

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1999**

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**SENATE BILL 6**  
Second Edition Engrossed 2/8/99  
House Committee Substitute Favorable 3/9/99

Short Title: Approve Tobacco Sett. Nonprofit Corp.

(Public)

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Sponsors:

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Referred to:

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January 28, 1999

1                                   A BILL TO BE ENTITLED  
2 AN ACT TO APPROVE THE CREATION OF THE NONPROFIT CORPORATION  
3 ESTABLISHED PURSUANT TO COURT ORDER FOR THE PURPOSES OF  
4 RECEIPT AND DISTRIBUTION OF FIFTY PERCENT OF THE FUNDS  
5 RECEIVED BY THE STATE IN STATE OF NORTH CAROLINA V. PHILIP  
6 MORRIS INCORPORATED, ET AL., INCLUDING THE MANNER, TERMS,  
7 AND CONDITIONS OF APPOINTMENT OF THE CORPORATION'S BOARD OF  
8 DIRECTORS, TO ASSIGN TO THE NONPROFIT CORPORATION ANY RIGHT,  
9 TITLE AND INTEREST IN THE FUNDS CONSTITUTING FIFTY PERCENT OF  
10 NORTH CAROLINA'S STATE SPECIFIC ACCOUNT, TO REQUIRE THE  
11 CORPORATION TO FILE COPIES OF ITS ANNUAL REPORT AND TAX  
12 INFORMATION WITH THE GENERAL ASSEMBLY, TO EXPRESS THE  
13 INTENT OF THE GENERAL ASSEMBLY THAT TOBACCO PRODUCTION  
14 INTERESTS, TOBACCO MANUFACTURING INTERESTS, TOBACCO-  
15 RELATED EMPLOYMENT INTERESTS, HEALTH INTERESTS, AND  
16 ECONOMIC DEVELOPMENT INTERESTS SHALL BE REPRESENTED ON THE  
17 CORPORATION'S BOARD OF DIRECTORS, TO EXPRESS THE INTENT OF  
18 THE GENERAL ASSEMBLY TO ESTABLISH A TRUST FUND TO RECEIVE

1 AND DISTRIBUTE TWENTY-FIVE PERCENT OF THE TOBACCO  
2 LITIGATION MASTER SETTLEMENT AGREEMENT FUNDS FOR THE  
3 BENEFIT OF TOBACCO PRODUCERS, TOBACCO ALLOTMENT HOLDERS,  
4 AND PERSONS ENGAGED IN TOBACCO-RELATED BUSINESSES,  
5 INCLUDING DIRECT AND INDIRECT FINANCIAL ASSISTANCE AND  
6 INDEMNIFICATION TO THESE BENEFICIARIES TO THE EXTENT  
7 ALLOWED BY LAW AND IN ACCORDANCE WITH CRITERIA  
8 ESTABLISHED BY THE TRUST FUND'S BOARD OF TRUSTEES, WITH THE  
9 TRUST FUND GOVERNED BY TRUSTEES REPRESENTING THESE  
10 INTERESTS, AND TO EXPRESS THE INTENT OF THE GENERAL ASSEMBLY  
11 TO ESTABLISH A SEPARATE TRUST FUND TO RECEIVE AND DISTRIBUTE  
12 TWENTY-FIVE PERCENT OF THE TOBACCO LITIGATION MASTER  
13 SETTLEMENT AGREEMENT FUNDS FOR THE BENEFIT OF HEALTH, WITH  
14 THE TRUST FUND GOVERNED BY A BOARD OF TRUSTEES COMPRISED  
15 OF A BROAD REPRESENTATION OF HEALTH INTERESTS.

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

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

Whereas, the Consent Decree and Final Judgment directs the Attorney General to create a nonprofit corporation for purposes of receipt and distribution of fifty percent of the funds allocated to North Carolina; and

Whereas, the Consent Decree and Final Judgment provides that, as a condition precedent to the organization of the nonprofit corporation, the creation of the corporation must be approved by the North Carolina General Assembly not later than March 15, 1999, and must be approved by the Court; Now, therefore,

16 The General Assembly of North Carolina enacts:

17 Section 1. The creation of the nonprofit corporation pursuant to subparagraph  
18 VI.A.1 of the Consent Decree and Final Judgment entered in the action of 98 CVS 14377  
19 on December 21, 1998, is hereby approved for the purposes and on the terms and  
20 conditions set forth in subparagraph VI.A.1 of the Consent Decree and Final Judgment.

21 Section 2. Transfer and assignment to the nonprofit corporation referred to in  
22 Section 1 pursuant to the Consent Decree and Final Judgment entered in the action of 98  
23 CVS 14377 on December 21, 1998 ("Consent Decree"), of any right, title and interest in  
24 the funds constituting the fifty percent (50%) of North Carolina's State Specific Account  
25 specified in subparagraph VI.A.1 of the Consent Decree is hereby approved, so that the  
26 right to receive these funds over the entire payment period during which payments are  
27 made is vested in the nonprofit corporation for the public charitable purposes of  
28 providing economic impact assistance to economically affected or tobacco dependent

1 regions of North Carolina. These funds shall be distributed to the nonprofit corporation  
2 under the Consent Decree, and shall constitute support of the nonprofit corporation from  
3 the State of North Carolina.

4 The General Assembly also approves the provisions in the Consent Decree  
5 concerning the governance of the nonprofit corporation by fifteen directors holding  
6 staggered, four-year terms, five directors to be appointed by the Governor of the State of  
7 North Carolina, five by the President Pro Tempore of the North Carolina Senate, and five  
8 by the Speaker of the North Carolina House of Representatives, respectively in their sole  
9 discretion; and that the Governor shall appoint the first Chair among his appointees, and  
10 the directors shall elect their own Chair from among their number for subsequent terms.

11 Section 3. It is the intent of the General Assembly that the Governor, Speaker  
12 of the House of Representatives, and President Pro Tempore of the Senate, in appointing  
13 directors to the nonprofit corporation, shall, in their sole discretion, include among their  
14 appointments representatives of the following interests: tobacco production, tobacco  
15 manufacturing, tobacco-related employment, health, and economic development.

16 Section 4. The nonprofit corporation shall provide copies of its annual report  
17 and its tax return information to the General Assembly annually.

18 Section 5. It is the intent of the General Assembly that the funds under the  
19 Master Settlement Agreement, which is incorporated into the Consent Decree, be  
20 allocated as follows:

- 21 (1) Fifty percent (50%) to the nonprofit corporation as provided by the  
22 Consent Decree.
- 23 (2) Twenty-five percent (25%) to a trust fund to be established by the  
24 General Assembly for the benefit of tobacco producers, tobacco  
25 allotment holders, and persons engaged in tobacco-related businesses,  
26 with this trust fund to be governed by a board of trustees representing  
27 these interests. To carry out this purpose, this trust fund may provide  
28 direct and indirect financial assistance, in accordance with criteria  
29 established by the trustees of the trust fund and to the extent allowed by  
30 law, to (i) indemnify tobacco producers, allotment holders, and persons  
31 engaged in tobacco-related businesses from the adverse economic  
32 effects of the Master Settlement Agreement, (ii) compensate tobacco  
33 producers and allotment holders for the economic loss resulting from  
34 lost quota, and (iii) revitalize tobacco dependent communities.
- 35 (3) Twenty-five percent (25%) to a trust fund to be established by the  
36 General Assembly for the benefit of health, with this trust fund to be  
37 governed by a board of trustees comprised of a broad representation of  
38 health interests.

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