession for sale or  
5 use within the State of each cigarette. The dedicated portion of the  
6 cigarette tax revenues received by the State in each fiscal year  
7 commencing on and after July 1, 2006 are credited to a Dedicated  
8 Cigarette Tax Revenue Fund created in the Department of the  
9 Treasury pursuant to this bill.

10 In each State fiscal year during which the EDA has outstanding  
11 bonds or refunding bonds or is obligated to make any payments under  
12 any contract or agreement entered into pursuant to this bill, the State  
13 Treasurer shall pay to the EDA, solely from amounts on deposit in the  
14 Dedicated Cigarette Tax Revenue Fund, an amount equal to the debt  
15 service payable on the outstanding bonds or refunding bonds during  
16 such fiscal year and any amounts required to be paid by the EDA  
17 during such fiscal year under any such contract or agreement and such  
18 other additional amounts as shall be authorized by this bill; provided,  
19 however, that the payment of all such amounts to the EDA is subject  
20 to and dependent upon appropriations being made from time to time  
21 by the Legislature. Since the State Treasurer is only authorized to pay  
22 the EDA from amounts on deposit in the Dedicated Cigarette Tax  
23 Revenue Fund, the holder of the bonds or refunding bonds is accepting  
24 the risk that the amounts on deposit in such Fund will be sufficient to  
25 make all such required payments thereon.

26 This bill also authorizes the EDA and the State Treasurer to enter  
27 into a contract or contracts to implement the payment arrangement  
28 provided for in this bill. The contract or contracts shall require the  
29 State Treasurer to pay the proper amounts and shall establish the  
30 procedures for transferring moneys for payment; provided, however,  
31 that the incurrence of any obligation of the State under the contract,  
32 including payments from the Dedicated Cigarette Tax Revenue Fund,  
33 shall be subject to appropriations made by the Legislature.

34 The bonds or refunding bonds must be authorized by resolution.  
35 The resolution shall stipulate, among other things: the manner of  
36 execution and form of the bonds; whether the bonds are in one or  
37 more series; the date or dates of issue; the time or times of maturity;  
38 the rate or rates of interest payable on the bonds, which may be fixed  
39 or variable; the denominations in which the bonds are issued; the  
40 conversion or registration privileges; the sources, medium and place  
41 of payment; and the terms of redemption.

42 The bonds may be sold at a public or private sale at a price or  
43 prices determined by the EDA. The EDA is authorized to enter into  
44 any agreements necessary or desirable to effectuate the purposes of  
45 this bill, including agreements to sell bonds or refunding bonds.

46 In connection with bonds or refunding bonds, the EDA may enter



1 into any revolving credit agreement, agreement establishing a line of  
2 credit or letter of credit, reimbursement agreement, interest rate  
3 exchange agreement, currency exchange agreement, interest rate floor  
4 or cap, options, puts or calls to hedge payment, currency, rate, spread  
5 or similar exposure, or similar agreements (and in connection  
6 therewith, agreements establishing a line of credit, letter of credit,  
7 insurance or relating to the collateralization of the obligations  
8 thereunder), float agreements, forward agreements, insurance contract,  
9 surety bond, commitment to purchase or sell bonds, purchase or sale  
10 agreement, or commitments or other contracts or agreements and  
11 other security agreements as shall be determined and approved by the  
12 EDA.

13 Any bonds or refunding bonds issued by the EDA pursuant to this  
14 bill would be special and limited obligations of the EDA. The bonds  
15 or refunding bonds would not be a debt or liability of the State or any  
16 political subdivision thereof other than a special and limited obligation  
17 of the EDA, and they must contain a statement on their face to that  
18 effect.

19 Subject to the approval of the State Treasurer, the EDA is  
20 authorized to engage bond counsel, financial advisors and experts,  
21 placement agents, underwriters, trustees, verification agents,  
22 remarketing agents, auction agents, broker-dealers, appraisers, and  
23 such other advisors, consultants and agents as may be necessary to  
24 effectuate the purposes of this bill.

25 The bonds issued under this bill are deemed to be for an essential  
26 governmental purpose, and the interest thereon and the income derived  
27 from funds to pay or secure the payment of the bonds shall be exempt  
28 from all State taxes, except transfer inheritance and estate taxes.

29 The State pledges with the holders of the bonds or refunding bonds  
30 under this bill that it will not change the rights or powers of the EDA  
31 or the State Treasurer in any way that would jeopardize the interest of  
32 the holders or inhibit the EDA or the Treasurer from performing the  
33 terms of the bond agreements. Failure of the State to appropriate  
34 moneys for this bill shall not be deemed a violation of this section.

# ASSEMBLY BUDGET COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 3108

# STATE OF NEW JERSEY

DATED: JUNE 22, 2004

The Assembly Budget Committee reports favorably Assembly Bill No. 3108.

Assembly Bill No. 3108 authorizes the New Jersey Economic Development Authority ("EDA") to issue bonds, notes or other obligations ("bonds") primarily for the purpose of providing revenue to meet State appropriations in any State fiscal year commencing on or after July 1, 2004. This bill also authorizes the EDA to issue refunding bonds, notes or other obligations to refinance any bonds previously issued or entered into by the EDA pursuant to this bill. Proceeds of the bonds or refunding bonds may also be used to fund any capitalized interest on such bonds or refunding bonds or any reserve or other fund established by the EDA to further secure such bonds or refunding bonds, and to pay all costs, fees and other expenses related to, or incurred by the EDA or the State in connection with the issuance thereof.

