

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1823

Short Title: Tobacco Settlement Receipts Bonds.

(Public)

Sponsors: Representatives Baddour, Allen, Alexander, Hill (Primary Sponsors); Cox, Cunningham, McLawhorn, Owens, Redwine, Tucker, Wainwright, Warren, and Warwick.

Referred to: Select Committee on the Tobacco Settlement.

May 30, 2000

A BILL TO BE ENTITLED
AN ACT TO AUTHORIZE THE ISSUANCE OF MASTER TOBACCO
SETTLEMENT RECEIPTS BONDS AND TO PROVIDE FOR THE CREATION
OF A TOBACCO TRUST FUND AND COMMISSION AND A HEALTH TRUST
FUND AND COMMISSION.

The General Assembly of North Carolina enacts:

PART I. TOBACCO SETTLEMENT RECEIPTS BONDS

Section 1. Chapter 142 of the General Statutes is amended by adding a new Article to read:

“ARTICLE 8.

“MASTER TOBACCO SETTLEMENT RECEIPTS BONDS.

“§ 142-55. Legislative findings and determinations; purpose.

The General Assembly finds:

- (1) The State, together with 46 other states, has entered into the Master Settlement Agreement, pursuant to which the State expects to receive compensation for damages to the State on account of tobacco-related illnesses as more fully described in the Master Settlement Agreement. Amounts received by the State under the Master Settlement Agreement

1 will be available to fund various State programs for the health, safety,
2 and prosperity of the people of the State.

3 (2) Payments under the Master Settlement Agreement will be received by
4 the State over a period of years. While many of the projects and
5 programs that the State will fund from payments received under the
6 Master Settlement Agreement can be effectively funded as the payments
7 are received under the Master Settlement Agreement, certain projects
8 and programs to be funded from payments received under the Master
9 Settlement Agreement require more immediate funding.

10 (3) For those projects and programs that require immediate funding, it is
11 possible for the State to access funds through the issuance of bonds
12 secured solely by, and payable solely from, future payments to be
13 received by the State under the Master Settlement Agreement.

14 (4) The purpose of this Article is to establish a uniform system of
15 procedures and conditions for, and limitations upon, the issuance of
16 bonds by the State secured solely by, and payable solely from, future
17 payments to be received by the State under the Master Settlement
18 Agreement.

19 **"§ 142-56. Definitions.**

20 The following definitions apply in this Article:

21 (1) Bonds. – Bonds issued by the State pursuant to this Article.

22 (2) Master Settlement Agreement. – The settlement agreement among
23 certain tobacco manufacturers and certain states, including this State, as
24 incorporated in the consent decree entered in the action of State of
25 North Carolina v. Phillip Morris, Incorporated, et al., 98 CVS 14377 in
26 the General Court of Justice, Superior Court Division, Wake County,
27 North Carolina.

28 (3) Settlement receipts. – The amount the State actually receives each year
29 from payments under the Master Settlement Agreement in accordance
30 with the terms of the Master Settlement Agreement.

31 (4) State. – The State of North Carolina.

32 (5) State-authorized program. – Any project, program, or activity that is to
33 be funded with the proceeds of bonds issued under this Article and has
34 been approved by legislation enacted by the General Assembly that
35 specifies the project, program, or activity, and provides that it is to be
36 funded with the proceeds of bonds issued under this Article.

37 (6) Trust agreement. – Any trust agreement or similar instrument or
38 agreement authorizing and securing bonds issued under this Article.

39 **"§ 142-57. Bonds.**

40 (a) The State Treasurer may, by and with the consent of the Council of State, issue
41 and sell from time to time special limited obligation bonds of the State to pay the cost of
42 State-authorized programs. The principal of, premium, if any, and interest on the bonds
43 shall be payable solely from funds provided under this Article for their payment.

1 (b) Notwithstanding any other provision of this Article, no action authorizing the
2 issuance of bonds under this Article shall be taken until the effective date of legislation
3 enacted by the General Assembly that (i) designates the State-authorized program to be
4 funded from the proceeds of that particular issue of bonds, (ii) fixes the maximum
5 aggregate principal amount of bonds to be issued for the particular State-authorized
6 program, and (iii) designates the portion of the settlement receipts that are to secure the
7 particular issue of bonds.

8 (c) The bonds of each issue shall be dated, and may be made redeemable before
9 maturity at the option of the State at any price or prices and upon any terms and
10 conditions, as may be determined by the State Treasurer at the time of sale of the bonds.
11 The bonds may also be made payable from time to time on demand or tender for purchase
12 by the owner upon any terms and conditions as may be determined by the State
13 Treasurer. The bonds shall bear interest at any rate or rates (including variable rates) as
14 may be determined by the State Treasurer. Bonds shall mature at any time or times not
15 exceeding 25 years from their date or dates, as may be determined by the Council of
16 State, subject to the limitations provided in this Article. The Council of State shall
17 determine the form and manner of execution of the bonds, and shall fix the
18 denominations and the places of payment of principal and interest, which may be any
19 bank or trust company within or without the State. If an officer whose signature or a
20 facsimile of whose signature appears on any bonds ceases to be that officer before the
21 delivery of the bonds, the signature or facsimile is nevertheless valid for all purposes as if
22 the officer had remained in office until the delivery. The Council of State may also
23 provide for the authentication of the bonds by a trustee or fiscal agent.

24 (d) Bonds may be sold in any manner, either at public or private sale, and for any
25 price as the State Treasurer determines to be for the best interests of the State and to
26 effectuate best the purposes of this Article, as long as the sale has been approved by the
27 Council of State. The State Treasurer may authorize, execute, obtain, or otherwise
28 provide for bond insurance, investment agreements, credit and liquidity facilities, interest
29 rate swap agreements, and similar risk hedging agreements, and other related instruments
30 as the State Treasurer determines are desirable in connection with the issuance of bonds
31 under this Article. The State Treasurer is authorized to employ and designate any
32 financial consultants, underwriters, and bond attorneys to be associated with any bond
33 issue under this Article. The proceeds of any bonds shall be used solely for the purposes
34 for which they are issued and shall be disbursed in any manner and under any restrictions
35 the Council of State may provide in the resolution authorizing the issuance of, or any
36 trust agreement securing, the bonds, subject to the provisions of the legislation described
37 in subsection (b) of this section.

