

February 15, 1999

H 74. TOBACCO SETT. CORP. FUNDING. *TO APPROVE THE CREATION OF THE NONPROFIT CORPORATION ESTABLISHED PURSUANT TO COURT ORDER FOR THE PURPOSES OF RECEIPT AND DISTRIBUTION OF FIFTY PERCENT OF THE FUNDS RECEIVED BY THE STATE IN STATE OF NORTH CAROLINA V. PHILIP MORRIS INCORPORATED, ET AL., AND TO EARMARK ADDITIONAL FUNDING FOR THAT CORPORATION.* Establishes corporation as title indicates. Enacts new GS 55A-3-07 to provide that the corporation shall be subject to the public records and open meetings laws. In addition to 50% of the total receipts allocated to the corporation under the settlement, appropriates from settlement receipts each year the following percentages according to the indicated schedule: 1998, 30%; 1999, 30%; 2000, 30%; 2001, 25%; 2002, 20%; 2003, 15%; 2004, 10%; 2005, 5%. These additional appropriations are contingent on the corporation using the following amounts from its total funds for the indicated purposes: \$50 million to Dep't of Agriculture for emergency loan fund for tobacco farmers and related businesses; \$25 million to Dep't of Agriculture for marketing support for farm products; \$75 million to Community College System and Employment Security Comm'n for financial assistance and to retrain displaced tobacco workers; \$50 million to UNC Board of Governors for research on alternative crops; \$300 million to Dep't of Commerce for recruitment of industry to tobacco related regions.

Intro. by Baker and Russell.

Ref. to

GS 55A

June 22, 1999

H 74. PHASE II FUNDS/IMMUNITY/TAX-EXEMPT. Intro. 2/15/99. House committee substitute makes the following changes to 1st edition. Rewrites title to read, "AN ACT TO AUTHORIZE THE APPOINTMENT BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT PRO TEMPORE OF THE SENATE OF MEMBERS OF THE BOARD OF DIRECTORS OF THE CERTIFICATION ENTITY FOR THE PHASE II SETTLEMENT FUNDS, TO PROVIDE MEMBERS OF THE BOARD OF DIRECTORS LIMITED IMMUNITY FROM CIVIL LIABILITY, AND TO PROVIDE AN EXEMPTION FROM STATE INCOME TAX FOR INTEREST AND INVESTMENT EARNINGS OF QUALIFIED SETTLEMENT FUNDS." Adds provision authorizing the Governor, Speaker of the House and the President Pro Tempore of the Senate to appoint members of the board of directors of a certification entity which will be responsible for dividing tobacco settlement funds among tobacco producers and allotment holders. Provides that no member of the certification entity for the National Tobacco Grower Trust Fund will be subject to civil liability for acts or omissions arising out of the performance of the member's duties as a board member. Makes income and investment earnings of the trust fund exempt from state income tax provided that the earnings meet certain conditions. Deletes all other provisions.

June 24, 1999

H 74. PHASE II FUNDS/IMMUNITY/TAX-EXEMPT. Intro. 2/15/99. House committee substitute makes the following changes to 2nd edition. Rewrites title of bill to read, "TO AUTHORIZE THE APPOINTMENT BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT PRO TEMPORE OF THE SENATE OF MEMBERS OF THE BOARD OF DIRECTORS OF THE CERTIFICATION ENTITY FOR THE PHASE II SETTLEMENT FUNDS, TO PROVIDE THE MEMBERS OF THE BOARD OF DIRECTORS LIMITED IMMUNITY FROM CIVIL LIABILITY, AND TO PROVIDE AN EXEMPTION FROM STATE INCOME TAX FOR INTEREST, INVESTMENT EARNINGS, AND GAINS OF CERTAIN TRUST FUNDS." Adds new GS 105-130.5(b) and 105-134.6(b) to provide deduction (1) from federal taxable income in determining State net income and (2) from taxable income, in calculating state taxable income, to the extent included in taxable income. The deduction is for interest, investment earnings, and gains of a qualified settlement fund (for first deduction above) or a trust (for second deduction above), the settlors of which are two or more manufacturers that signed a settlement agreement with the State to settle existing and potential claims of the State against the manufacturers for damages attributable to a product, if it meets the following conditions: (1) the fund's purpose is to address potential adverse economic consequences resulting from a decline in demand of the

product expected to occur due to market restrictions and other provisions in the settlement agreement; (2) a court of this State approves and retains jurisdiction over the trust or fund; and (3) at least 25% of the distributions from the trust or fund are made in accordance with certifications that meet criteria in the settlement agreement and are made by a nonprofit entity, the governing board of which includes State officials.

July 5, 1999

H 74. PHASE II FUNDS/IMMUNITY/TAX-EXEMPT. Intro. 2/15/1999. Senate committee substitute makes the following changes to 3rd edition.

Revises sec. 1 of act to specify that state's congressional delegation will select the two members of that delegation that will be members of the nonprofit corporation that certifies allocation of the settlement funds.

Revises proposed GS 105-130.5(b)(18)c and 105-134.6(b)(15)c, regarding deductions from federal taxable income to be made in determining state net income, to remove requirement that trust distribute at least 25% of funds in accordance with agreement creating the trust, and to substitute requirement that "certain portions of distributions from the trust" be in accordance with agreement.

Adds GS 105-130.45 to provide credit against state taxable income for manufacturers producing cigarettes for export to foreign country. Sets formula for computing credit, based on number of cigarettes exported. Credit is not to exceed the lesser of \$6 million or 50% of amount of tax for the taxable year, reduced by any other allowable credits. Credit repealed Jan. 1, 2005, for cigarettes exported on or after that date.

Adds GS 14-400.18 to make it a Class A1 misdemeanor, as well as an unfair trade practice prohibited by GS 75-1.1, to sell or hold for sale, except for export to foreign country, a package of cigarettes that: (1) is not labeled as required by federal law; (2) is labeled to indicate that manufacturer did not intend for product to be sold in United States; (3) was imported into United States after Jan. 1, 2000, in violation of 26 U.S. Code 5754; or (4) violates federal trademark or copyright laws. Such a package is contraband and may be seized by law enforcement officer, like non-tax-paid cigarettes.

Repeals GS 105-113.16 regarding revocation by Sec'y of Revenue of license to sell tobacco products. Adds GS 105-113.4B providing that Sec'y of Revenue may cancel license to sell tobacco products if license holder requests cancellation in writing. Sec'y may summarily (without first holding hearing) cancel license if license holder has failed to pay tax on tobacco product. Sec'y may cancel license after hearing if holder violates proposed new GS 14-400.18 (described in previous paragraph) or violates any provision of GS Ch. 105, Art. 2A, dealing with the tobacco products tax. Requires Sec'y to give notice of summary cancellation of license and give holder opportunity for hearing within 10 days. Regarding other cancellation, Sec'y must give license holder 10 days' written notice of hearing.

Makes provisions prohibiting sale of certain packages of cigarettes and cancellation of seller's licenses effective Dec. 1, 1999, and applicable to offenses committed on or after that date.