

April 29, 1999

**H 1431. TOBACCO AND HEALTH TRUST FUNDS. TO PROVIDE FOR THE CREATION OF A TOBACCO TRUST RESERVE FUND AND A HEALTH TRUST RESERVE FUND AND COMMISSIONS TO ADMINISTER THOSE FUNDS.** Contains no substantive provisions.

**Intro. by Braswell, Alexander, and Allen (primary sponsors).**

Ref. to SLCTTB

UNCODIFIED

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June 28, 1999

**H 1431. TOBACCO AND HEALTH TRUST FUNDS.** Intro. 4/29/99. House committee substitute makes the following changes to 1st edition. Changes title to "AN ACT TO PROVIDE FOR THE CREATION OF A TOBACCO TRUST FUND AND A HEALTH TRUST FUND AND COMMISSIONS TO ADMINISTER THOSE FUNDS AND TO PROVIDE IMMUNITY FOR PHASE II OFFICIALS."

Part I. Health Trust Fund and Health Comm'n. Adds new Art. 21, Ch. 130A to establish North Carolina Health Trust Fund to develop a comprehensive, community-based plan with goals and objectives to improve health and wellness of people of North Carolina, with priority on preventing, reducing, and remedying the negative health effects of tobacco use and an emphasis on reducing youth tobacco use. Creates Health Trust Fund Comm'n, with 15 members appointed as follows: five by Governor, five by General Assembly upon recommendation of the President Pro Tempore of the Senate, and five by the General Assembly upon the recommendation of the Speaker of the House of Representatives. Specifies membership requirements, terms of office, compensation, and limits operating expenses to no more than 2.5% of annual fund balance or \$1 million, whichever is less. Lists powers and duties of Comm'n. Establishes Fund and requires State Treasurer to hold Fund separate and apart for all other moneys, funds, and accounts. Provides for investment of assets. Requires Board of Trustees to reserve 50% of each annual payment allocated to Fund during years 2000 through 2025 to create a reserve. Limits Board to spending no more than \$40 million annually through year 2005. Permits Board to expend remaining principal that is not reserved. Requires report each November 1 to Joint Legislative Comm'n on Governmental Operations and chairs of Joint Health Care Oversight Committee on implementation of Act. No later than November 1, 2000 and quarterly thereafter, chair of Board of Trustees to submit to Joint Legislative Comm'n on Governmental Operations a list of initiatives funded, as specified in Act. Board of Trustees to create an Advisory Council, to include Sec'y of Dep't of Health and Human Services, State Health Director, Dean of School of Public Health, and others as deemed necessary by Board of Trustees. Provides for coverage by Open Meetings Law and Public Records Act.

Part II. Tobacco Trust Fund and Tobacco Comm'n. Adds new Art. 74, Ch. 143 to compensate tobacco growers and allotment holders for economic losses. Creates Tobacco Trust Fund Comm'n, with 16 members appointed as follows: five by Governor, five by General Assembly upon recommendation of the President Pro Tempore of the Senate, five by General Assembly upon recommendation of the Speaker of the House of Representatives, and Commissioner of Agriculture as ex officio member. Specifies membership requirements, terms of office, and appointment of chair. Lists powers and duties of Comm'n. Creates Tobacco Trust Fund in State Treasurer's office to be used to provide financial assistance as provided by Act. Requires funds to be held separately. Fund may provide direct and indirect financial assistance, in accordance with criteria established by trustees and to extent allowed by law, to accomplish the following: (1) indemnify tobacco producers, allotment holders, and persons engaged in tobacco-related businesses from the adverse economic effects of the Master Settlement Agreement (but specifies that term "persons engaged in tobacco-related businesses" does not include persons engaged in manufacturing of tobacco products or the sale of tobacco products at wholesale or retail); (2) compensate tobacco producers and allotment holders for economic loss resulting from lost quota and tobacco producers for the decline in value of tobacco-related personal property

assets and declining market conditions resulting from the Master Settlement Agreement. Applicants for assistance may be natural persons, partnership, limited liability company, or corporation. Trustees to determine priority of awards, with awards limited to no more than one year at a time, although awards may be renewed annually. Chair of Comm'n to report each year by November 1 to Joint Legislative Comm'n on Governmental Operations on implementation of Act, including a report on funds disbursed during fiscal year by amount and by category of recipient.

