CHAPTER 962

An Act to amend and reenact § 2.1-1.5 of the Code of Virginia and to amend the Code of Virginia by adding in Title 9 a chapter numbered 50, consisting of sections numbered 9-380 through 9-389, and by adding in Title 32.1 a chapter numbered 14, consisting of sections numbered 32.1-354 through 32.1-365, relating to the distribution and use of funds pursuant to the Master Settlement Agreement with tobacco product manufacturers; establishment of the Tobacco Indemnification and Community Revitalization Commission and Fund; and establishment of the Virginia Tobacco Settlement Foundation and Fund.

[S 1165]

Approved April 7, 1999

Be it enacted by the General Assembly of Virginia:

1. That § 2.1-1.5 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 9 a chapter numbered 50, consisting of sections numbered 9-380 through 9-389, and by adding in Title 32.1 a chapter numbered 14, consisting of sections numbered 32.1-354 through 32.1-365, as follows:

§ 2.1-1.5. Entities not subject to standard nomenclature.

The following entities are not subject to the provisions of § 2.1-1.2 due to the unique characteristics or the enabling legislation of the entities:

Authorities

Assistive Technology Loan Fund Authority.
Medical College of Virginia Hospitals Authority.
Richmond Eye and Ear Hospital Authority.
Small Business Financing Authority.
Virginia Agriculture Development Authority.
Virginia College Building Authority.
Virginia Economic Development Partnership.
Virginia Housing Development Authority.
Virginia Information Providers Network Authority.
Virginia Innovative Technology Authority.
Virginia Port Authority.
Virginia Public Building Authority.
Virginia Public School Authority.
Virginia Resources Authority.

Boards

Board of Commissioners, Virginia Agriculture Development Authority.
Board of Commissioners, Virginia Port Authority.
Board of Directors, Assistive Technology Loan Fund Authority.
Board of Directors, Medical College of Virginia Hospitals Authority.
Board of Directors, Richmond Eye and Ear Hospital Authority.
Board of Directors, Small Business Financing Authority.
Board of Directors, Virginia Economic Development Partnership.
Board of Directors, Virginia Innovative Technology Authority.
Board of Directors, Virginia Resources Authority.
Board of Regents, Gunston Hall Plantation.
Board of Regents, James Monroe Memorial Law Office and Library.
Board of Trustees, Family and Children's Trust Fund.
Board of Trustees, Frontier Culture Museum of Virginia.
Board of Trustees, Jamestown-Yorktown Foundation.
Board of Trustees, Miller School of Albemarle.
Board of Trustees, Rural Virginia Development Foundation.
Board of Trustees, The Science Museum of Virginia.
Board of Trustees, Virginia Museum of Fine Arts.
Board of Trustees, Virginia Museum of Natural History.
Board of Trustees, Virginia Outdoor Foundation.
Board of Visitors, Christopher Newport University.
Board of Visitors, George Mason University.
Board of Visitors, Gunston Hall Plantation.
Board of Visitors, James Madison University.

Board of Visitors, Longwood College.
Board of Visitors, Mary Washington College.
Board of Visitors, Norfolk State University.
Board of Visitors, Old Dominion University.
Board of Visitors, Radford University.
Board of Visitors, The College of William and Mary in Virginia.
Board of Visitors to Mount Vernon.
Board of Visitors, University of Virginia.
Board of Visitors, Virginia Commonwealth University.
Board of Visitors, Virginia Military Institute.
Board of Visitors, Virginia Polytechnic Institute and State University.
Board of Visitors, Virginia State University.
Commonwealth Health Research Board.
Governing Board, Virginia College Building Authority.
Governing Board, Virginia Public School Authority.
Library Board, The Library of Virginia.
Motor Vehicle Dealer Board.
State Board for Community Colleges, Virginia Community College System.
Virginia-Israel Advisory Board.
(Effective until July 1, 2002) Wireless E-911 Service Board.

Commissions

Advisory Commission on the Virginia Schools for the Deaf and the Blind.
Alexandria Historical Restoration and Preservation Commission.
Charitable Gaming Commission.
Chesapeake Bay Bridge and Tunnel Commission.
Hampton Roads Sanitation District Commission.
Tobacco Indemnification and Community Revitalization Commission.

Districts

Chesapeake Bay Bridge and Tunnel District.
Hampton Roads Sanitation District.

Educational Institutions

Christopher Newport University.
Frontier Culture Museum of Virginia.
George Mason University.
James Madison University.
Jamestown-Yorktown Foundation.
Longwood College.
Mary Washington College.
Miller School of Albemarle.
Norfolk State University.
Old Dominion University.
Radford University.
The College of William and Mary in Virginia.
The Library of Virginia.
The Science Museum of Virginia.
University of Virginia.
Virginia Commonwealth University.
Virginia Community College System.
Virginia Military Institute.
Virginia Museum of Fine Arts.
Virginia Polytechnic Institute and State University.
Virginia State University.

