

NORTH CAROLINA GENERAL STATUTES

(revisions as a result of House Bill 1264, 2003/2004 General Assembly, effective August 5, 2004)

Chapter 147

Article 6C.

Health and Wellness Trust Fund.

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

(a) Fund Established. - There is established the Health and Wellness Trust Fund in the Office of the State Treasurer ~~to that shall~~ be used to develop a comprehensive plan to finance programs and initiatives to improve the health and wellness of the people of North Carolina. As used in this Article, the term "Fund" means the Health and Wellness Trust Fund. It is the intent of the General Assembly that the funds provided pursuant to this Article to address the health needs of North Carolinians be used to supplement, not supplant, existing funding of health and wellness programs.

(b) Fund Earnings, Assets, and Balances. - The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall be the custodian of the Fund and shall invest its assets in accordance with G.S. 147-69.2 and G.S. 147-69.3. Investment earnings credited to the assets of the Fund shall become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year shall be carried forward in the Fund for the next succeeding fiscal year. Payments from the Fund shall be made on the warrant of the chair of the Commission, pursuant to directives of the Commission. The Commission may expend moneys in the Fund only as provided in subsections (c) and (d) of this section.

~~(c) Creation of Fund Reserve. - The Commission shall reserve, and shall not expend, fifty percent (50%) of each annual payment allocated to the Health and Wellness Trust Fund pursuant to G.S. 143-16.4 during years 2001 through 2025 to create and build the Fund Reserve. During years 2001 through 2025, the Commission may expend any investment earnings on the reserved funds. Beginning in year 2026, and thereafter, the Commission shall not expend the reserved funds but may continue to expend any investment earnings on the reserved funds.~~

Priority Use of Funds. - As soon as practicable after the beginning of each fiscal year, the State Treasurer must certify in writing to the chair of the Commission the estimated amount of debt service anticipated to be paid during the fiscal year for special indebtedness authorized by the State Capital Facilities Act of 2004, Part 1 of House Bill 1264, 2003 General Assembly. The chair of the Commission must issue a warrant from the Fund to the General Fund for the lesser of (i) one-half of the amount certified by the Treasurer and (ii) the applicable percentage is thirty percent (30%). For fiscal years beginning on or after July 1, 2007, the applicable percentage is sixty-five percent (65%).

(d) Use of ~~Nonreserved~~ Remaining Funds. - The Commission may expend or commit moneys in the Fund in a fiscal year only after the payment required by subsection (c) of this section has been made. ~~all of the annual payments for years 1998, 1999, and 2000 and may expend the remaining fifty percent (50%) portion of each annual payment thereafter through the year 2025 that is not reserved pursuant to subsection (c) of this section. Any unexpended or unencumbered portion of the nonreserved portion of each annual payment for years 2001 through 2025 that has not been expended or encumbered by the third June 30th following the date of the receipt of the payment shall be reserved pursuant to subsection (c) of this section. The Commission may expend any investment earnings on the nonreserved funds in the year in which the investment earnings are received by the Fund.~~

(e) Fund Purposes. - Moneys from the Fund may be used for any of the following purposes:  
(1) To address the health needs of vulnerable and underserved populations in North Carolina.

- (2) To fund programs and initiatives that include research, education, prevention, and treatment of health problems in North Carolina and to increase the capacity of communities to respond to the public's health needs.
- (3) 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 health effects of tobacco use and with an emphasis on reducing youth tobacco use. The plan shall include measurable health and wellness objectives and a proposed timetable for achieving these objectives. In developing the plan, the Commission shall consider all facets of health, including prevention, education, treatment, research, and related areas.

(f) Limit on Operating and Administrative Expenses. - No more than two and one-half percent (2 1/2%) of the annual receipts of the Fund for the fiscal year beginning July 1 or a total sum of one million dollars (\$1,000,000), whichever is less, may be used each fiscal year for administrative and operating expenses of the Commission and its staff. All administrative expenses of the Commission shall be paid from the Fund. (2000-147, s. 2.)