Part III. APA Rule-Making Exemption. Amends GS 150B-1(d) to exempt Tobacco Trust Comm'n from Article 2A rulemaking requirements of Administrative Procedure Act.

Part IV. Exempt Personnel. Amends GS 126-5(c1) to exempt employees of Tobacco Trust Fund Comm'n and employees of Health Trust Fund Comm'n from State Personnel Act.

Part V. No legislators on Commissions. Amends GS 120-123 to bar legislators on Tobacco Trust Fund Comm'n or Health Trust Fund Comm'n.

Part IV. Allocation of Funds. Amends GS 143-16.4 to require State Controller to allocate and reserve funds. Adds new GS 143-15.3E to establish Tobacco Trust Fund, and to require each annual installment payment that would otherwise be assigned to the nonprofit corporation from Master Settlement Agreement to be transferred to the Settlement Reserve Fund. Specifies that of funds received in Settlement Reserve Fund for years 1998 through 2025, State Controller to allocate monies as follows: (1) for 1998 through 2005, 50% to Tobacco Trust Fund and 50% to Health Trust Fund; (2) for 2006 through 2025, 62.42% to nonprofit corporation, 18.79% to Tobacco Trust Fund, and 18.79% to Health Trust Fund. Funds to contribute 10% of annual payments they receive for 1998-2005 to nonprofit corporation to provide economic assistance as specified in Act.

Part VII. Conflict of Interest. Adds new GS 143-234(d4) to provide that subsection (a) of this section does not apply to an application for or the receipt of a grant or other financial assistance from the Tobacco Trust Fund by a member of the Board of Trustees of the Tobacco Trust Fund Comm'n, provide that (i) the member of the Board of Trustees applying for assistance shall not participate in the discussion of, or vote on, the application, and (ii) the Commissioner of Agriculture determines that the award is in accordance with general criteria adopted by the Comm'n.

Part VIII. Immunity. Provides that no member of the certification entity for the National Tobacco Grower Trust Fund is subject to civil liability for any act or omission arising out of the performance of the member's duties as a member or officer of the certification entity. This section does not apply to liability arising from willful or wanton misconduct, intentional wrongdoing, or operation of motor vehicle.

July 6, 1999

**H 1431. TOBACCO AND HEALTH TRUST FUNDS.** Intro. 4/28/99. House committee substitute makes the following changes to 2nd edition. Modifies proposed GS 130A-472(f) regarding conflicts of interest to provide that no trustee of the Health Trust Fund Comm'n shall vote on, participate in the deliberation of, or otherwise attempt to influence the vote on a grant or other financial assistance award by the board of trustees to a nonprofit or governmental entity of which the trustee is an officer, director or employee. Amends proposed GS 143-718(2) to require the Comm'n to publish the proposed guidelines and criteria for eligibility for and disbursement of funds in the North Carolina Register at least 30 days in advance and hold a public hearing prior to the adoption of the guidelines or criteria. Adds proposed GS 143-722, which provides that the open meetings law shall apply to the Comm'n and that the Comm'n shall be subject to audit by the state auditor.

June 30, 2000

**H 1431. TOBACCO AND HEALTH TRUST FUNDS.** Intro. 4/29/99. Senate committee substitute makes the following changes to 3rd edition. Makes new title "AN ACT TO PROVIDE FOR THE CREATION OF THE HEALTH AND WELLNESS TRUST FUND AND ITS COMMISSION, THE CREATION OF THE TOBACCO TRUST FUND AND ITS COMMISSION, TO AMEND THE AUTHORITY OF THE GENERAL ASSEMBLY RELATIVE TO THE NONPROFIT CORPORATION ESTABLISHED PURSUANT TO THE TOBACCO SETTLEMENT CONSENT

DECREE, AND TO MAKE CONFORMING CHANGES.” Deletes provisions of new GS 130A. Establishes a Health Trust Account and Tobacco Trust Account in the Settlement Reserve Fund. Amends GS 143-16.4 to provide that, except as otherwise provided, funds shall be expended from the Settlement Reserve Fund only by specific appropriations. Directs the State Controller to transfer all funds in the Health Trust Account to the Health and Wellness Trust Fund and funds in the Tobacco Trust Account to the Tobacco Trust Fund.