38 (e) Except as otherwise expressly provided in this Article, bonds may be issued
39 under this Article without obtaining the consent of any department, division, commission,
40 board, body, bureau, or agency of the State, and without any other proceedings or the
41 happening of any conditions or things other than those proceedings, conditions, or things
42 that are specifically required by this Article and the provisions of the resolution
43 authorizing the issuance of, or any trust agreement securing, the bonds.

1 **"§ 142-58. Trust agreement or resolution.**

2 (a) Any bonds issued under the provisions of this Article may be secured by a trust
3 agreement by and between the State and a corporate trustee, which may be any trust
4 company or bank having the powers of a trust company within or without the State. The
5 resolution or trust agreement authorizing and securing the bonds may pledge or assign all
6 or any portion of the settlement receipts to pay the principal of, premium, if any, or
7 interest on the bonds in the manner provided by this Article. The resolution or trust
8 agreement may contain any provisions for protecting and enforcing the rights and
9 remedies of the holders of any bonds as may be reasonable and proper and not in
10 violation of law, including covenants setting forth the duties of the State in relation to the
11 purposes to which bond proceeds may be applied, the disposition or pledging of the
12 settlement receipts, the terms and conditions for the issuance of additional bonds, and the
13 custody, safeguarding, and application of all moneys.

14 (b) Any resolution or trust agreement may restrict the individual right of action by
15 an individual owner of bonds. In addition to the foregoing, any resolution or trust
16 agreement may contain any other provisions as the Council of State considers reasonable
17 and proper for the security of the holders of any bonds. Expenses incurred by the State in
18 carrying out the provisions of the resolution or trust agreement may be paid from the
19 settlement receipts as provided for in such document.

20 **"§ 142-59. Pledge of settlement receipts; limited obligations.**

21 (a) The State is authorized to pledge all or any portion of the settlement receipts to
22 the payment of the principal of, premium, if any, and interest on bonds issued under this
23 Article as they become due and payable, and to create and maintain any reserves therefor,
24 and to fulfill the terms of any agreements made with the holders of bonds issued under
25 this Article. Notwithstanding the foregoing, any settlement receipts not required to pay
26 the principal of, premium, if any, and interest on the bonds secured by the receipts as they
27 become due and payable, or to create and maintain any reserves for them, or to fulfill the
28 terms of any agreements made with the holders of bonds issued under this Article, shall
29 be available to the State for expenditure for any lawful purpose, subject to the terms and
30 provisions of any resolution or trust agreement authorizing and securing the bonds.

31 (b) Any pledge of the settlement receipts made by the State under the provisions of
32 this Article shall be set forth in the resolution or trust agreement authorizing the issuance
33 of the bonds. The pledge of the settlement receipts made by the State shall be valid and
34 binding from the time when the pledge is made. All settlement receipts so pledged and
35 thereafter received by the State are immediately subject to the lien of the pledge without
36 any physical delivery or further act, and the lien of the pledge is valid and binding as
37 against all parties having claims of any kind in tort, contract, or otherwise against the
38 State, irrespective of whether the parties have notice of the lien. The resolution or trust
39 agreement by which a pledge is created need not be filed or recorded except in the
40 records of the Council of State.

41 (c) All bonds issued under this Article shall be equally and ratably secured by a
42 pledge, charge, and lien upon the settlement receipts pledged to the payment of those
43 bonds, without priority by reason of number, or of dates of bonds, execution, or delivery,

1 in accordance with the provisions of this Article and of the resolution or trust agreement
2 authorizing and securing such bonds; except that the State may provide in the resolution
3 or trust agreement that the bonds shall, to the extent and in the manner prescribed in the
4 resolution or trust agreement, be subordinated and junior in standing with respect to the
5 payment of principal of, premium, if any, and interest on any other bonds.

6 (d) All bonds issued under this Article shall be special limited obligations of the
7 State. The principal of, premium, if any, and interest on the bonds shall not be payable
8 from the general funds of the State, nor shall they constitute a legal or equitable pledge,
9 charge, lien, or encumbrance upon any of its property or upon any of its income, receipts,
10 or revenues, except the settlement receipts that are pledged under the resolution or trust
11 agreement authorizing and securing the bonds. Neither the credit nor the taxing power of
12 the State is pledged for the payment of the principal of, premium, if any, or interest on the
13 bonds, and no holder of bonds has the right to compel the exercise of the taxing power by
14 the State or the forfeiture of any of its property in connection with any default on the
15 bonds, except for the settlement receipts that are pledged under the resolution or trust
16 agreement authorizing and securing the bonds. Every bond issued under this Article shall
17 recite in substance that the principal of, premium, if any, and interest on the bond is
18 payable solely from the settlement receipts pledged to its payment and that the State is
19 not obligated to pay the principal, premium, or interest, except from the settlement
20 receipts so pledged.

21 **"§ 142-60. Agreement of the State.**

22 The State pledges to and agrees with the holders of any bonds issued by the State
23 pursuant to this Article that so long as any of the bonds are outstanding and unpaid, the
24 State will not limit or alter the rights vested in the State at the time of issuance of the
25 bonds to collect and apply the settlement receipts in the manner provided in the resolution
26 or trust agreement authorizing and securing the bonds to pay the principal of, premium, if
27 any, and interest on the bonds as they become due and payable, and to create and
28 maintain any reserves for payment, and to fulfill the terms of any agreements made with
29 the holders of the bonds. The State will not in any way impair the rights and remedies of
30 the holders of the bonds until the bonds and all costs and expenses in connection with any
31 action or proceedings by or on behalf of the holders of the bonds, are fully paid, met, and
32 discharged.

33 **"§ 142-61. Trust funds.**

34 Notwithstanding any other provisions of law to the contrary, all moneys received
35 pursuant to the authority of this Article, including proceeds of the bonds and settlement
36 receipts, are trust funds to be held and applied solely as provided in this Article. The
37 resolution authorizing the issuance of, or any trust agreement securing, any bonds issued
38 under this Article may provide that any of these moneys may be temporarily invested
39 pending their disbursement and shall provide that any officer with whom, or any bank or
40 trust company with which, the moneys are deposited shall act as trustee of the moneys
41 and shall hold and apply them for the purposes of this Article, subject to any limitations
42 this Article and the resolution or trust agreement provide. These moneys may be invested

1 in any investment authorized by law for investment of trust funds held by the State
2 Treasurer.

