

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 74
Committee Substitute Favorable 6/22/99
Committee Substitute #2 Favorable 6/24/99

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, INVESTMENT EARNINGS,
8 AND GAINS OF CERTAIN TRUST 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 dollars
18 (\$5,150,000,000) into a trust to provide payments to tobacco growers

1 and allotment holders in 14 grower states, including North Carolina, for
2 the purposes of ameliorating potential adverse economic consequences
3 of likely changes in the tobacco market on grower states.

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

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

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

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

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

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

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

33 ...

34 (18) Interest, investment earnings, and gains of a qualified settlement fund,
35 the settlors of which are two or more manufacturers that signed a
36 settlement agreement with this State to settle existing and potential
37 claims of the State against the manufacturers for damages attributable to
38 a product of the manufacturers, if it meets all of the following
39 conditions:

40 a. The purpose of the fund is to address potential adverse economic
41 consequences resulting from a decline in demand of the
42 manufactured product expected to occur because of market
43 restrictions and other provisions in the settlement agreement.

1 b. A court of this State approves and retains jurisdiction over the
2 fund.

3 c. At least twenty-five percent (25%) of the distributions from the
4 fund are made in accordance with certifications that meet the
5 criteria in the settlement agreement and are made by a nonprofit
6 entity, the governing board of which includes State officials."

7 Section 3. G.S. 105-134.6(b) is amended by adding a new subdivision to read:

8 "(b) Deductions. – The following deductions from taxable income shall be made in
9 calculating North Carolina taxable income, to the extent each item is included in taxable
10 income:

11 ...

12 (15) Interest, investment earnings, and gains of a trust, the settlors of which
13 are two or more manufacturers that signed a settlement agreement with
14 this State to settle existing and potential claims of the State against the
15 manufacturers for damages attributable to a product of the
16 manufacturers, if it meets all of the following conditions:

17 a. The purpose of the fund is to address potential adverse economic
18 consequences resulting from a decline in demand of the
19 manufactured product expected to occur because of market
20 restrictions and other provisions in the settlement agreement.

21 b. A court of this State approves and retains jurisdiction over the
22 trust.

23 c. At least twenty-five percent (25%) of the distributions from the
24 trust are made in accordance with certifications that meet the
25 criteria in the settlement agreement and are made by a nonprofit
26 entity, the governing board of which includes State officials."

27 Section 4. Sections 2 and 3 of this act are effective for taxable years beginning
28 on or after January 1, 1999. The remainder of this act is effective when it becomes law.