**§ 147-86.31. Health and Wellness Trust Fund; eligibility for grants; annual reports from non-State agencies.**

- (a) Eligible Grant Applicants. - Any of the following are eligible to apply for a grant from the Fund:
  - (1) A State agency.
  - (2) A local government or other political subdivision of the State or a combination of such entities.
  - (3) A nonprofit corporation which has as a significant purpose promoting the public's health, limiting youth access to tobacco products, or reducing the health consequences of tobacco use.
- (b) Annual Report From Non-State Agencies. - Grant or financial assistance recipients that are non-State agencies shall submit an annual report to the Commission. The report shall include information concerning how the funds are used, the intended goals and objectives of the recipient's grant proposal or program initiative, and the results of an evaluation of the extent to which the outcomes of the initiatives or proposal achieved those goals and objectives. (2000-147, s. 2.)

**§ 147-86.32. Health and Wellness Trust Fund; Commission established; membership qualifications; vacancies.**

(a) Commission Established. - There is established the Health and Wellness Trust Fund Commission. As used in this Article, the term "Commission" means the Health and Wellness Trust Fund Commission. The Commission shall exercise its powers independently, but for administrative purposes, the Commission shall be located within the Office of the State Treasurer.

(b) Membership. - The Commission shall consist of 18 members. The members shall not be employed by or be agents of tobacco product manufacturing companies. The Commission shall be appointed as follows: six members by the Governor, six members by the President Pro Tempore of the Senate, and six members by the Speaker of the House of Representatives. These members shall be appointed as follows:

- (1) The Governor shall make the following appointments:
  - a. A person involved in public health.
  - b. A person involved in the operation of health care delivery systems.
  - c. A health care practitioner.
  - d. An at-large appointee.
  - e. An at-large appointee.
  - f. An at-large appointee.

- (2) The President Pro Tempore of the Senate shall make the following appointments:
  - a. A person involved in health research.
  - b. A person involved in tobacco-related health care issues.
  - c. A person involved in health promotion and disease prevention.
  - d. An at-large appointee.
  - e. An at-large appointee.
  - f. An at-large appointee.
- (3) The Speaker of the House of Representatives shall make the following appointments:
  - a. A person involved in health policy trends.
  - b. A person involved with health care for underserved populations.
  - c. A person involved with child health care.
  - d. An at-large appointee.
  - e. An at-large appointee.
  - f. An at-large appointee.

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

(c) Initial Appointments; Term Limits; Officers. - To provide for a staggered membership, the members initially appointed pursuant to sub-subdivisions (b)(1)a., (1)b., (2)d., and (3)d. of this section shall serve one-year terms ending on June 30, 2001. The members initially appointed pursuant to sub-subdivisions (b)(2)c., (2)e., (3)a., and (3)e. shall serve two-year terms ending on June 30, 2002. The members initially appointed pursuant to sub-subdivisions (b)(1)c., (1)d., (1)e., (2)b., and (3)c. shall serve three-year terms ending June 30, 2003. The remaining members initially appointed pursuant to subsection (b) of this section shall serve four-year terms ending June 30, 2004.

Except as provided for the initial members under this subsection, members shall serve four-year terms beginning July 1. No member may serve more than two full consecutive terms. Members may continue to serve beyond their terms until their successors are duly appointed, but any holdover shall not affect the expiration date of the succeeding term. A member may be removed from the Commission for cause by the authority that appointed the member.

The Commission shall elect from its membership a chair, vice-chair, and other officers as necessary for two-year terms beginning July 1 at the first meeting of the Commission held on or after July 1 of every even-numbered year. The vice-chair may act for the chair in the absence of the chair as authorized by the Commission.

(d) Vacancies. - Vacancies shall be filled by the designated appointing authority for the remainder of the unexpired term.

(e) Frequency of Meetings. - The Commission shall meet at least twice each year and may hold special meetings at the call of the chair or a majority of the voting members. The Governor shall call the initial meeting of the Commission.