3 **"§ 142-62. Remedies.**

4 Any holder of bonds issued under the provisions of this Article, and the trustee under
5 any resolution or trust agreement authorizing and securing the bonds, except to the extent
6 the rights given in this Article may be restricted by the resolution or trust agreement,
7 may, either at law or in equity, by suit, action, mandamus, or other proceeding, protect
8 and enforce any and all rights under the laws of the State or granted under this Article or
9 under the resolution or trust agreement, or under any other contract executed by the
10 Council of State or the State Treasurer pursuant to this Article, and may enforce and
11 compel the performance of all duties required by this Article or by the resolution or trust
12 agreement to be performed by the State or by any officer of the State.

13 **"§ 142-63. Investment securities.**

14 All bonds and interest coupons appertaining to them issued under this Article are
15 investment securities within the meaning of and for all the purposes of Article 8 of
16 Chapter 25 of the General Statutes, whether or not they are of the form and character as
17 to be investment securities under that Article, subject only to the provisions of the bonds
18 pertaining to registration.

19 **"§ 142-64. Bonds eligible for investment.**

20 Bonds issued under the provisions of this Article are securities in which all public
21 officers and public bodies of the State and its political subdivisions, all insurance
22 companies, trust companies, banking associations, investment companies, executors,
23 administrators, trustees, and other fiduciaries may properly and legally invest funds,
24 including capital in their control or belonging to them. The bonds are securities that may
25 properly and legally be deposited with and received by any State or municipal officer or
26 any agency or political subdivision of the State for any purpose for which the deposit of
27 bonds, notes, or obligations of the State is authorized by law.

28 **"§ 142-65. Refunding bonds.**

29 The State Treasurer may, by and with the consent of the Council of State, issue and
30 sell from time to time refunding bonds for the purpose of refunding any bonds issued
31 under this Article and then outstanding, including the payment of any redemption
32 premium on them and any interest accrued or to accrue to the date of redemption of the
33 refunded bonds. The principal of, premium, if any, and interest on the refunding bonds
34 shall be payable solely from funds provided under this Article for payment of bonds.

35 The issuance of refunding bonds, their maturities and other details, the rights of their
36 holders, and the rights, duties, and obligations of the State in respect of them are
37 governed by the provisions of this Article that relate to the issuance of bonds, insofar as
38 those provisions are appropriate.

39 Refunding bonds may be sold or exchanged for outstanding bonds issued under this
40 Article and, if sold, their proceeds may be applied, in addition to any other authorized
41 purposes, to the purchase, redemption, or payment of the bonds, with any other available
42 funds, or to the payment of the principal, accrued interest, and any redemption premium
43 on the bonds being refunded, and, if so provided or permitted in the resolution

1 authorizing the issuance of, or in the trust agreement securing, the bonds, to the payment
2 of any interest on the refunding bonds and any expenses in connection with the
3 refunding. These proceeds may be invested in direct obligations of, or obligations the
4 principal of and the interest on which are unconditionally guaranteed by, the United
5 States of America, if they mature or are subject to redemption by their holders, at the
6 holders' option, not later than the respective dates when the proceeds, together with the
7 interest accrued on them, will be required for the purposes intended.

8 **"§ 142-66. Officers and employees not liable.**

9 No member of the Council of State or officer or employee of the State shall be subject
10 to any personal liability or accountability by reason of the execution or issuance of any
11 bonds under this Article.

12 **"§ 142-67. Tax exemption.**

13 Any bonds issued by the State under the provisions of this Article shall at all times be
14 free from taxation by the State or any local unit or political subdivision or other
15 instrumentality of the State, excepting inheritance or gift taxes, income taxes on the gain
16 from the transfer of the bonds, and franchise taxes. Interest on the bonds is not subject to
17 taxation as income."

18
19 **PART II. ALLOCATION OF FUNDS**

20 Section 2. G.S. 143-16.4 reads as rewritten:

21 **"§ 143-16.4. Settlement Reserve Fund.**

22 (a) The 'Settlement Reserve Fund' is established as a restricted reserve in the
23 General Fund. ~~Funds~~ Except as otherwise provided in this section, funds shall be
24 expended from the Settlement Reserve Fund only by specific appropriation by the
25 General Assembly.

26 (a1) A Health Trust Account is established in the Settlement Reserve Fund. The
27 portion of each Master Settlement Agreement payment identified in Section 6(2) of S.L.
28 1999-2 shall be credited to the Health Trust Account. The State Controller shall transfer
29 all funds in the Health Trust Account to the Health Trust Fund created in Article 21 of
30 Chapter 130A of the General Statutes.

31 (a2) A Tobacco Trust Account is established in the Settlement Reserve Fund. The
32 portion of each Master Settlement Agreement payment identified in Section 6(3) of S.L.
33 1999-2 shall be credited to the Tobacco Trust Account. If all or part of these Master
34 Settlement Agreement receipts have been pledged to secure the payment of bonds issued
35 under Article 8 of Chapter 142 of the General Statutes, funds in the account are subject to
36 the lien of the pledge as provided in G.S. 142-59, shall be expended only in accordance
37 with any resolution or trust agreement authorizing and securing the bonds, and shall not
38 be released from the account until their release is authorized by any resolution or trust
39 agreement authorizing and securing the bonds. Subject to the restrictions of any
40 applicable resolution or trust agreement under Article 8 of Chapter 142 of the General
41 Statutes, the State Controller shall transfer any unrestricted funds in the Tobacco Trust
42 Account to the Tobacco Trust Fund created in Article 75 of Chapter 143 of the General
43 Statutes.

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

PART III. HEALTH TRUST FUND AND HEALTH COMMISSION

Section 3. Chapter 130A of the General Statutes is amended by adding a new Article to read:

“ARTICLE 21.

“HEALTH TRUST FUND AND COMMISSION.

“§ 130A-470. Purpose; funding initiatives.