This bill requires the EDA to establish and maintain a Cigarette Tax Securitization Proceeds Fund into which shall be deposited the proceeds from the sale of all bonds (other than refunding bonds) issued by the EDA which are remaining after any required deposit to any reserve or other fund and after the payment of all costs, fees and other expenses related to, or incurred by the EDA or the State in connection with, the issuance of such bonds or any refunding bonds. Amounts on deposit in the Cigarette Tax Securitization Proceeds Fund are to be withdrawn by the EDA from time to time and paid to the State Treasurer for deposit into either the General Fund of the State or the Cigarette Tax Securitization Fund created by this bill, as determined by the State Treasurer, and used for any lawful purpose of the State for which moneys on deposit in the General Fund may be used. All amounts withdrawn from the Cigarette Tax Securitization Proceeds Fund and deposited into the General Fund of the State shall represent financial resources of the State and revenues of the State upon deposit into the General Fund.

The bonds and refunding bonds issued by the EDA are payable solely from a dedicated portion of the revenue collected by the State during each State fiscal year beginning on and after July 1, 2006 from the cigarette tax imposed by the State pursuant to P.L.1948, c.65, as amended and supplemented, on the sale, use or possession for sale or

use within the State of each cigarette. The dedicated portion of the cigarette tax revenues received by the State in each fiscal year commencing on and after July 1, 2006 are credited to a Dedicated Cigarette Tax Revenue Fund created in the Department of the Treasury pursuant to this bill.

In each State fiscal year during which the EDA has outstanding bonds or refunding bonds or is obligated to make any payments under any contract or agreement entered into pursuant to this bill, the State Treasurer shall pay to the EDA, solely from amounts on deposit in the Dedicated Cigarette Tax Revenue Fund, an amount equal to the debt service payable on the outstanding bonds or refunding bonds during such fiscal year and any amounts required to be paid by the EDA during such fiscal year under any such contract or agreement and such other additional amounts as shall be authorized by this bill; provided, however, that the payment of all such amounts to the EDA is subject to and dependent upon appropriations being made from time to time by the Legislature. Since the State Treasurer is only authorized to pay the EDA from amounts on deposit in the Dedicated Cigarette Tax Revenue Fund, the holder of the bonds or refunding bonds is accepting the risk that the amounts on deposit in such Fund will be sufficient to make all such required payments thereon.

This bill also authorizes the EDA and the State Treasurer to enter into a contract or contracts to implement the payment arrangement provided for in this bill. The contract or contracts shall require the State Treasurer to pay the proper amounts and shall establish the procedures for transferring moneys for payment; provided, however, that the incurrence of any obligation of the State under the contract, including payments from the Dedicated Cigarette Tax Revenue Fund, shall be subject to appropriations made by the Legislature.

The bonds or refunding bonds must be authorized by resolution. The resolution shall stipulate, among other things: the manner of execution and form of the bonds; whether the bonds are in one or more series; the date or dates of issue; the time or times of maturity; the rate or rates of interest payable on the bonds, which may be fixed or variable; the denominations in which the bonds are issued; the conversion or registration privileges; the sources, medium and place of payment; and the terms of redemption.

The bonds may be sold at a public or private sale at a price or prices determined by the EDA. The EDA is authorized to enter into any agreements necessary or desirable to effectuate the purposes of this bill, including agreements to sell bonds or refunding bonds.

In connection with bonds or refunding bonds, the EDA may enter into any revolving credit agreement, agreement establishing a line of credit or letter of credit, reimbursement agreement, interest rate exchange agreement, currency exchange agreement, interest rate floor or cap, options, puts or calls to hedge payment, currency, rate, spread or similar exposure, or similar agreements (and in connection therewith, agreements establishing a line of credit, letter of credit,

insurance or relating to the collateralization of the obligations thereunder), float agreements, forward agreements, insurance contract, surety bond, commitment to purchase or sell bonds, purchase or sale agreement, or commitments or other contracts or agreements and other security agreements as shall be determined and approved by the EDA.

Any bonds or refunding bonds issued by the EDA pursuant to this bill would be special and limited obligations of the EDA. The bonds or refunding bonds would not be a debt or liability of the State or any political subdivision thereof other than a special and limited obligation of the EDA, and they must contain a statement on their face to that effect.

Subject to the approval of the State Treasurer, the EDA is authorized to engage bond counsel, financial advisors and experts, placement agents, underwriters, trustees, verification agents, remarketing agents, auction agents, broker-dealers, appraisers, and such other advisors, consultants and agents as may be necessary to effectuate the purposes of this bill.

The bonds issued under this bill are deemed to be for an essential governmental purpose, and the interest thereon and the income derived from funds to pay or secure the payment of the bonds shall be exempt from all State taxes, except transfer inheritance and estate taxes.

The State pledges with the holders of the bonds or refunding bonds under this bill that it will not change the rights or powers of the EDA or the State Treasurer in any way that would jeopardize the interest of the holders or inhibit the EDA or the Treasurer from performing the terms of the bond agreements. Failure of the State to appropriate moneys for this bill shall not be deemed a violation of this section.

#### FISCAL IMPACT

It is estimated that the securitization program authorized under this bill, in conjunction with the securitization of motor vehicle surcharges under separate legislation, will provide approximately \$1.926 billion in funding to support the proposed FY2004-05 annual appropriations act.

**SENATE, No. 1779**

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**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

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INTRODUCED JUNE 21, 2004

**Sponsored by:**

**Senator BERNARD F. KENNY, JR.**

**District 33 (Hudson)**

**SYNOPSIS**

The "Cigarette Tax Securitization Act of 2004."

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT authorizing the issuance of cigarette tax securitization bonds,  
2 notes or other obligations by the New Jersey Economic  
3 Development Authority for the purposes of providing revenue to  
4 meet appropriations in any State fiscal year commencing on or after  
5 July 1, 2004, providing a source of payment and security for such  
6 bonds, notes or other obligations, supplementing P.L.1974, c.80  
7 (C.34:1B-1 et seq.) and amending P.L.1997, c.264.