Establishes a Health and Wellness Trust Fund and its Commission (Commission) in the Office of the State Treasurer. The purpose of the Fund is to address the health needs of North Carolinas be used to supplement existing funding of health and wellness programs. Provides that the Commission will meet at least twice per year and have an eight person quorum. Retains most of the substantive provisions of former GS-130A.

Adds new definitions in GS 143-716 for “compensatory programs,” “National Tobacco Grower Settlement,” “Qualified agricultural programs,” “Tobacco product component business,” “Tobacco-related business,” and “Tobacco-related employment,” Amends GS 143-717 to provide that all administrative expenses of the Tobacco Trust Fund Commission (Commission) will be paid from the Fund. Increases membership to the Commission from 15 to 18. Changes categorical requirements for appointments to the Commission to suggested factors for consideration. Deletes two term limit for members of Commission. Provides that members of the Commission will elect officers, meet at least quarterly, and comply with state law regarding conflicts of interest. Sets quorum of Commission at ten. Limits operating and administrative expenses to 21/2 percent of annual Fund receipts. Gives members of the Commission the power to adopt implementing rules and contract to assist in the administration of the Commission’s programs. Provides that payments from the Fund will be made on warrant of the Commission’s chair. Permits Fund to be used to compensate individuals displaced from tobacco-related employment and tobacco product component businesses that are (i) adversely impacted by the Master Settlement Agreement and that (ii) need financial assistance to retool machinery or equipment or to retrain workers. Transfers other administrative duties to the Commission that were given to the Trustees in the previous version. Provides that any non-State corporation, organization or institution that receives funds from the Commission is subject to the reporting requirements of GS 143-6.1. Makes clear members of the General Assembly may not serve as employees of the Commissions, and that these employees are not subject to the State Personnel Act. Makes other clarifying changes.

Senate amendment adds political diversity as a suggested factor for consideration in appointments to the Tobacco Trust Fund Commission.

July 12, 2000

**H 1431. TOBACCO AND HEALTH TRUST FUNDS.** Intro. 4/29/00. Conference report recommends the following changes to reconcile matters in controversy. Replaces 5th edition (Senate committee substitute) with conference committee substitute with new title, *AN ACT TO PROVIDE FOR THE CREATION OF THE HEALTH AND WELLNESS TRUST FUND AND ITS COMMISSION, THE CREATION OF THE TOBACCO TRUST FUND AND ITS COMMISSION, AND TO MAKE CONFORMING CHANGES*. Makes following substantive changes to Senate Committee Substitute: (1) modifies proposed new GS 147-86.30(c) by allowing Health and Wellness Trust Fund Comm’n (hereafter, comm’n) to expend any investment earnings on reserved funds during years 2001 through 2025 (was, may not expend); (2) amends proposed new GS 147-86.30(e) to provide that moneys from fund may be used (i) to address health needs of vulnerable and underserved populations in state; (ii) to fund programs and initiatives that include research, education, prevention, and treatment of health problems in state and to increase capacity of communities to respond to public’s health needs; and (iii) to develop comprehensive, community-based plan with goals and objectives to improve health and wellness of people of state with priority on preventing, reducing, and remedying health effects of tobacco use and with emphasis on reducing tobacco use by young people; (3) adds new GS 147-86.31(b) to require that grant or financial assistance recipients that are non-state agencies shall submit annual report to comm’n; (4) amends proposed new GS 147-86.32 to increase comm’n membership from 15 to 18 as set out in act; (5) adds new provision to create Advisory Council to advise comm’n about issues as requested by comm’n; specifies council membership; (6) amends proposed new GS

143-717 to specify criteria in choosing 18 appointees to Tobacco Trust Fund Comm'n; (7) revises proposed new GS 143-720(b)(2) to include persons engaged in tobacco-related businesses as eligible for compensation under subdivision; and (8) deletes Part VIII (Golden L.E.A.F. amendments) of Senate committee substitute.