Foundations

Chippokes Plantation Farm Foundation.
Rural Virginia Development Foundation.
Virginia Arts Foundation.
Virginia Conservation and Recreation Foundation.
Virginia Historic Preservation Foundation.
Virginia Outdoor Foundation.
Virginia Tobacco Settlement Foundation.

Museum

Virginia Museum of Natural History.

Partnership

A. L. Philpott Manufacturing Extension Partnership.

Plantation

Gunston Hall Plantation.

CHAPTER 50.

TOBACCO INDEMNIFICATION AND COMMUNITY REVITALIZATION COMMISSION.

§ 9-380. Definitions.

As used in this chapter:

"Active tobacco producer" means a person who is the actual producer, as determined by the United States Department of Agriculture (USDA), of tobacco on a farm where tobacco is produced pursuant to a tobacco farm marketing quota or farm acreage allotment for the 1998 crop year as established under the Agriculture Adjustment Act of 1938 (7 U.S.C. § 1281 et seq.).

"Commission" means the Tobacco Indemnification and Community Revitalization Commission created pursuant to § 9-381.

"Fund" means the Tobacco Indemnification and Community Revitalization Fund established pursuant to § 9-385.

"Master Settlement Agreement" means the settlement agreement and related documents between the Commonwealth and leading United States tobacco product manufacturers dated November 23, 1998, and including the Consent Decree and Final Judgment entered in the Circuit Court of the City of Richmond on February 23, 1999, Chancery Number HJ-2241-4.

"Quota holder" means an owner of a farm on January 1, 1998, for which a tobacco farm marketing quota or farm acreage allotment was established under the Agriculture Adjustment Act of 1938 (7 U.S.C. § 1281 et seq.).

"Tobacco farmer" means a person who is an active tobacco producer, a quota holder, or both.

§ 9-381. Commission created; purposes.

The Tobacco Indemnification and Community Revitalization Commission is hereby created as a body corporate and a political subdivision of the Commonwealth and as such shall have, and is hereby vested with, all of the politic and corporate powers as are set forth in this chapter. The Commission is established for the purposes of determining the appropriate recipients of moneys in the Tobacco Indemnification and Community Revitalization Fund and causing distribution of such moneys for the purposes provided in this chapter, including using moneys in the Fund to (i) provide payments to tobacco farmers as compensation for the adverse economic effects resulting from loss of investment in specialized tobacco equipment and barns and lost tobacco production opportunities associated with a decline in quota and (ii) revitalize tobacco dependent communities. The Commission shall have only those powers enumerated in § 9-383.

§ 9-382. Membership; terms; vacancies; chairman.

A. The Commission shall be composed of thirty-one members as follows:

1. Six members shall be appointed by the Speaker of the House of Delegates from the membership thereof in accordance with the principles of Rule 16 of the House of Delegates adopted at the 1998 Regular Session of the General Assembly;

2. Four members shall be appointed by the Privileges and Elections Committee of the Senate from the membership of the Senate;

3. The Secretary of Commerce and Trade or his designee;

4. The Secretary of Finance or his designee;

5. The Commissioner of Agriculture and Consumer Affairs or his designee;

6. Three members shall be active flue-cured tobacco producers appointed by the Governor. Of the active flue-cured tobacco producers, two shall be appointed by the Governor from a list of six persons provided by the members of the General Assembly appointed to the Commission;

7. Three members shall be active burley tobacco producers appointed by the Governor. Of the active burley tobacco producers, one member shall be appointed by the Governor from a list of three persons provided by the members of the General Assembly appointed to the Commission;

8. One member shall be a representative of the Virginia Farm Bureau Federation appointed by the Governor from a list of at least three persons provided by Virginia Farm Bureau Federation; and

9. Eleven members shall be citizens appointed by the Governor. Of the eleven citizen members, three shall be appointed by the Governor from a list of nine provided by the members of the General Assembly appointed to the Commission.

With the exception of the Secretary of Commerce and Trade or his designee, the Secretary of Finance or his designee and the Commissioner of Agriculture and Consumer Affairs or his designee, all members of the Commission shall reside in the Southside and Southwest regions of the Commonwealth and shall be subject to confirmation by the General Assembly. To the extent feasible, appointments representing the Southside and Southwest regions shall be proportional to the tobacco quota production of each region.

Except as otherwise provided herein, all appointments shall be for terms of four years each. Vacancies shall be filled for the unexpired terms. No member shall be eligible to serve more than two successive four-year terms; however, after expiration of a term of three years or less, or after the expiration of the remainder of a term to which he was appointed to fill a vacancy, two additional terms

may be served by such member if appointed thereto. Whenever any legislative member fails to retain his membership in the house from which he was appointed, he shall relinquish his membership on the Commission and the appointing authority who appointed such member shall make an appointment from his respective house to complete the term. Any appointment to fill a vacancy shall be made in the same manner as the original appointment. The initial appointments of the active flue-cured tobacco producers, the active burley tobacco producers, and the citizen members shall be as follows: one active flue-cured tobacco producer, one active burley tobacco producer and four citizen members shall be appointed for terms of two years; one active flue-cured tobacco producer, one active burley tobacco producer and four citizen members shall be appointed for terms of three years; and one active flue-cured tobacco producer, one active burley tobacco producer and three citizen members shall be appointed for terms of four years. Thereafter all appointments shall be for terms of four years.