8  
9 **BE IT ENACTED** by the Senate and General Assembly of the State  
10 of New Jersey:

11  
12 1. (New section) This act shall be known and may be cited as the  
13 "Cigarette Tax Securitization Act of 2004."

14  
15 2. (New section) The following words or terms as used in this act  
16 shall have the following meanings unless a different meaning clearly  
17 appears from the context:

18 "Authority" means the New Jersey Economic Development  
19 Authority created pursuant to P.L.1974, c. 80 (C.34:1B-1 et seq.);

20 "Bonds" means any bonds, notes or other obligations issued or  
21 entered into by the authority pursuant to this act;

22 "Cigarette Tax" means the tax imposed by the State pursuant to the  
23 "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.), as amended  
24 and supplemented, on the sale, use or possession for sale or use within  
25 the State of each cigarette;

26 "Cigarette Tax Securitization Fund" means the fund by that name  
27 created and established pursuant to section 7 of this act;

28 "Cigarette Tax Securitization Proceeds Fund" means the fund by  
29 that name created and established pursuant to section 3 of this act;

30 "Dedicated Cigarette Tax Revenue Fund" means the fund by that  
31 name created and established pursuant to section 5 of this act;

32 "Dedicated Cigarette Tax Revenues" means an amount equal to the  
33 revenue collected by the State during each State fiscal year beginning  
34 on and after July 1, 2006 from \$0.0325 of the cigarette tax; and

35 "Refunding Bonds" means any bonds, notes or other obligations  
36 issued by the authority to refinance bonds, notes or other obligations  
37 previously issued or entered into by the authority pursuant to this act.

38  
39 3. (New section) a. The authority shall establish and maintain a  
40 special nonlapsing fund to be known as the "Cigarette Tax  
41 Securitization Proceeds Fund" into which shall be deposited the  
42 following moneys:

43 (1) the proceeds from the sale of all bonds (other than refunding

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 bonds) issued by the authority pursuant to this act which are remaining  
2 after any required deposit to any reserve or other fund established for  
3 such bonds or any refunding bonds in accordance with subsection a.  
4 of section 4 of this act and after the payment of all costs, fees and  
5 other expenses related to, or incurred by the authority or the State in  
6 connection with, the issuance of such bonds or any refunding bonds;

7 (2) any amounts which shall be appropriated by the Legislature for  
8 the purposes of such fund; and

9 (3) any other amounts or funds which the authority shall determine  
10 to deposit into such fund.

11 Moneys on deposit in the Cigarette Tax Securitization Proceeds  
12 Fund shall be invested in such obligations as the authority may  
13 determine or as shall otherwise be provided in any contract between  
14 the authority and the State Treasurer authorized and entered into  
15 pursuant to section 6 of this act, and interest or other earnings on any  
16 such investments shall be credited to such fund.

17 b. Amounts on deposit in the Cigarette Tax Securitization  
18 Proceeds Fund shall be withdrawn by the authority from time to time,  
19 upon written request of the State Treasurer or as otherwise provided  
20 in any contract between the authority and the State Treasurer  
21 authorized and entered into pursuant to section 6 of this act, and paid  
22 to the State Treasurer for deposit into either the General Fund of the  
23 State or the Cigarette Tax Securitization Fund, as determined by the  
24 State Treasurer, and used for any lawful purpose of the State for  
25 which moneys on deposit in the General Fund may be used. All  
26 amounts withdrawn from the Cigarette Tax Securitization Proceeds  
27 Fund and deposited into the General Fund of the State as provided in  
28 this subsection shall represent financial resources and revenues of the  
29 State from that fund as certified by the Governor pursuant to Article  
30 VIII, Section II, paragraph 2 of the State Constitution for the State  
31 annual appropriation act for such State fiscal year, and as may be  
32 applicable for such annual appropriation act as may be amended and  
33 supplemented from time to time. Notwithstanding any provision of  
34 this subsection to the contrary, the State Treasurer shall not request  
35 the authority to pay, and the authority shall not pay, to the State  
36 Treasurer during any State fiscal year amounts on deposit in the  
37 Cigarette Tax Securitization Proceeds Fund which are in excess of the  
38 amounts anticipated as revenues from such fund.

39  
40 4. (New section) Notwithstanding the provisions of any law, rule,  
41 regulation or order to the contrary:

42 a. The authority shall have the power, pursuant to and in  
43 accordance with the provisions of this act and P.L.1974, c.80  
44 (C.34:1B-1 et seq.), to issue bonds and refunding bonds, incur  
45 indebtedness and borrow money secured, in whole or in part, by  
46 money received pursuant to this act for the purpose of providing funds

**S1779 KENNY**

1 (1) for deposit into the Cigarette Tax Securitization Proceeds  
2 Fund;

3 (2) in the case of refunding bonds, to apply to the refunding,  
4 purchase or payment of any bonds issued pursuant to this act;

5 (3) to fund any capitalized interest on such bonds or refunding  
6 bonds;

7 (4) to fund any reserve or other fund as may be established by the  
8 authority for such bonds or refunding bonds and to further secure such  
9 bonds and refunding bonds as may be determined by the authority; and

10 (5) to pay all costs, fees and other expenses related to, or incurred  
11 by the authority or the State in connection with, the issuance of such  
12 bonds or refunding bonds.

