

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 969

Judiciary I Committee Substitute Adopted 6/23/99

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

(Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

Section 1. Chapter 143 of the General Statutes is amended by adding the following new section to read:

**§ 143-15.3D. Health and Wellness Trust Fund.**

(a) The Health and Wellness Trust Fund is established in G.S. 147-86.30. The State Controller shall allocate and reserve to the Fund fifty percent (50%) of the moneys received in the Settlement Reserve Fund pursuant to G.S. 143-16.4 and the consent decree entered in the action of State of North Carolina v. Phillip Morris et al., 98 CVS

1 14377, in the General Court of Justice, Superior Court Division, Wake County, North  
2 Carolina.

3 (b) The funds in the Health and Wellness Trust Fund shall be used only in  
4 accordance with Article 6C of Chapter 147 of the General Statutes.

5 (c) It is the intent of the General Assembly that the funds provided pursuant to  
6 Article 6C of Chapter 147 to address the health needs of North Carolinians be used to  
7 supplement, not supplant, existing funding of health programs."

8 Section 2. Chapter 147 of the General Statutes is amended by adding a new  
9 Article to read:

10 **"ARTICLE 6C.**

11 **"HEALTH AND WELLNESS TRUST FUND.**

12 **"§ 147-86.30. Health and Wellness Trust Fund established.**

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

19 (b) Fund Earnings, Assets, and Balances. – The State Treasurer shall hold the  
20 Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer  
21 shall be the custodian of the Fund and shall invest its assets in accordance with G.S. 147-  
22 69.2 and G.S. 147-69.3. Investment earnings credited to the assets of the Fund shall  
23 become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year  
24 shall be carried forward in the Fund for the next succeeding fiscal year. Payments from  
25 the Fund shall be made on the warrant of the Chair of the Health and Wellness Trust  
26 Fund Board of Trustees.

27 (c) Creation of Fund Reserve. – The Board of Trustees shall reserve, and shall not  
28 expend, twenty-five percent (25%) of each annual payment allocated to the Health and  
29 Wellness Trust Fund pursuant to G.S. 143-15.3D during years 1999 through 2025 to  
30 create and build the Fund Reserve. During years 1999 through 2025 the Board of  
31 Trustees may not expend any investment earnings on the reserved funds. Beginning in  
32 year 2026, and thereafter, the Board of Trustees shall not expend the reserved funds but  
33 may expend any investment earnings on the reserved funds.

34 (d) Use of Nonreserved Funds. – The Board of Trustees may expend the  
35 remaining seventy-five percent (75%) portion of each annual payment that is not reserved  
36 pursuant to subsection (c) of this section. Any unexpended portion of the nonreserved  
37 portion of each annual payment for years 1999 through 2025 that could have been  
38 expended under this subsection may be carried forward to subsequent years and may be  
39 expended during any subsequent year in addition to the nonreserved portion of each  
40 annual payment allowed to be expended under this subsection. The Board of Trustees  
41 may expend any investment earnings on the nonreserved funds.

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

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

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

9           In all endeavors the Board of Trustees shall place priority on the needs of vulnerable,  
10 underserved populations and shall provide advice and technical support in addressing  
11 those needs.

12           (f) Limit on Operating and Administrative Expenses. – No more than two and  
13 one-half percent (2 1/2%) of the annual balance of the Fund on July 1 or a total sum of  
14 one million dollars (\$1,000,000), whichever is less, may be used each fiscal year for  
15 administrative and operating expenses of the Board of Trustees and its staff.

16 **"§ 147-86.31. Health and Wellness Trust Fund; eligibility for grants.**

17           Eligible Grant Applicants. – Any of the following are eligible to apply for a grant  
18 from the Fund:

19           (1) A State agency.

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

22           (3) A nonprofit corporation which has as a significant purpose promoting  
23 the public's health, limiting youth access to tobacco products, or  
24 reducing the health consequences of tobacco use.

25 **"§ 147-86.32. Health and Wellness Trust Fund; Board of Trustees established;**  
26 **membership qualifications; vacancies.**

27           (a) Board of Trustees Established. – There is established the Health and Wellness  
28 Trust Fund Board of Trustees. As used in this Article, the phrase 'Board of Trustees'  
29 means the Health and Wellness Trust Fund Board of Trustees. The Health and Wellness  
30 Trust Fund Board of Trustees shall exercise its powers independently, but for  
31 administrative purposes, the Board of Trustees shall be located within the State  
32 Treasurer's Office.

33           (b) Membership. – The Health and Wellness Trust Fund Board of Trustees shall  
34 consist of 17 members as follows:

35           (1) Five appointed by the Governor;

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

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

40           The Dean of the UNC School of Public Health and the State Health Director will be  
41 ex officio, nonvoting members of the Board of Trustees.