(a) The purpose of this Article is to improve the health and wellness of the people of North Carolina through the establishment of a North Carolina Health Trust Fund that will fund initiatives in prevention, education, treatment, research, and related areas in addressing health problems and in increasing the capacity of communities to respond to the public's health needs.

(b) The Health Trust Fund shall be used to develop a comprehensive, community-based plan with goals and objectives to improve the health and wellness of the people of North Carolina with a priority on preventing, reducing, and remedying the negative health effects of tobacco use and with an emphasis on reducing youth tobacco use. The goals and objectives shall have measurable health and wellness outcomes and a proposed timetable to achieve these outcomes.

(c) The priority in funding all initiatives pursuant to this Article shall be to address the health needs of vulnerable and underserved populations. Advice and technical support shall be provided in addressing those needs.

“§ 130A-471. Definitions.

The following definitions apply in this Article:

- (1) Board of Trustees. – The Board of Trustees of the Health Trust Fund Commission.
- (2) Council. – The Advisory Council for the Health Trust Fund.
- (3) Commission. – The Health Trust Fund Commission.
- (4) Fund. – The Health Trust Fund.
- (5) ‘Principal’ means the annual payment allocated to the Health Trust Fund pursuant to G.S. 143-16.4.

“§ 130A-472. Commission.

(a) Creation. – The Health Trust Fund Commission is created. The Commission has the powers and duties set forth in G.S. 130A-473.

(b) Membership. – The Board of Trustees of the Commission shall consist of 15 members. The Board of Trustees members shall not be employed by or be agents of

1 tobacco product manufacturing companies. The Board of Trustees shall be appointed as
2 follows: five members by the Governor, five members by the General Assembly upon the
3 recommendation of the President Pro Tempore of the Senate, and five members by the
4 General Assembly upon the recommendation of the Speaker of the House of
5 Representatives. These members shall be appointed as follows:

6 (1) The Governor shall make the following appointments:

- 7 a. A community leader.
8 b. A person involved in public health.
9 c. A person involved in health research.
10 d. A person involved in the operation of health care delivery
11 systems.
12 e. A health care practitioner.

13 (2) The General Assembly shall make the following appointments upon the
14 recommendation of the President Pro Tempore of the Senate:

- 15 a. A community leader.
16 b. A person involved in the health care needs of special populations.
17 c. A person involved in health policy trends.
18 d. A person involved in tobacco-related health care issues.
19 e. A person involved in health promotion and disease prevention.

20 (3) The General Assembly shall make the following appointments upon the
21 recommendation of the Speaker of the House of Representatives:

- 22 a. A community leader.
23 b. A person involved in health policy trends.
24 c. A person involved in tobacco-related health care issues.
25 d. A person involved with health care for underserved populations.
26 e. A person involved with child health care.

27 Except as provided for the initial Board of Trustees under subsection (c) of this
28 section, members shall serve four-year terms. No member may serve more than two full
29 consecutive terms. A vacancy in a position appointed by the Governor shall be filled for
30 the unexpired term by the Governor. A vacancy in a position appointed by the General
31 Assembly shall be filled in accordance with G.S. 120-122.

32 The Board of Trustees shall select its chair for a two-year term.

33 It is the intent of the General Assembly that the appointing authorities, in appointing
34 members, shall appoint members who represent the geographic, gender, and racial
35 diversity of the State.

36 (c) Initial Membership; Staggering. – To provide for a staggered membership, the
37 members initially appointed pursuant to sub-subdivisions (b)(1)a., (1)b., (2)d., and (3)a.
38 of this section shall serve one-year terms. The members initially appointed pursuant to
39 sub-subdivisions (b)(1)c., (2)a., (3)b., and (3)c. shall serve two-year terms. The members
40 initially appointed pursuant to sub-subdivisions (b)(1)d., (2)c., and (3)e. shall serve three-
41 year terms. The remaining members initially appointed pursuant to subsection (b) of this
42 section shall serve four-year terms.

1 (d) Compensation. – The members of the Board of Trustees shall receive per diem
2 and travel and subsistence expenses in accordance with G.S. 138-5. Per diem,
3 subsistence, and travel expenses of the members shall be paid from the Fund.

4 (e) Frequency of Meetings. – The Board of Trustees shall meet at least quarterly
5 each year and may hold special meetings at the call of the chair or a majority of members.

6 (f) Conflict of Interest. – Members of the Board of Trustees shall comply with the
7 provisions of G.S. 14-234 prohibiting conflicts of interest. A member shall not vote on,
8 participate in the deliberation of, or otherwise attempt through his or her official capacity
9 to influence the vote on a grant or other financial assistance award by the Board of
10 Trustees to a nonprofit entity of which the member is an officer, director, or employee or
11 to a governmental entity of which the member is an employee or a member of the
12 governing board.

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

18 **"§ 130A-473. Powers and duties.**

19 The Commission shall have the following powers and duties:

20 (1) To administer the provisions of this Article.

21 (2) To disburse funds or otherwise provide financial assistance to eligible
22 State agencies, local governments, and other political subdivisions of
23 the State, or a combination of these entities, or nonprofit organizations,
24 consistent with the purposes of this Article and pursuant to the
25 recommendations of the Board of Trustees, and to develop guidelines or
26 criteria for eligibility and disbursement of funds and the provision of
27 financial assistance.

28 (3) To hire staff or contract for other expertise for the administration of the
29 Fund.

30 (4) To accept gifts or grants from other sources.

31 (5) To require grant or financial assistance recipients that are non-State
32 agencies to submit an annual report to the Board of Trustees. The report
33 shall include information concerning how the funds are used, the
34 intended goals and objectives of the recipient's grant proposal or
35 program initiative, and the results of an evaluation of the extent to
36 which the outcomes of the initiative or proposal achieved those goals
37 and objectives.

38 **"§ 130A-474. Health Trust Fund.**

39 (a) Fund Established. – The Health Trust Fund is established in the State
40 Treasurer's Office. The Fund shall be used to promote the health and wellness of the
41 people of North Carolina in accordance with this Article.

