

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 969

Short Title: N.C. Health and Wellness Trust Fund.

(Public)

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Sponsors: Senator Gulley.

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Referred to: Judiciary I.

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April 15, 1999

A BILL TO BE ENTITLED

1  
2 AN ACT TO ESTABLISH THE NORTH CAROLINA HEALTH AND WELLNESS  
3 TRUST FUND FOR THE PURPOSE OF RECEIPT AND DISTRIBUTION OF  
4 TWENTY-FIVE PERCENT OF THE TOBACCO SETTLEMENT FUNDS IN THE  
5 SETTLEMENT RESERVE FUND ESTABLISHED UNDER G.S. 143-16.4 TO  
6 DEVELOP A COMPREHENSIVE COMMUNITY-BASED PLAN AND FUND  
7 PROGRAMS AND INITIATIVES FOR IMPROVING THE HEALTH AND  
8 WELLNESS OF THE PEOPLE OF NORTH CAROLINA WITH A PRIORITY ON  
9 PREVENTING, REDUCING, AND REMEDYING THE HEALTH EFFECTS OF  
10 TOBACCO USE WITH AN EMPHASIS ON REDUCING YOUTH TOBACCO  
11 USE.

Whereas, the State of North Carolina filed an action against Philip Morris Incorporated, R. J. Reynolds Tobacco Company, Brown & Williamson Tobacco Corporation (individually and successor by merger to The American Tobacco Company), Lorillard Tobacco Company, and Liggett Group, Inc., on December 21, 1998, entitled State of North Carolina v. Philip Morris Incorporated, Et AL, 98 CVS 14377; and

Whereas, the State of North Carolina entered into a Consent Decree and Final Judgment with the defendants to resolve the action in a manner that addresses the State's claims, while conserving the resources of the parties and the Court; and

Whereas, tobacco use is the leading preventable cause of premature death and disease among people of North Carolina; and

Whereas, tobacco related illness is the leading cause of death in our State, with an annual toll of 14,000 lives (twenty percent of all deaths) in North Carolina; and

Whereas, smoking rates among North Carolina youth have risen to a historic high of thirty-six percent (36%), climbing forty percent (40%) from 1991 through 1997; and

Whereas, racial/ethnic minorities and low-income people in our State bear a disproportionate burden of smoking-related diseases and conditions including heart disease, cancer, stroke, emphysema, chronic bronchitis, and asthma; and

Whereas, North Carolina ranks 40th among our 50 states in reported general health status (residents reporting their health to be "fair or poor"): 46th in nutrition, 45th in overweight adults, 42nd in adult immunizations, and our youth are 3-4 times more obese than children from other states in national rankings; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Chapter 147 of the General Statutes is amended by adding a new Article 6C to read:

**"ARTICLE 6C.**

**"HEALTH AND WELLNESS TRUST FUND.**

**"§ 147-86.30. Health and Wellness Trust Fund: established.**

(a) Fund Established. – There is established a North Carolina Health and Wellness Trust Fund in the State Treasurer's Office that shall be used to develop a comprehensive community-based plan and to finance programs and initiatives to improve the health and wellness of the people of North Carolina with a priority on preventing, reducing, and remedying the health effects of tobacco use and on reducing youth tobacco use.

(b) Fund Earnings, Assets, and Balances. – The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. Investment earnings credited to the assets of the Fund shall become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year shall be carried forward in the Fund for the next succeeding fiscal year. Payments from the Fund shall be made on the warrant of the Chair of the Board of Trustees.

(c) Fund Purposes. – Moneys from the Fund may be used for any of the following purposes:

(1) To fund programs and initiatives that include, but are not limited to, research, education, prevention and treatment of health problems in North Carolina and to increase the capacity of communities to respond to the public's health needs.

(2) To develop a comprehensive, community-based plan to improve the health and wellness of the people of North Carolina with a priority on preventing, reducing, and remedying the health effects of tobacco use and with an emphasis on reducing youth tobacco use.

In all endeavors the Fund shall place priority on the needs of vulnerable and low-income populations and shall provide advice and technical support in addressing those needs.

1       (d) Limit on Operating and Administrative Expenses. – No more than two percent  
2 (2%) of the annual balance of the Fund on July 1 may be used each fiscal year for  
3 administrative and operating expenses of the Board of Trustees and its staff.

4 **"§ 147-86.31. Health and Wellness Trust Fund: eligibility for grants.**

5       (a) Eligible Grant Applicants. – Any of the following are eligible to apply for a  
6 grant from the Fund:

7           (1) A State agency.