42           The appointing authorities shall choose as trustees persons who are officers or  
43 employees of, or persons affiliated with, nonprofit organizations, medical institutions,

1 organizations involved in the delivery of health care services or products, governmental  
2 or law enforcement agencies, or individuals who are involved in the delivery of medical  
3 services or sale of products which have a major purpose of promoting the public's health,  
4 reducing youth access to tobacco products, and reducing the health consequences of  
5 tobacco use.

6 (c) Initial Appointments. – Each appointing authority shall designate two of the  
7 authority's initial appointments to serve one-year terms, two to serve two-year terms, and  
8 one to serve a three-year term. Thereafter, as the term of each trustee expires, that  
9 trustee's successor shall be appointed for a term of four years. Notwithstanding the  
10 appointments for a term of four years, each trustee shall serve at the will of the  
11 appointing authority. The Governor shall appoint one trustee to serve as Chair of the  
12 Board of Trustees.

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

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

18 (f) Meeting Facilities. – The State Treasurer's Office shall provide meeting  
19 facilities for the Board of Trustees and its staff as requested by the Chair of the Board of  
20 Trustees.

21 (g) Per Diem and Expenses. – The Board of Trustees shall receive per diem and  
22 necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-  
23 5. Per diem, subsistence, and travel expenses of the trustees shall be paid from the Fund.

24 (h) Conflict of Interest. – The members of the Board of Trustees shall comply with  
25 the provisions of G.S. 14-234 prohibiting conflicts of interest. In addition to the  
26 restrictions imposed under G.S. 14-234, a trustee shall not vote on, participate in the  
27 deliberations of, or otherwise attempt through his or her official capacity to influence the  
28 vote on a grant or other financial assistance award by the Board of Trustees to a nonprofit  
29 entity of which the trustee is an officer, director, or employee or to a governmental entity  
30 of which the trustee is an employee or a member of the governing board. A violation of  
31 this subsection is a Class 1 misdemeanor.

32 **"§ 147-86.33. Health and Wellness Trust Fund; powers and duties.**

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

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

39 (c) Develop Evaluation Mechanism. – The Board of Trustees shall develop a  
40 mechanism with which to evaluate individual applications.

41 (d) Achievement of Federal Mandates. – The Board of Trustees shall ensure that  
42 good faith efforts are made to achieve federal mandates targeting the reduction of youth  
43 access to tobacco products.

1 (e) Administration of the Trust Fund. – The Board of Trustees is authorized to hire  
2 staff or contract for other expertise for the administration of the Trust Fund. All  
3 administrative expenses of the Board of Trustees shall be paid from funds in the Trust  
4 Fund.

5 (f) Gifts and Grants. – The Board of Trustees is authorized to accept gifts or  
6 grants from other sources.

7 **"§ 147-86.34. Health and Wellness Trust Fund; reporting requirements.**

8 The Chair of the Board of Trustees shall report each year to the Joint Legislative  
9 Committee on Governmental Operations on its activities. Written reports shall also be  
10 sent on a quarterly basis to the Joint Legislative Committee on Governmental Operations.

11 **"§ 147-86.35. Health and Wellness Trust Fund; open meeting and public records**  
12 **requirements.**

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

17 Section 3. G.S. 150B-1(d) is amended by adding a new subdivision to read:

18 "(8) The Health and Wellness Trust Fund Board of Trustees established  
19 pursuant to Article 6C of Chapter 147 of the General Statutes."

20 Section 4. G.S. 120-123 is amended by adding a new subdivision to read:

21 "(70) The Health and Wellness Trust Fund Board of Trustees established  
22 pursuant to Article 6C of Chapter 147 of the General Statutes."

23 Section 5. G.S. 143-16.4 reads as rewritten:

24 **"§ 143-16.4. Settlement Reserve Fund.**

25 (a) The 'Settlement Reserve Fund' is established as a restricted reserve in the  
26 General Fund. The State Controller shall allocate and reserve fifty percent (50%) of these  
27 funds to the Health and Wellness Trust Fund in accordance with G.S. 143-15.3D. All  
28 remaining funds Funds–shall be expended from the Settlement Reserve Fund only by  
29 specific appropriation by the General Assembly.

30 (b) Unless prohibited by federal law, federal funds provided to the State by block  
31 grant or otherwise as part of federal legislation implementing a settlement between  
32 United States tobacco companies and the states shall be credited to the Settlement  
33 Reserve Fund. Unless otherwise encumbered or distributed under a settlement agreement  
34 or final order or judgment of the court, funds paid to the State or a State agency pursuant  
35 to a tobacco litigation settlement agreement, or a final order or judgement of a court in  
36 litigation between tobacco companies and the states, shall be credited to the Settlement  
37 Reserve Fund."

38 Section 6. This act is effective when it becomes law.