42 (b) Fund Earnings, Assets, and Balances. – The State Treasurer shall hold the
43 Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer

1 shall be the custodian of the Fund and shall invest its assets in accordance with G.S. 147-
2 69.2 and G.S. 147-69.3. Investment earnings credited to the Fund shall become part of
3 the Fund. Any balance remaining in the Fund at the end of any fiscal year shall be
4 carried forward in the Fund for the next succeeding fiscal year. Payments from the Fund
5 shall be made on the warrant of the chair of the Board of Trustees, pursuant to the
6 directives of the Board of Trustees. The Board of Trustees may expend moneys in the
7 Fund only as provided in subsection (c) of this section.

8 (c) Use of Fund Principal. – The Board of Trustees shall reserve, and not expend,
9 fifty percent (50%) of each annual payment allocated to the Health Trust Fund pursuant
10 to G.S. 143-16.4 during years 2000 through 2025 to create a Reserve Account. The
11 Board of Trustees shall not expend the Reserve Account but may expend any investment
12 earnings on the Reserve Account. Notwithstanding any other provision of this section,
13 the Board of Trustees may not expend more than forty million dollars (\$40,000,000) a
14 year through the year 2005.

15 The Board of Trustees may expend the remaining principal that is not reserved
16 pursuant to this subsection. Any unexpended portion of the nonreserved portion of the
17 principal for years 2000 through 2025 that could have been expended under this
18 subsection may be carried forward to subsequent years and may be expended during any
19 subsequent year in addition to the nonreserved portion of the principal allowed to be
20 expended under this subsection.

21 **"§ 130A-475. Reporting.**

22 (a) The chair of the Board of Trustees shall report each year by November 1 to the
23 Joint Legislative Commission on Governmental Operations and the chairs of the Joint
24 Health Care Oversight Committee regarding the implementation of this Article. The
25 report shall include a summary of each recipient's annual report submitted to the Health
26 Trust Fund Commission pursuant to G.S. 130A-473 and an analysis of the extent to
27 which the Commission is achieving its goals, objectives, and outcomes established
28 pursuant to G.S. 130A-470(b). A written copy of the report shall also be sent to the
29 Legislative Library by November 1 each year.

30 (b) No later than November 1, 2000, and quarterly thereafter, the chair of the
31 Board of Trustees shall submit to the Joint Legislative Commission on Governmental
32 Operations a list of the initiatives funded from the Fund for the previous quarter. The list
33 shall include a description of each initiative, including the recipient, the amount of the
34 grant awarded or financial assistance provided, the evaluation methods or process the
35 recipient will use to measure whether the initiative's purpose is achieved, and the extent
36 to which it is anticipated each initiative will be funded through each recipient. A written
37 copy of the list and other information regarding the initiatives shall also be sent to the
38 Legislative Library by November 1, 2000, and for each subsequent quarter.

39 (c) Any non-State agency that receives, uses, or expends any funds from the
40 Commission is subject to the applicable reporting requirements of G.S. 143-6.1.

41 **"§ 130A-476. Advisory Council.**

42 The Board of Trustees shall create an Advisory Council to advise it with regard to
43 issues as requested by the Board of Trustees. The Advisory Council shall include the

1 Secretary of the Department of Health and Human Services, the State Health Director,
2 the Dean of the School of Public Health, and others the Board of Trustees considers
3 necessary.

4 **"§ 130A-477. Open meetings and public records requirements.**

5 The Open Meetings Law (Article 33 of Chapter 143 of the General Statutes) and the
6 Public Records Act (Chapter 132 of the General Statutes) apply to the Commission. The
7 Commission is subject to audit by the State Auditor as provided by law."

8
9 **PART IV. TOBACCO TRUST FUND AND TOBACCO COMMISSION**

10 Section 4. Chapter 143 of the General Statutes is amended by adding a new
11 Article to read:

12 **"ARTICLE 75.**

13 **"TOBACCO TRUST FUND.**

14 **"§ 143-715. Policy; purpose.**

15 The General Assembly finds:

- 16 (1) For many years, the State and its prosperity have been supported by its
17 agricultural economy and particularly by the tobacco-related segment of
18 the agricultural economy. The Master Settlement Agreement is
19 expected to cause significant economic hardship upon the tobacco-
20 related segment of the agricultural economy in that it is expected to
21 result in reduced demand, sales, and prices for tobacco as an agricultural
22 product.
- 23 (2) Tobacco growers, tobacco allotment holders, and persons engaged in
24 tobacco-related businesses are entitled to indemnification for the
25 adverse economic effects resulting from the Master Settlement
26 Agreement, tobacco growers and allotment holders are entitled to
27 compensation for the economic losses resulting from lost quota value,
28 and tobacco growers are entitled to compensation for the decline in
29 value of tobacco-related personal property assets and declining market
30 conditions resulting from the Master Settlement Agreement, to the
31 extent that funds are available in the Tobacco Trust Fund to address
32 those purposes.
- 33 (3) Even in the absence of the Master Settlement Agreement, the tobacco-
34 related segment of the State's economy is experiencing severe economic
35 hardship as it confronts a national decline in the use of, and demand for,
36 tobacco products, which decline is expected to continue. At present, the
37 tobacco growers, tobacco allotment holders, and persons engaged in
38 tobacco-related businesses are facing an economic crisis that threatens
39 their health and survival. Therefore, in addition to indemnification and
40 compensation for losses resulting from the Master Settlement
41 Agreement, the public interest will be served by the funding of qualified
42 agricultural programs that support, foster, encourage, and facilitate a
43 strong agricultural economy in North Carolina. To the extent that funds

1 are available in the Tobacco Trust Fund, expenditure of those funds to
2 finance qualified agricultural programs is in the public interest.

- 3 (4) It is a public purpose for these funds to be expended in this manner, and
4 it is public service for these persons to accept these funds to the end that
5 conditions of unemployment and fiscal distress may be alleviated or
6 avoided, more stable local economies may be created, local tax bases
7 may be stabilized and maintained, natural resources may be optimally
8 used, and the general public may be benefited.