8           (2) A local government or other political subdivision of the State or a  
9 combination of such entities.

10          (3) A nonprofit corporation which has a major purpose promoting public  
11 health, limiting youth access to tobacco products, or reducing the health  
12 consequences of tobacco use.

13 **"§ 147-86.32. Health and Wellness Trust Fund: Board of Trustees established;**  
14 **membership qualifications; vacancies.**

15       (a) Board of Trustees Established. – There is established the Health and Wellness  
16 Trust Fund Board of Trustees. The Health and Wellness Trust Fund Board of Trustees  
17 shall be independent, but for administrative purposes shall be located under the  
18 Department of Health and Human Services.

19       (b) Membership. – The Health and Wellness Trust Fund Board of Trustees shall  
20 consist of 17 members as follow:

21           (1) Five appointed by the Governor.

22           (2) Five appointed by the General Assembly upon the recommendation of  
23 the Speaker of the House of Representatives under G.S. 120-121; and

24           (3) Five appointed by the General Assembly upon the recommendation of  
25 the President Pro Tempore of the Senate under G.S. 120-121.

26       The Chair of the UNC School of Public Health and State Public Health Director will  
27 be ex officio, nonvoting members of the Board of Trustees.

28       The appointing authorities shall choose as trustees persons who are officers of, or  
29 affiliated with, nonprofit organizations, medical institutions, or governmental or law  
30 enforcement agencies, or individuals who are involved in the delivery of medical  
31 services, sale of products, which have a major purpose of promoting public health,  
32 reducing youth access, and reducing the health consequences of tobacco use.

33       (c) Initial Appointments. – Each appointing authority shall designate two of the  
34 authority's initial appointments to serve one-year terms, two to serve two-year terms, and  
35 one to serve three-year terms. Thereafter, as the term of each trustee expires, that  
36 Trustee's successor shall be appointed for a term of four years. Notwithstanding the  
37 appointments for a term of four years, each Trustee shall serve at the will of the  
38 appointing authority. The Governor shall appoint one Trustee to serve as Chair of the  
39 Board.

40       (d) Vacancies. – Vacancies shall be filled by the designated appointing authority  
41 for the remainder of the unexpired term in accordance with G.S. 120-122.

42       (e) Frequency of Meetings. – The Trustees shall meet at least twice each year and  
43 may hold special meetings at the call of the Chair or a majority of the members.

1 (f) Per Diem and Expenses. – The Trustees shall receive per diem and necessary  
2 travel and subsistence expenses in accordance with the provisions of G.S. 138-5. Per  
3 diem, subsistence, and travel expenses of the Trustees shall be paid from the Fund.

4 **"§ 147-86.33. Health and Wellness Trust Fund: powers and duties.**

5 (a) Allocate Grant Funds. – The Trustees shall allocate moneys from the Fund as  
6 grants. A grant may be awarded only for a program or initiative that satisfies the criteria  
7 and furthers the purposes of this Article.

8 (b) Develop Grant Criteria. – The Trustees shall develop criteria for awarding  
9 grants under this Article. The criteria shall include types of programs and initiatives to be  
10 funded.

11 (c) Develop Evaluation Mechanism. – The Trustees shall develop a mechanism  
12 with which to evaluate individual applications.

13 (d) Achievement of Federal Mandates. – The Trustees shall award grants to assure  
14 that federal mandates targeting the reduction of youth access to tobacco products are  
15 achieved.

16 **"§ 147-86.34. Health and Wellness Trust Fund: reporting requirements.**

17 The Chair of the Board of Trustees shall report each year to the Joint Legislative  
18 Committee on Governmental Operations on its activities. Written reports shall also be  
19 sent on a regular basis to the Joint Legislative Committee on Governmental Operations.

20 **"§ 147-86.35. Health and Wellness Trust Fund: Open meeting and public records**  
21 **requirements.**

22 The Open Meetings Law (Article 33 of Chapter 143 of the General Statutes) and the  
23 Public Records Act (Chapter 132 of the General Statutes) shall apply to the Health and  
24 Wellness Trust Fund, and it shall be subject to audit by the State Auditor as provided by  
25 law."

26 Section 2. From the tobacco settlement funds in the Settlement Reserve Fund  
27 established under G.S. 143-16.4, the State Treasurer shall pay over to the Trust Fund  
28 twenty-five percent (25%) on a quarterly basis to be used to further the purposes of the  
29 Trust Fund.

30 Section 3. This act is effective when it becomes law.