13 b. The authority may, in any resolution authorizing the issuance of  
14 bonds or refunding bonds issued by the authority pursuant to this act,  
15 pledge any contract entered into with the State Treasurer pursuant to  
16 section 6 of this act, or any part thereof, to secure the payment,  
17 purchase or redemption of bonds or refunding bonds or any  
18 obligations of the authority under any contract or agreement entered  
19 into by the authority pursuant of subsection c. of section 4 of this act,  
20 and covenant as to the use and disposition of money available to the  
21 authority for the payment, purchase or redemption of bonds and  
22 refunding bonds and the payment of any obligations of the authority  
23 under any contract or agreement entered into by the authority pursuant  
24 to subsection c. of this section 4. All costs, fees and other expenses  
25 related to, or incurred by the authority or the State in connection with,  
26 the issuance of bonds or refunding bonds by the authority for the  
27 purposes set forth in this act may be paid by the authority from  
28 amounts it receives from the proceeds of the bonds or refunding bonds  
29 and from amounts it receives pursuant to sections 5 and 6 of this act,  
30 which costs, fees and other expenses may include, but are not limited  
31 to, any initial or annual administrative costs and fees of the authority  
32 attributable to any bonds or refunding bonds issued pursuant to this  
33 act, all legal, accounting, trustee or other professional fees, costs and  
34 expenses, and all other costs, fees, expenses, liabilities or obligations  
35 attributable to any agreement, contract or other commitment described  
36 in subsection c. of this section and any required rebate or other  
37 payment to the United States of America. The bonds or refunding  
38 bonds shall be authorized by resolution adopted by the authority,  
39 which shall stipulate the manner of execution and form of the bonds,  
40 whether the bonds or refunding bonds are to be issued in one or more  
41 series, the date or dates of issue, time or times of maturity, which shall  
42 not exceed 40 years, the rate or rates of interest payable on the bonds,  
43 which may be at fixed rates or variable rates, and which interest may  
44 be current interest or may accrue, the denomination or denominations  
45 in which the bonds are issued, conversion or registration privileges,  
46 the sources and medium of payment and place or places of payment,



1 terms of redemption, privileges of exchangeability or  
2 interchangeability, and entitlement to priorities of payment or security  
3 in the amounts to be received by the authority pursuant to sections 5  
4 and 6 of this act. The bonds may be sold at a public or private sale at  
5 a price or prices determined by the authority. The authority is  
6 authorized to enter into any agreements necessary or desirable to  
7 effectuate the purposes of this section, including agreements to sell  
8 bonds or refunding bonds to any person and to comply with the laws  
9 of any jurisdiction relating thereto.

10 c. In connection with any bonds or refunding bonds issued or to be  
11 issued pursuant to this act, the authority may also enter into any  
12 revolving credit agreement, agreement establishing a line of credit or  
13 letter of credit, reimbursement agreement, interest rate exchange  
14 agreement, currency exchange agreement, interest rate floor or cap,  
15 options, puts or calls to hedge payment, currency, rate, spread or  
16 similar exposure, or similar agreements (and in connection therewith,  
17 agreements establishing a line of credit, letter of credit, insurance or  
18 relating to the collateralization of the obligations thereunder), float  
19 agreements, forward agreements, insurance contract, surety bond,  
20 commitment to purchase or sell bonds, purchase or sale agreement, or  
21 commitments or other contracts or agreements and other security  
22 agreements as shall be determined and approved by the authority.

23 d. No resolution adopted by the authority authorizing the issuance  
24 of bonds or refunding bonds pursuant to this act shall be adopted or  
25 otherwise made effective without the approval in writing of the State  
26 Treasurer. Except as provided by subsection i. of section 4 of  
27 P.L.1974, c.80 (C.34:1B-4), bonds or refunding bonds may be issued  
28 without obtaining the consent of any department, division,  
29 commission, board, bureau or agency of the State, other than the  
30 approval as required by this subsection, and without any other  
31 proceedings or the occurrence of any other conditions or other things  
32 other than those proceedings, conditions or things which are  
33 specifically required by this act.

34 e. Bonds and refunding bonds issued by the authority pursuant to  
35 this act shall be special and limited obligations of the authority payable  
36 from, and secured by, such funds and moneys determined by the  
37 authority in accordance with this section. Neither the members of the  
38 authority nor any other person executing the bonds or refunding bonds  
39 shall be personally liable with respect to payment of interest and  
40 principal on these bonds or refunding bonds. Bonds or refunding  
41 bonds issued pursuant to the provisions of this act shall not be a debt  
42 or liability of the State or any agency or instrumentality thereof, other  
43 than a special and limited obligation of the authority, either legal,  
44 moral or otherwise, and nothing contained in this act shall be  
45 construed to authorize the authority to incur any indebtedness on  
46 behalf of or in any way to obligate the State or any political

1 subdivision thereof other than the authority, and all bonds and  
2 refunding bonds issued by the authority shall contain a statement to  
3 that effect on their face.

4 f. The authority is authorized to engage, subject to the approval of  
5 the State Treasurer and in such manner as the State Treasurer shall  
6 determine, the services of bond counsel, financial advisors and experts,  
7 placement agents, underwriters, trustees, verification agents,  
8 remarketing agents, auction agents, broker-dealers, appraisers, and  
9 such other advisors, consultants and agents as may be necessary to  
10 effectuate the purposes of this act.

11 g. All bonds or refunding bonds issued by the authority pursuant  
12 to this act are deemed to be issued by a body corporate and politic of  
13 the State for an essential governmental purpose, and the interest  
14 thereon and the income derived from all funds, revenues, incomes and  
15 other moneys received for or to be received by the authority and  
16 pledged and available to pay or secure the payment of bonds or  
17 refunding bonds and the interest thereon, shall be exempt from all  
18 taxes levied pursuant to the provisions of Title 54 of the Revised  
19 Statutes or Title 54A of the New Jersey Statutes, except for transfer  
20 inheritance and estate taxes levied pursuant to Subtitle 5 of Title 54 of  
21 the Revised Statutes.

22 h. The State hereby pledges and covenants with the holders of any  
23 bonds or refunding bonds issued pursuant to the provisions of this act,  
24 that it will not limit or alter the rights or powers vested in the  
25 authority by this act, nor limit or alter the rights or powers of the State  
26 Treasurer in any manner which would jeopardize the interest of the  
27 holders or any trustee of such holders, or inhibit or prevent  
28 performance or fulfillment by the authority or the State Treasurer with  
29 respect to the terms of any agreement made with the holders of these  
30 bonds or refunding bonds or agreements made pursuant to subsection  
31 c. of this section, except that the failure of the Legislature to  
32 appropriate moneys for any purpose of this act shall not be deemed a  
33 violation of this section.