9 **"§ 143-716. Definitions.**

10 The following definitions apply in this Article:

- 11 (1) Board of Trustees. – The Board of Trustees of the Tobacco Trust Fund
12 Commission.
- 13 (2) Bonds. – Bonds of the State issued pursuant to the provisions of Article
14 8 of Chapter 142 of the General Statutes.
- 15 (3) Bond funds. – Amounts derived from the sale of bonds by the State
16 pursuant to Article 8 of Chapter 142 of the General Statutes.
- 17 (4) Commission. – The Tobacco Trust Fund Commission.
- 18 (5) Compensatory programs. – Programs developed by the Commission to
19 identify, locate, compensate, and indemnify tobacco growers, allotment
20 holders, and persons engaged in tobacco-related businesses who have
21 suffered actual economic losses due to lost quota, the decline in value of
22 tobacco-related personal property assets, and declining market
23 conditions resulting from the Master Settlement Agreement or declines
24 in the tobacco-related segment of the State's economy.
- 25 (6) Fund. – The Tobacco Trust Fund.
- 26 (7) Master Settlement Agreement. – The settlement agreement between
27 certain tobacco manufacturers and the states, as incorporated in the
28 consent decree entered in the action of State of North Carolina v. Philip
29 Morris, Incorporated, et al., 98 CVS 14377, in the General Court of
30 Justice, Superior Court Division, Wake County, North Carolina.
- 31 (8) National Tobacco Grower Settlement Trust. – The National Tobacco
32 Grower Settlement Trust established by tobacco companies to provide
33 payments to tobacco growers and allotment holders in 14 states for the
34 purposes of ameliorating potential adverse economic consequences of
35 likely reduction in demand, sales, and prices for tobacco as an
36 agricultural product as a result of the Master Settlement Agreement.
- 37 (9) Non-bond settlement funds. – Amounts received by the Commission for
38 deposit to the Fund that are derived from sources other than the
39 proceeds of bonds, including amounts received by the State under the
40 Master Settlement Agreement that are transferred to the Commission for
41 deposit to the Fund pursuant to G.S. 143-16.4.
- 42 (10) Qualified agricultural programs. – Programs developed by the
43 Commission to support and foster the vitality and solvency of the

1 tobacco-related segment of the State's agricultural economy, particularly
2 the segment adversely affected by the Master Settlement Agreement,
3 with the objective of alleviating and avoiding unemployment,
4 preserving and increasing local tax bases, and encouraging the
5 economic stability of participants in the State's agricultural economy.
6 Examples of qualified agricultural programs include programs to
7 finance the modernization of farming equipment, programs to finance
8 the conversion of existing equipment to conform to environmental and
9 other regulatory requirements, and programs to finance the conversion
10 or replacement of equipment in order to cultivate crops that are more
11 profitable than are currently being cultivated.

- 12 (11) Tobacco-related business. – The term does not include the
13 manufacturing of tobacco products or the sale of tobacco products at
14 wholesale or retail.

15 "**§ 143-717. Commission.**

16 (a) Creation. – The Tobacco Trust Fund Commission is created. The Commission
17 shall be administratively located within the Department of Agriculture and Consumer
18 Services but shall exercise its powers independently of the Commissioner of Agriculture
19 and the Department. All administrative expenses of the Commission shall be paid from
20 the Fund.

21 (b) Membership. – The Board of Trustees of the Commission shall consist of 16
22 members. The Board of Trustees shall be appointed as follows: five members by the
23 Governor, five members by the General Assembly upon the recommendation of the
24 President Pro Tempore of the Senate, and five members by the General Assembly upon
25 the recommendation of the Speaker of the House of Representatives. The Commissioner
26 of Agriculture shall serve as an ex officio member. The appointed members shall be
27 appointed as follows:

- 28 (1) The Governor shall make the following appointments:

- 29 a. A flue-cured tobacco farmer.
30 b. A flue-cured tobacco farmer.
31 c. A burley tobacco farmer.
32 d. A person in or displaced from employment in a tobacco-related
33 business.
34 e. An at-large appointee.

- 35 (2) The General Assembly shall make the following appointments upon the
36 recommendation of the President Pro Tempore of the Senate:

- 37 a. A flue-cured tobacco farmer.
38 b. A flue-cured tobacco farmer.
39 c. A burley allotment holder who is not also a burley tobacco
40 farmer.
41 d. A person in or displaced from employment in a tobacco-related
42 business.
43 e. An at-large appointee.

1 (3) The General Assembly shall make the following appointments upon the
2 recommendation of the Speaker of the House of Representatives:

3 a. A flue-cured tobacco farmer.

4 b. A flue-cured tobacco farmer.

5 c. A flue-cured allotment holder who is not also a flue-cured
6 tobacco farmer.

7 d. A burley tobacco farmer.

8 e. An at-large appointee.

9 Except as provided for the initial members under subsection (c) of this section,
10 members shall serve four-year terms. No member may serve more than two full
11 consecutive terms. A vacancy in a position appointed by the Governor shall be filled for
12 the unexpired term by the Governor. A vacancy in a position appointed by the General
13 Assembly shall be filled in accordance with G.S. 120-122. A member may be removed
14 from office for cause by the authority that appointed that member.

15 (c) Initial Membership; Staggering. – To provide for a staggered membership, the
16 members initially appointed pursuant to sub-subdivisions (b)(1)a., (1)b., (2)d., and (3)a.
17 of this section shall serve one-year terms. The members initially appointed pursuant to
18 sub-subdivisions (b)(1)c., (2)a., (3)b., and (3)c. shall serve two-year terms. The members
19 initially appointed pursuant to sub-subdivisions (b)(1)d., (2)c., and (3)e. of this section
20 shall serve three-year terms. The remaining members initially appointed pursuant to
21 subsection (b) of this section shall serve four-year terms.

22 (d) Officers. – The Board of Trustees shall elect from its membership a chair
23 and other officers as necessary. The term of office for a chair or another officer is two
24 years.

25 **§ 143-718. Powers and duties.**

26 The Commission shall have the following powers and duties:

27 (1) To administer the provisions of this Article.

28 (2) To develop compensatory programs and qualified agricultural programs,
29 including guidelines and criteria for eligibility for and disbursement of
30 funds, the forms of direct and indirect economic assistance to be
31 awarded, and procedures for applying for and reviewing applications for
32 assistance from the Fund. In developing guidelines and criteria for
33 eligibility and disbursement of funds, the Commission may consult with
34 and otherwise obtain assistance from the State and local offices of the
35 Farm Service Agency and other agencies of the United States
36 Department of Agriculture. The Commission shall publish the proposed
37 guidelines and criteria under this subdivision in the North Carolina
38 Register and any other publications it considers appropriate at least 30
39 days before adopting them. The Commission shall hold a public
40 hearing on the proposed guidelines and criteria before adopting them.

