

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 74
Committee Substitute Favorable 6/22/99

Short Title: Phase II Funds/Immunity/Tax-Exempt.

(Public)

Sponsors:

Referred to:

February 15, 1999

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE APPOINTMENT BY THE SPEAKER OF THE
2 HOUSE OF REPRESENTATIVES AND THE PRESIDENT PRO TEMPORE OF
3 THE SENATE OF MEMBERS OF THE BOARD OF DIRECTORS OF THE
4 CERTIFICATION ENTITY FOR THE PHASE II SETTLEMENT FUNDS, TO
5 PROVIDE THE MEMBERS OF THE BOARD OF DIRECTORS LIMITED
6 IMMUNITY FROM CIVIL LIABILITY, AND TO PROVIDE AN EXEMPTION
7 FROM STATE INCOME TAX FOR INTEREST AND INVESTMENT EARNINGS
8 OF QUALIFIED SETTLEMENT FUNDS.
9

10 The General Assembly of North Carolina enacts:

11 Section 1.(a) The General Assembly finds that:

- 12 (1) Philip Morris, Inc., Brown and Williamson Tobacco Corporation,
13 Lorillard Tobacco Company, and R.J. Reynolds Tobacco Company
14 (hereinafter, the "tobacco companies") have proposed to create a
15 National Tobacco Grower Settlement Trust under which the tobacco
16 companies will pay, during a 12-year period, a base amount of
17 approximately five billion one hundred fifty million (\$5,150,000,000)
18 dollars into a trust to provide payments to tobacco growers and
19 allotment holders in 14 grower states, including North Carolina, for the

1 purposes of ameliorating potential adverse economic consequences of
2 likely changes in the tobacco market on grower states.

3 (2) The tobacco companies desire that the money paid into trust be divided
4 among tobacco producers and allotment holders in accordance with a
5 plan designed and approved by a certification entity in each state.

6 (3) The tobacco companies desire that in larger grower states, including
7 North Carolina, the certification entity be a nonprofit corporation
8 governed by a board of directors consisting of the following public
9 officials and persons appointed by public officials: the Governor, who
10 shall serve as chair of the board of directors; the Commissioner of
11 Agriculture, who shall serve as vice-chair; the Attorney General, who
12 shall serve as secretary; a State Senator appointed by the President Pro
13 Tempore of the Senate; a State Representative appointed by the Speaker
14 of the House of Representatives; two members of the North Carolina
15 congressional delegation; and four to seven citizens appointed by the
16 Governor.

17 (4) It is in the public interest that these officials and citizens serve on the
18 board of directors and determine the distribution of these private trust
19 funds to tobacco producers and allotment holders in North Carolina.

20 Section 1.(b) The Governor, the Speaker of the House, and the President Pro
21 Tempore of the Senate are authorized to appoint members of the board of directors of the
22 certification entity as provided in Section 1.(a)(3), and the public officials referred to in
23 Section 1.(a)(3) are authorized to serve on that board.

24 Section 1.(c) No member of the certification entity for the National Tobacco
25 Grower Trust Fund is subject to civil liability for any act or omission arising out of the
26 performance of the member's duties as a member or officer of the certification entity.
27 This section does not apply to liability arising from willful or wanton misconduct,
28 intentional wrongdoing, or the operation of a motor vehicle.

29 Section 2. G.S. 105-130.5(b) is amended by adding a new subdivision to read:

30 "(b) The following deductions from federal taxable income shall be made in
31 determining State net income:

32 ...

33 (18) Interest and investment earnings of a trust fund that meets all of the
34 following conditions:

35 a. It is established by one or more manufacturers that signed a
36 settlement agreement with this State to settle existing and
37 potential claims of the states against the manufacturers for
38 damages arising from a product of the manufacturers.

39 b. It is established to compensate those who suffer economic loss as
40 a result of the decline in demand of the manufactured product
41 that is expected to occur because of market restrictions and other
42 provisions in the settlement agreement.

1 c. Revenue in the trust is distributed only to those who have
2 suffered economic loss, as determined by a nonprofit corporation
3 whose membership includes State officials."

4 Section 3. Section 1 of this act is effective when it becomes law. Section 2 of
5 this act is effective for taxable years beginning on or after January 1, 1999.