34 i. Notwithstanding any restriction contained in any other law, rule,  
35 regulation or order to the contrary, the State and all political  
36 subdivisions of the State, their officers, boards, commissioners,  
37 departments or other agencies, all banks, bankers, trust companies,  
38 savings banks and institutions, building and loan associations, saving  
39 and loan associations, investment companies and other persons  
40 carrying on a banking or investment business, all insurance companies,  
41 insurance associations and other persons carrying on an insurance  
42 business, and all executors, administrators, guardians, trustees and  
43 other fiduciaries, and all other persons whatsoever who now are or  
44 may hereafter be authorized to invest in bonds or other obligations of  
45 the State, may properly and legally invest any sinking funds, moneys  
46 or other funds, including capital, belonging to them or within their

1 control, in any bonds or refunding bonds issued by the authority under  
2 the provisions of this act; and said bonds and refunding bonds are  
3 hereby made securities which may properly and legally be deposited  
4 with, and received by any State or municipal officers or agency of the  
5 State, for any purpose for which the deposit of bonds or other  
6 obligations of the State is now, or may hereafter be, authorized by law.

7

8 5. (New section) a. There is hereby created and established in the  
9 Department of the Treasury a separate nonlapsing fund to be known  
10 as the "Dedicated Cigarette Tax Revenue Fund." During the State  
11 fiscal year beginning July 1, 2006 and during each succeeding State  
12 fiscal year in which the authority has outstanding bonds or refunding  
13 bonds which have been issued pursuant to this act or is obligated to  
14 make any payments under any contract or agreement entered into by  
15 the authority pursuant of subsection c. of section 4 of this act, the  
16 State Treasurer shall credit to such Fund, on a monthly basis, an  
17 amount equivalent to the dedicated cigarette tax revenues received by  
18 the State during each calendar month of such fiscal year. Provided  
19 however, that:

20 (1) no credits of dedicated cigarette tax revenues shall be made to  
21 the Dedicated Cigarette Tax Revenue Fund in any State fiscal year  
22 until the deposits of revenue from the cigarette tax required by section  
23 4 of P.L.1997, c.264 (C.26:2H-18.58g) into the Health Care Subsidy  
24 Fund have been fully made in such fiscal year, and

25 (2) in each month of a State fiscal year beginning after the month  
26 in which the final deposits of revenue from the cigarette tax required  
27 by section 4 of P.L.1997, c.264 (C.26:2H-18.58g) into the Health  
28 Care Subsidy Fund have been fully made for such fiscal year, the State  
29 Treasurer shall credit to the Dedicated Cigarette Tax Revenue Fund  
30 an amount equivalent to all revenue collected by the State from the  
31 cigarette tax during such calendar month until the amount credited to  
32 the Dedicated Cigarette Tax Revenue Fund from the beginning of such  
33 fiscal year equals the amount that would have been credited to such  
34 Fund since the beginning of such fiscal year in accordance with the  
35 preceding sentence if the deposits of revenue from the cigarette tax  
36 required by section 4 of P.L.1997, c.264 (C.26:2H-18.58g) into the  
37 Health Care Subsidy Fund were not required to have been made.

38 b. In each State fiscal year during which the authority has  
39 outstanding bonds or refunding bonds which have been issued  
40 pursuant to this act or is obligated to make any payments under any  
41 contract or agreement entered into by the authority pursuant of  
42 subsection c. of section 4 of this act, the State Treasurer shall pay to  
43 the authority solely from the Dedicated Cigarette Tax Revenue Fund  
44 in accordance with the provisions of any contract between the  
45 authority and the State Treasurer authorized and entered into pursuant  
46 to section 6 of this act, an amount equal to the debt service payable on

1 the authority's then outstanding bonds or refunding bonds issued  
2 pursuant to this act during such fiscal year and any amounts required  
3 to be paid by the authority during such fiscal year under any contract  
4 or agreement entered into by the authority pursuant of subsection c.  
5 of section 4 of this act and such other additional amounts as shall be  
6 authorized by this act and required to be paid to the authority pursuant  
7 to any contract between the authority and the State Treasurer  
8 authorized and entered into pursuant to section 6 of this act; provided,  
9 however, that the payment of all such amounts to the authority shall  
10 be subject to and dependent upon appropriations being made from time  
11 to time by the Legislature of the amounts thereof for the purposes of  
12 this act. Notwithstanding any other provision of any law, rule,  
13 regulation or order to the contrary, the authority shall be paid only  
14 such amounts as shall be required by the provisions of any contract  
15 between the authority and the State Treasurer authorized and entered  
16 into pursuant to section 6 of this act and the incurrence of any  
17 obligation of the State under any such contract, including any  
18 payments to be made thereunder from the Dedicated Cigarette Tax  
19 Revenue Fund, shall be subject to and dependent upon appropriations  
20 being made from time to time by the Legislature for the purposes of  
21 this act.

22 c. If the authority no longer has outstanding bonds or refunding  
23 bonds which have been issued pursuant to this act and is no longer  
24 obligated to make any payments under any contract or agreement  
25 entered into by the authority pursuant of subsection c. of section 4 of  
26 this act or to pay any other costs, fees, expenses, liabilities and other  
27 obligations incurred by the authority and the State pursuant to this act,  
28 then all monies on deposit in the Dedicated Cigarette Tax Revenue  
29 Fund shall be transferred to the General Fund.