41 (3) To provide financial assistance to eligible recipients, in carrying out
42 compensatory programs and qualified agricultural programs.

43 (4) To hire staff for the administration of the Fund.

1 (5) To accept gifts or grants from other sources.

2 **"§ 143-719. Tobacco Trust Fund; creation; investment.**

3 (a) Fund Established. – The Tobacco Trust Fund is established in the State
4 Treasurer's Office. The Fund shall be used to provide financial assistance in accordance
5 with this Article. The State Treasurer may provide for the creation of various accounts
6 and subaccounts within the Fund as the State Treasurer considers necessary to account
7 for separately the various non-bond settlement funds and bond funds deposited in the
8 Fund. Investment earnings on moneys deposited in the Fund pursuant to subsection (b)
9 of this section shall be allocated to the various accounts and subaccounts as determined
10 by the State Treasurer.

11 (b) Fund Earnings, Assets, and Balances. – The State Treasurer shall hold the
12 Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer
13 shall be the custodian of the Fund and shall invest the assets in accordance with G.S. 147-
14 69.2 and G.S. 147-69.3. Investment earnings credited to the Fund shall become part of
15 the Fund. Any balance remaining in the Fund at the end of any fiscal year shall be
16 carried forward in the Fund for the next succeeding fiscal year. Payments from the Fund
17 shall be made on the warrant of the chair of the Board of Trustees.

18 **"§ 143-720. Benefits and administration of Fund for compensatory programs.**

19 (a) Non-bond settlement funds held in the Fund may be expended on
20 compensatory programs as provided in this section.

21 (b) The Fund may provide direct and indirect financial assistance, in accordance
22 with criteria established by the Board of Trustees and to the extent allowed by law, to
23 accomplish the following:

24 (1) Indemnify tobacco producers, allotment holders, and persons engaged in
25 tobacco-related businesses from the adverse economic effects of the
26 Master Settlement Agreement.

27 (2) Compensate tobacco producers and allotment holders for economic loss
28 resulting from lost quota value and compensate tobacco producers for
29 the decline in value of tobacco-related personal property assets and
30 declining market conditions resulting from the Master Settlement
31 Agreement.

32 (c) Only tobacco producers, tobacco allotment holders, and persons engaged in
33 tobacco-related businesses are eligible to apply for and receive assistance pursuant to
34 subsection (b) of this section. An applicant may be a natural person, partnership, limited
35 liability company, or corporation. Direct payments made to tobacco producers and
36 tobacco allotment holders shall be based on losses resulting in 1998 and thereafter. Lost
37 quota value shall be a primary determinative factor in calculating the amount of
38 compensable economic loss for tobacco farmers and allotment holders.

39 (d) The Board of Trustees shall determine the priority of awards among the categories
40 in subsection (b) of this section and within each of those categories.

41 (e) Financial assistance awards shall be for no more than one year at a time. An
42 award may be renewed annually, without limitation.

1 (f) The Board of Trustees may require applicants to provide copies of documents
2 necessary to determine compensable economic loss.

3 (g) In no event shall the amount paid to a tobacco producer or allotment holder
4 pursuant to this Article, when combined with the amount received through the National
5 Tobacco Grower Settlement Trust, exceed the compensable economic loss of the
6 producer or allotment holder.

7 (h) The Board of Trustees may consider the criteria used for National Tobacco Grower
8 Settlement Trust payments and may correspond with the National Tobacco Grower
9 Settlement Trust certification entity to ensure that tobacco farmers and allotment holders
10 are treated fairly.

11 **"§ 143-721. Benefits and administration of Fund for qualified agricultural**
12 **programs.**

13 (a) Non-bond settlement funds and bond funds held in the Fund may be expended
14 on qualified agricultural programs as provided in this section.

15 (b) Non-bond settlement funds and, subject to the provisions of any resolution or
16 trust agreement authorizing and securing bonds issued by the State pursuant to the
17 provisions of Article 8 of Chapter 142 of the General Statutes, bond funds may be
18 expended to fund the costs of qualified agricultural programs. In implementing qualified
19 agricultural programs, the Commission shall endeavor to identify those areas of the
20 tobacco-related segment of the State's economy in need of assistance to be provided by
21 the Fund in order to assure the continued vitality and solvency of those areas. The
22 Commission shall endeavor to select for funding qualified agricultural programs that will
23 have the greatest favorable impact on the long-term health of the tobacco-related
24 economy of the State.

25 (c) The benefits of qualified agricultural programs are not limited to persons
26 suffering economic loss resulting from the Master Settlement Agreement, but these
27 programs shall be designed to foster, support, and assist the tobacco-related segment of
28 the agricultural economy.

29 (d) The Commission may solicit and accept proposals from agencies and
30 departments of the State, including institutions of The University of North Carolina, local
31 units of government, the federal government, and members of the private sector for
32 qualified agricultural programs to be funded with money held in the Fund.

33 **"§ 143-722. Reporting.**

34 The chair of the Commission shall report each year by November 1 to the Joint
35 Legislative Commission on Governmental Operations regarding the implementation of
36 this Article, including a report on funds disbursed during the fiscal year by amount and
37 by category of recipient.

38 **"§ 143-723. Open meetings; public records; audit.**

39 The Open Meetings Law (Article 33 of Chapter 143 of the General Statutes) and the
40 Public Records Act (Chapter 132 of the General Statutes) shall apply to the Commission,
41 and the Commission shall be subject to audit by the State Auditor as provided by law."