(f) Quorum; Majority. - Ten members shall constitute a quorum of the Commission. The Commission may act upon a majority vote of all the members of the Commission on matters involving the disbursement of funds and personnel matters properly before the Commission. On all other matters, the Commission may act by majority vote of the members of the Commission at a meeting at which a quorum is present.

(g) Meeting Facilities. - The Office of the State Treasurer shall provide meeting facilities for the Commission and its staff as requested by the chair of the Commission.

(h) Per Diem and Expenses. - The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5. Per diem, subsistence, and travel expenses of the members shall be paid from the Fund.

(i) Conflict of Interest. - The members of the Commission shall comply with the provisions of G.S. 14-234 prohibiting conflicts of interest. In addition to the restrictions imposed under G.S. 14-234, a member shall not vote on, participate in the deliberations of, or otherwise attempt through his or her official capacity to influence the vote on a grant or other financial assistance award by the Commission to a nonprofit entity of which the member is an officer, director, or employee or to a governmental entity of which the member is an employee or a member of the governing board. A violation of this subsection is a Class 1 misdemeanor. (2000-147, s. 2.)

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

(a) The Commission shall do the following:

- (1) Allocate moneys from the Fund as grants. A grant may be awarded only for a program or initiative that satisfies the criteria and furthers the purposes of this Article, but the provisions of this Article shall be liberally construed. The Commission shall strive to avoid imposing any unnecessary barriers in the grant application process.
- (2) Develop criteria for awarding grants under this Article. The criteria shall include types of programs and initiatives to be funded, including programs which address the short- and long-term health and wellness of the citizens of North Carolina.
- (3) Develop criteria by which to measure the outcomes of funded programs to evaluate the extent to which those programs achieved the goals for which funds were awarded.
- (4) Develop a mechanism with which to evaluate individual applications.
- (5) Ensure that good faith efforts are made to achieve federal mandates targeting the reduction of youth access to tobacco products.
- (6) Administer the provisions of this Article.
- (7) Adopt rules to implement this Article.

(b) The Commission is authorized to hire staff or contract for other expertise for the administration of the Fund.

(c) Gifts and Grants. - The Commission is authorized to accept gifts or grants from other sources. (2000-147, s. 2.)

**§ 147-86.34. Advisory Council.**

The Commission shall create an Advisory Council to advise it with regard to issues as requested by the Commission. The Advisory Council shall include the Secretary of the Department of Health and Human Services, the State Health Director, the Dean of the School of Public Health of the University of North Carolina, and others the Commission considers necessary. (2000-147, s. 2.)

**§ 147-86.35. Health and Wellness Trust Fund; reporting requirements.**

(a) The chair of the Commission shall report each year by November 1 to the Joint Legislative Commission on Governmental Operations and to the chairs of the Joint Legislative Health Care Oversight Committee regarding implementation of this Article, including a report on funds disbursed during the fiscal year by amount, purpose, and category of recipient, and other information as requested by the Joint Legislative Commission on Governmental Operations. The annual report shall also include a summary of each recipient's annual report submitted to the Health and Wellness Trust Fund Commission pursuant to G.S. 147-86.31(b) and an analysis of progress toward the goals and objectives of any comprehensive, community-based plan established pursuant to G.S. 147-86.30(e)(3). A written copy of the annual report shall also be sent to the Legislative Library by November 1 each year. Written reports shall also be sent on a quarterly basis to the Joint Legislative Commission on Governmental Operations.

(b) Any non-State corporation, organization, or institution that receives, uses, or expends any funds from the Commission is subject to the applicable reporting requirements of G.S. 143-6.1. (2000-147, s. 2.)

**§ 147-86.36. Health and Wellness Trust Fund; open meeting and public records requirements.**

The Open Meetings Law (Article 33 of Chapter 143 of the General Statutes) and the Public Records Act (Chapter 132 of the General Statutes) shall apply to the Fund and the Commission, and the Fund and the Commission shall be subject to audit by the State Auditor as provided by law. The Commission shall reimburse the State Auditor for the actual cost of the audit. (2000-147, s. 2.)