30

31 6. (New section) The State Treasurer and the authority are  
32 authorized to enter into one or more contracts to implement the  
33 payment arrangement that is provided for in section 5 of this act. The  
34 contract or contracts shall provide for payment by the State Treasurer  
35 of the amounts required to be paid from the Dedicated Cigarette Tax  
36 Revenue Fund pursuant to section 5 of this act and shall set forth the  
37 procedure for the transfer of moneys for the purpose of paying such  
38 amounts. The contract or contracts shall contain such terms and  
39 conditions as are determined by the authority and the State Treasurer,  
40 and shall include, but not be limited to, terms and conditions necessary  
41 and desirable to secure any bonds or refunding bonds of the authority  
42 issued pursuant to this act or any obligations of the authority under  
43 any contract or agreement entered into by the authority pursuant of  
44 subsection c. of section 4 of this act; provided however, that  
45 notwithstanding any other provision of any law, rule, regulation or  
46 order to the contrary, the authority shall be paid only such amounts as

1 shall be required by the provisions of any contract or contracts, and  
2 the incurrence of any obligation of the State under any such contract  
3 or contracts, including any payments to be made thereunder from the  
4 Dedicated Cigarette Tax Revenue Fund, which shall be subject to and  
5 dependent upon appropriations being made from time to time by the  
6 Legislature for the purposes of this act.

7  
8 7. (New section) There is hereby created and established in the  
9 Department of the Treasury a separate non-lapsing fund to be known  
10 as the "Cigarette Tax Securitization Fund." Revenue derived from the  
11 proceeds of bonds issued by the authority pursuant to this act may be  
12 deposited into the Cigarette Tax Securitization Fund and balances  
13 therein may be transferred to the General Fund.

14  
15 8. Section 4 of P.L.1997, c.264 (C.26:2H-18.58g) is amended to  
16 read as follows:

17 4. Notwithstanding the provisions of any other law to the contrary,  
18 a. commencing July 1, 1998 and ending June 30, 2006: after the  
19 deposit required pursuant to section 5 of P.L.1982, c.40  
20 (C.54:40A-37.1), the first \$150,000,000 of revenue collected annually  
21 from the cigarette tax imposed pursuant to P.L.1948, c.65  
22 (C.54:40A-1 et seq.) and the first \$5,000,000 of revenue collected  
23 annually from the "Tobacco Products Wholesale Sales and Use Tax  
24 Act." P.L.1990, c.39 (C.54:40B-1 et seq.), shall be deposited into the  
25 Health Care Subsidy Fund established pursuant to section 8 of  
26 P.L.1992, c.160 (C.26:2H-18.58); and the next \$390,000,000 of  
27 revenue collected annually from the cigarette tax imposed pursuant to  
28 P.L.1948, c.65 (C.54:40A-1 et seq.) shall be appropriated annually for  
29 health programs, and the next \$50,000,000 of revenue collected  
30 annually from the cigarette tax imposed pursuant to P.L.1948, c.65  
31 (C.54:40A-1 et seq.) shall be appropriated annually to the New Jersey  
32 Economic Development Authority for payment of debt service  
33 incurred by the authority for school facilities projects and in fiscal  
34 years commencing July 1, 2002 and July 1, 2003, the next \$30,000,000  
35 of revenue collected annually from the cigarette tax imposed pursuant  
36 to P.L.1948, c.65 (C.54:40A-1 et seq.) shall be directed to the  
37 Department of Health and Senior Services to fund anti-smoking  
38 initiatives, except that the amount shall be \$40,000,000 in the fiscal  
39 year commencing July 1, 2004 and \$45,000,000 in the fiscal [years]  
40 year commencing July 1, 2005 [and thereafter] ; and

41 b. commencing with fiscal years beginning on and after July 1,  
42 2006, after the deposit required pursuant to section 5 of P.L.1982,  
43 c.40 (C.54:40A-37.1), the first \$150,000,000 of revenue collected  
44 annually from the cigarette tax imposed pursuant to P.L.1948, c.65  
45 (C.54:40A-1 et seq.) and the first \$5,000,000 of revenue collected  
46 annually from the "Tobacco Products Wholesale Sales and Use Tax

1 Act," P.L.1990, c.39 (C.54:40B-1 et seq.), shall be deposited into the  
2 Health Care Subsidy Fund established pursuant to section 8 of  
3 P.L.1992, c.160 (C.26:2H-18.58).  
4 (cf: P.L.2003, c.115, s.3)

5  
6 9. (New section) The provisions of this act shall be severable, and  
7 if any of the provisions hereof shall be held to be unconstitutional or  
8 otherwise invalid, such decision shall not affect the validity of any of  
9 the remaining provisions of this act.

10  
11 10. This act shall take effect immediately.

12  
13  
14 STATEMENT

15  
16 This bill authorizes the New Jersey Economic Development  
17 Authority ("EDA") to issue bonds, notes or other obligations  
18 ("bonds") primarily for the purpose of providing revenue to meet State  
19 appropriations in any State fiscal year commencing on or after July 1,  
20 2004. This bill also authorizes the EDA to issue refunding bonds,  
21 notes or other obligations to refinance any bonds previously issued or  
22 entered into by the EDA pursuant to this bill. Proceeds of the bonds  
23 or refunding bonds may also be used to fund any capitalized interest  
24 on such bonds or refunding bonds or any reserve or other fund  
25 established by the EDA to further secure such bonds or refunding  
26 bonds, and to pay all costs, fees and other expenses related to, or  
27 incurred by the EDA or the State in connection with the issuance  
28 thereof.