42 Section 4.1. The initial qualified agricultural program to be undertaken by the
43 Tobacco Trust Fund Commission, established in Article 75 of Chapter 143 of the General

1 Statutes, shall be a program to provide funding assistance to tobacco producers to convert
2 tobacco curing barns from direct-fired heating systems to indirect-fired heating systems
3 pursuant to a program being designed for this purpose by the Flue-Cured Tobacco
4 Stabilization Corporation. Upon written request by the Commission, the State may issue
5 bonds pursuant to Article 8 of Chapter 142 of the General Statutes in a principal amount
6 not to exceed seventy-five million dollars (\$75,000,000) for this purpose, which purpose
7 constitutes a State-authorized program within the meaning of Article 8 of Chapter 142 of
8 the General Statutes. The bonds issued pursuant to this section may be secured solely by
9 the funds credited to the Tobacco Trust Account of the Settlement Reserve Fund created
10 under G.S. 143-16.4. The bond funds received from the sale of the bonds shall be
11 credited to the Tobacco Trust Fund created by G.S. 143-719 and shall be invested and
12 expended as provided in Article 75 of Chapter 143 of the General Statutes for the
13 purposes provided in this section.

14 15 **PART V. APA RULE-MAKING EXEMPTION (TOBACCO)**

16 Section 5. G.S. 150B-1(d) reads as rewritten:

17 "(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to
18 the following:

- 19 (1) The Commission.
- 20 (2) The North Carolina Low-Level Radioactive Waste Management
21 Authority in administering the provisions of G.S. 104G-10 and G.S.
22 104G-11.
- 23 (3) The North Carolina Hazardous Waste Management Commission in
24 administering the provisions of G.S. 130B-13 and G.S. 130B-14.
- 25 (4) The Department of Revenue, with respect to the notice and hearing
26 requirements contained in Part 2 of Article 2A.
- 27 (5) The North Carolina Global TransPark Authority with respect to the
28 acquisition, construction, operation, or use, including fees or charges, of
29 any portion of a cargo airport complex.
- 30 (6) The Department of Correction, with respect to matters relating solely to
31 persons in its custody or under its supervision, including prisoners,
32 probationers, and parolees.
- 33 (7) The North Carolina Teachers' and State Employees' Comprehensive
34 Major Medical Plan in administering the provisions of Parts 2 and 3 of
35 Article 3 of Chapter 135 of the General Statutes.
- 36 (8) The Tobacco Trust Fund Commission established in Article 75 of
37 Chapter 143 of the General Statutes."

38 39 **PART VI. STATE PERSONNEL ACT EXEMPTION**

40 Section 6. G.S. 126-5(c1) reads as rewritten:

41 "(c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions
42 of this Chapter shall not apply to:

- 43 (1) Constitutional officers of the State.

- 1 (2) Officers and employees of the Judicial Department.
- 2 (3) Officers and employees of the General Assembly.
- 3 (4) Members of boards, committees, commissions, councils, and advisory
4 councils compensated on a per diem basis.
- 5 (5) Officials or employees whose salaries are fixed by the General
6 Assembly, or by the Governor, or by the Governor and Council of State,
7 or by the Governor subject to the approval of the Council of State.
- 8 (6) Employees of the Office of the Governor that the Governor, at any time,
9 in his discretion, exempts from the application of the provisions of this
10 Chapter by means of a letter to the State Personnel Director designating
11 these employees.
- 12 (7) Employees of the Office of the Lieutenant Governor, that the Lieutenant
13 Governor, at any time, in his discretion, exempts from the application of
14 the provisions of this Chapter by means of a letter to the State Personnel
15 Director designating these employees.
- 16 (8) Instructional and research staff, physicians, and dentists of The
17 University of North Carolina.
- 18 (9) Employees whose salaries are fixed under the authority vested in the
19 Board of Governors of The University of North Carolina by the
20 provisions of G.S. 116-11(4), 116-11(5), and 116-14.
- 21 (10) Repealed by Session Laws 1991, c. 84, s. 1.
- 22 (11) North Carolina School of Science and Mathematics' employees whose
23 salaries are fixed in accordance with the provisions of G.S. 116-
24 235(c)(1) and G.S. 116-235(c)(2).
- 25 (12) Employees of the North Carolina Low-Level Radioactive Waste
26 Management Authority whose salaries are fixed pursuant to G.S. 104G-
27 5(g)(1) and G.S. 104G-5(g)(2).
- 28 (13) Employees of the North Carolina Hazardous Waste Management
29 Commission whose salaries are fixed pursuant to G.S. 130B-6(g)(1) and
30 G.S. 130B-6(g)(2).
- 31 (14) Employees of the North Carolina State Ports Authority.
- 32 (15) Employees of the North Carolina Global TransPark Authority.
- 33 (16) The executive director and one associate director of the North Carolina
34 Center for Nursing established under Article 9F of Chapter 90 of the
35 General Statutes.
- 36 (17) The executive director of the independent staff of the Information
37 Resources Management Commission established under G.S. 143B-
38 472.41A.
- 39 (18) Employees of the Tobacco Trust Fund Commission established in
40 Article 75 of Chapter 143 of the General Statutes.
- 41 (19) Employees of the Health Trust Fund Commission established in Article
42 21 of Chapter 130A of the General Statutes."
- 43

PART VII. NO LEGISLATORS ON COMMISSIONS

Section 7. G.S. 120-123 is amended by adding two new subdivisions to read:
"§ 120-123. **Service by members of the General Assembly on certain boards and commissions.**

No member of the General Assembly may serve on any of the following boards or commissions:

...

(70) The Tobacco Trust Fund Commission established in Article 75 of Chapter 143 of the General Statutes.

(71) The Health Trust Fund Commission established in Article 21 of Chapter 130A of the General Statutes."

PART VIII. CONFLICT OF INTEREST (TOBACCO)

Section 8. G.S. 14-234 is amended by adding a new subsection to read:

"(d4) 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 created under Article 75 of Chapter 143 of the General Statutes by a member of the Board of Trustees of the Tobacco Trust Fund Commission, if both of the following conditions are met:

(1) The member of the Board of Trustees applying for assistance does not participate in the discussion of, or vote on, the application.

(2) The Commissioner of Agriculture determines that the award is in accordance with general criteria adopted by the Commission for the distribution of funds from the Tobacco Trust Fund."

PART IX. EFFECTIVE DATE

Section 9. Interpretation of Act. – (a) The foregoing sections of this act provide an additional and alternative method for the doing of the things authorized by the act, are supplemental and additional to powers conferred by other laws, and do not derogate any powers now existing.

Section 9.(b) References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as amended and as they may be amended from time to time by the General Assembly.

Section 9.(c) This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

Section 9.(d) If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

Section 10. Effective Date. – This act is effective when it becomes law.