29 This bill requires the EDA to establish and maintain a Cigarette Tax  
30 Securitization Proceeds Fund into which shall be deposited the  
31 proceeds from the sale of all bonds (other than refunding bonds) issued  
32 by the EDA which are remaining after any required deposit to any  
33 reserve or other fund and after the payment of all costs, fees and other  
34 expenses related to, or incurred by the EDA or the State in connection  
35 with, the issuance of such bonds or any refunding bonds. Amounts on  
36 deposit in the Cigarette Tax Securitization Proceeds Fund are to be  
37 withdrawn by the EDA from time to time and paid to the State  
38 Treasurer for deposit into either the General Fund of the State or the  
39 Cigarette Tax Securitization Fund created by this bill, as determined  
40 by the State Treasurer, and used for any lawful purpose of the State  
41 for which moneys on deposit in the General Fund may be used. All  
42 amounts withdrawn from the Cigarette Tax Securitization Proceeds  
43 Fund and deposited into the General Fund of the State shall represent  
44 financial resources of the State and revenues of the State upon deposit  
45 into the General Fund.

46 The bonds and refunding bonds issued by the EDA are payable

1 solely from a dedicated portion of the revenue collected by the State  
2 during each State fiscal year beginning on and after July 1, 2006 from  
3 the cigarette tax imposed by the State pursuant to P.L.1948, c.65, as  
4 amended and supplemented, on the sale, use or possession for sale or  
5 use within the State of each cigarette. The dedicated portion of the  
6 cigarette tax revenues received by the State in each fiscal year  
7 commencing on and after July 1, 2006 are credited to a Dedicated  
8 Cigarette Tax Revenue Fund created in the Department of the  
9 Treasury pursuant to this bill.

10 In each State fiscal year during which the EDA has outstanding  
11 bonds or refunding bonds or is obligated to make any payments under  
12 any contract or agreement entered into pursuant to this bill, the State  
13 Treasurer shall pay to the EDA, solely from amounts on deposit in the  
14 Dedicated Cigarette Tax Revenue Fund, an amount equal to the debt  
15 service payable on the outstanding bonds or refunding bonds during  
16 such fiscal year and any amounts required to be paid by the EDA  
17 during such fiscal year under any such contract or agreement and such  
18 other additional amounts as shall be authorized by this bill; provided,  
19 however, that the payment of all such amounts to the EDA is subject  
20 to and dependent upon appropriations being made from time to time  
21 by the Legislature. Since the State Treasurer is only authorized to pay  
22 the EDA from amounts on deposit in the Dedicated Cigarette Tax  
23 Revenue Fund, the holder of the bonds or refunding bonds is accepting  
24 the risk that the amounts on deposit in such Fund will be sufficient to  
25 make all such required payments thereon.

26 This bill also authorizes the EDA and the State Treasurer to enter  
27 into a contract or contracts to implement the payment arrangement  
28 provided for in this bill. The contract or contracts shall require the  
29 State Treasurer to pay the proper amounts and shall establish the  
30 procedures for transferring moneys for payment; provided, however,  
31 that the incurrence of any obligation of the State under the contract,  
32 including payments from the Dedicated Cigarette Tax Revenue Fund,  
33 shall be subject to appropriations made by the Legislature.

34 The bonds or refunding bonds must be authorized by resolution.  
35 The resolution shall stipulate, among other things: the manner of  
36 execution and form of the bonds; whether the bonds are in one or  
37 more series; the date or dates of issue; the time or times of maturity;  
38 the rate or rates of interest payable on the bonds, which may be fixed  
39 or variable; the denominations in which the bonds are issued; the  
40 conversion or registration privileges; the sources, medium and place  
41 of payment; and the terms of redemption.

42 The bonds may be sold at a public or private sale at a price or  
43 prices determined by the EDA. The EDA is authorized to enter into  
44 any agreements necessary or desirable to effectuate the purposes of  
45 this bill, including agreements to sell bonds or refunding bonds.

46 In connection with bonds or refunding bonds, the EDA may enter

1 into any revolving credit agreement, agreement establishing a line of  
2 credit or letter of credit, reimbursement agreement, interest rate  
3 exchange agreement, currency exchange agreement, interest rate floor  
4 or cap, options, puts or calls to hedge payment, currency, rate, spread  
5 or similar exposure, or similar agreements (and in connection  
6 therewith, agreements establishing a line of credit, letter of credit,  
7 insurance or relating to the collateralization of the obligations  
8 thereunder), float agreements, forward agreements, insurance contract,  
9 surety bond, commitment to purchase or sell bonds, purchase or sale  
10 agreement, or commitments or other contracts or agreements and  
11 other security agreements as shall be determined and approved by the  
12 EDA.

13 Any bonds or refunding bonds issued by the EDA pursuant to this  
14 bill would be special and limited obligations of the EDA. The bonds  
15 or refunding bonds would not be a debt or liability of the State or any  
16 political subdivision thereof other than a special and limited obligation  
17 of the EDA, and they must contain a statement on their face to that  
18 effect.

19 Subject to the approval of the State Treasurer, the EDA is  
20 authorized to engage bond counsel, financial advisors and experts,  
21 placement agents, underwriters, trustees, verification agents,  
22 remarketing agents, auction agents, broker-dealers, appraisers, and  
23 such other advisors, consultants and agents as may be necessary to  
24 effectuate the purposes of this bill.

25 The bonds issued under this bill are deemed to be for an essential  
26 governmental purpose, and the interest thereon and the income derived  
27 from funds to pay or secure the payment of the bonds shall be exempt  
28 from all State taxes, except transfer inheritance and estate taxes.

29 The State pledges with the holders of the bonds or refunding bonds  
30 under this bill that it will not change the rights or powers of the EDA  
31 or the State Treasurer in any way that would jeopardize the interest of  
32 the holders or inhibit the EDA or the Treasurer from performing the  
33 terms of the bond agreements. Failure of the State to appropriate  
34 moneys for this bill shall not be deemed a violation of this section.



# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE, No. 1779

# STATE OF NEW JERSEY

DATED: JUNE 22, 2004

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1779.

This bill authorizes the New Jersey Economic Development Authority ("EDA") to issue bonds, notes or other obligations ("bonds") primarily for the purpose of providing revenue to meet State appropriations in any State fiscal year commencing on or after July 1, 2004. This bill also authorizes the EDA to issue refunding bonds, notes or other obligations to refinance any bonds previously issued or entered into by the EDA pursuant to this bill. Proceeds of the bonds or refunding bonds may also be used to fund any capitalized interest on such bonds or refunding bonds or any reserve or other fund established by the EDA to further secure such bonds or refunding bonds, and to pay all costs, fees and other expenses related to, or incurred by the EDA or the State in connection with the issuance thereof.

This bill requires the EDA to establish and maintain a Cigarette Tax Securitization Proceeds Fund into which shall be deposited the proceeds from the sale of all bonds (other than refunding bonds) issued by the EDA which are remaining after any required deposit to any reserve or other fund and after the payment of all costs, fees and other expenses related to, or incurred by the EDA or the State in connection with, the issuance of such bonds or any refunding bonds. Amounts on deposit in the Cigarette Tax Securitization Proceeds Fund are to be withdrawn by the EDA from time to time and paid to the State Treasurer for deposit into either the General Fund of the State or the Cigarette Tax Securitization Fund created by this bill, as determined by the State Treasurer, and used for any lawful purpose of the State for which moneys on deposit in the General Fund may be used. All amounts withdrawn from the Cigarette Tax Securitization Proceeds Fund and deposited into the General Fund of the State shall represent financial resources of the State and revenues of the State upon deposit into the General Fund.

The bonds and refunding bonds issued by the EDA are payable solely from a dedicated portion of the revenue collected by the State during each State fiscal year beginning on and after July 1, 2006 from the cigarette tax imposed by the State pursuant to P.L.1948, c.65, as amended and supplemented, on the sale, use or possession for sale or

use within the State of each cigarette. The dedicated portion of the cigarette tax revenues received by the State in each fiscal year commencing on and after July 1, 2006 are credited to a Dedicated Cigarette Tax Revenue Fund created in the Department of the Treasury pursuant to this bill.

In each State fiscal year during which the EDA has outstanding bonds or refunding bonds or is obligated to make any payments under any contract or agreement entered into pursuant to this bill, the State Treasurer shall pay to the EDA, solely from amounts on deposit in the Dedicated Cigarette Tax Revenue Fund, an amount equal to the debt service payable on the outstanding bonds or refunding bonds during such fiscal year and any amounts required to be paid by the EDA during such fiscal year under any such contract or agreement and such other additional amounts as shall be authorized by this bill; provided, however, that the payment of all such amounts to the EDA is subject to and dependent upon appropriations being made from time to time by the Legislature. Since the State Treasurer is only authorized to pay the EDA from amounts on deposit in the Dedicated Cigarette Tax Revenue Fund, the holder of the bonds or refunding bonds is accepting the risk that the amounts on deposit in such Fund will be sufficient to make all such required payments thereon.

This bill also authorizes the EDA and the State Treasurer to enter into a contract or contracts to implement the payment arrangement provided for in this bill. The contract or contracts shall require the State Treasurer to pay the proper amounts and shall establish the procedures for transferring moneys for payment; provided, however, that the incurrence of any obligation of the State under the contract, including payments from the Dedicated Cigarette Tax Revenue Fund, shall be subject to appropriations made by the Legislature.

The bonds or refunding bonds must be authorized by resolution. The resolution shall stipulate, among other things: the manner of execution and form of the bonds; whether the bonds are in one or more series; the date or dates of issue; the time or times of maturity; the rate or rates of interest payable on the bonds, which may be fixed or variable; the denominations in which the bonds are issued; the conversion or registration privileges; the sources, medium and place of payment; and the terms of redemption.

The bonds may be sold at a public or private sale at a price or prices determined by the EDA. The EDA is authorized to enter into any agreements necessary or desirable to effectuate the purposes of this bill, including agreements to sell bonds or refunding bonds.

In connection with bonds or refunding bonds, the EDA may enter into any revolving credit agreement, agreement establishing a line of credit or letter of credit, reimbursement agreement, interest rate exchange agreement, currency exchange agreement, interest rate floor or cap, options, puts or calls to hedge payment, currency, rate, spread or similar exposure, or similar agreements (and in connection therewith, agreements establishing a line of credit, letter of credit,

insurance or relating to the collateralization of the obligations thereunder), float agreements, forward agreements, insurance contract, surety bond, commitment to purchase or sell bonds, purchase or sale agreement, or commitments or other contracts or agreements and other security agreements as shall be determined and approved by the EDA.

Any bonds or refunding bonds issued by the EDA pursuant to this bill would be special and limited obligations of the EDA. The bonds or refunding bonds would not be a debt or liability of the State or any political subdivision thereof other than a special and limited obligation of the EDA, and they must contain a statement on their face to that effect.

Subject to the approval of the State Treasurer, the EDA is authorized to engage bond counsel, financial advisors and experts, placement agents, underwriters, trustees, verification agents, remarketing agents, auction agents, broker-dealers, appraisers, and such other advisors, consultants and agents as may be necessary to effectuate the purposes of this bill.

The bonds issued under this bill are deemed to be for an essential governmental purpose, and the interest thereon and the income derived from funds to pay or secure the payment of the bonds shall be exempt from all State taxes, except transfer inheritance and estate taxes.

The State pledges with the holders of the bonds or refunding bonds under this bill that it will not change the rights or powers of the EDA or the State Treasurer in any way that would jeopardize the interest of the holders or inhibit the EDA or the Treasurer from performing the terms of the bond agreements. Failure of the State to appropriate moneys for this bill shall not be deemed a violation of this section.

#### FISCAL IMPACT

It is estimated that the securitization program authorized under this bill, in conjunction with the securitization of revenue from various new and increased motor vehicle surcharges under separate legislation, will provide approximately \$1.926 billion in funding to support the proposed FY2004-05 annual appropriations act.