B. The Commission shall appoint from its membership a chairman and a vice-chairman, both of whom shall serve in such capacities at the pleasure of the Commission. The chairman, or in his absence, the vice-chairman, shall preside at all meetings of the Commission. A majority of members of the Commission serving at any one time shall constitute a quorum for the transaction of business.

C. Members of the Commission shall receive reimbursement for actual expenses incurred in the performance of their duties on behalf of the Commission. Such expenses shall be paid from the Fund.

§ 9-383. Powers and duties of the Commission.

A. The Commission is hereby granted, shall have, and may exercise all powers necessary or appropriate to carry out and effectuate its corporate purposes, including, without limitation, the following:

1. To adopt, use, and alter at will an official seal;

2. To make bylaws for the management and regulation of its affairs;

3. To maintain an office at such place or places within this Commonwealth as it may designate;

4. To accept, hold, and administer moneys, grants, securities, or other property transferred, given, or bequeathed to the Commission, absolutely or in trust, for the purposes for which the Commission is created;

5. To determine how moneys in the Fund are to be distributed and to authorize distribution of moneys in the Fund for the purposes set forth in this chapter;

6. To make and execute contracts and all other instruments and agreements necessary or convenient for the exercise of its powers and functions;

7. To invest its funds as provided in this chapter or permitted by applicable law; and

8. To do any lawful act necessary or appropriate to carry out the powers herein granted or reasonably implied, including use of whatever lawful means may be necessary and appropriate to recover any payments wrongfully made from the Fund.

B. The Commission shall cause moneys in the Fund to be distributed as follows:

1. To cause payment to be made to tobacco farmers in the Commonwealth for the decline or elimination of tobacco quota based on averaging the basic burley and flue-cured quota as allocated by the USDA for the crop years 1995 through 1998. To the extent such tobacco farmers are not otherwise compensated by a national tobacco community trust fund and to the extent moneys are available in the Fund, the Commission shall cause compensation to be paid to such tobacco farmers in an amount equal to the total lost asset value in quota incurred annually by such tobacco farmers. To the extent an active tobacco producer is not otherwise compensated by a national tobacco community trust fund and to the extent moneys are available in the Fund, the Commission shall also cause compensation to be paid to an active tobacco producer for the economic loss resulting from any annual quota reduction. The total asset loss value in quota and economic losses for active tobacco producers in Virginia is estimated to be $1.2 billion. The Commission shall establish criteria for determining economic loss resulting from any annual quota reduction. When establishing such criteria, the Commission shall consider any similar criteria established pursuant to creation of a national tobacco community trust fund; and

2. To promote economic growth and development in tobacco dependent communities in an equitable manner throughout the Southside and Southwest regions of the Commonwealth, in order to assist such communities in reducing their dependency on tobacco and tobacco-related business.

D. The Commission shall undertake studies and gather information and data in order to determine (i) the economic consequences of the reduction in or elimination of quota for tobacco growers, (ii) the potential for alternative cash crops, and (iii) any other matters the Commission believes will affect tobacco growers in the Commonwealth.

§ 9-384. Appointment of director; counsel to the Commission.

A. The Governor shall appoint an executive director subject to confirmation by the General Assembly. The compensation of the executive director shall be determined by the Commission, subject to approval by the Governor. The executive director shall be the secretary and shall administer the affairs and business of the Commission in accordance with the provisions of this chapter and subject to the policies, control and direction of the Commission. The Commission may employ technical experts and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. The Commission may delegate to one or more

of its agents or employees such administrative duties as it may deem proper. The actual expenses incurred in the performance of such duties shall be paid from the Fund.

B. The Office of the Attorney General shall provide counsel to the Commission.

§ 9-385. Tobacco Indemnification and Community Revitalization Fund.

A. Money received by the Commonwealth pursuant to the Master Settlement Agreement shall be deposited into the state treasury subject to the special nonreverting funds established by subsection B of this section and by § 32.1-360 and shall be included in general fund revenue calculations for purposes of subsection C of § 58.1-3524 and subsection B of § 58.1-3536.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Tobacco Indemnification and Community Revitalization Fund. The Fund shall be established on the books of the Comptroller. Fifty percent of the annual amount received by the Commonwealth from the Master Settlement Agreement shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes described in this chapter. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written authorization signed by the chairman of the Commission or his designee. The Fund shall also consist of other moneys received by the Commission, from any source, for the purpose of implementing the provisions of this chapter.

§ 9-386. Audit.

The accounts of the Commission shall be audited annually by the Auditor of Public Accounts, or his legally authorized representatives. Copies of the annual audit shall be distributed to the Governor and to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance.

§ 9-387. Forms of accounts and records.

The accounts and records of the Commission showing the receipt and disbursement of funds from whatever source derived shall be in such form as the Auditor of Public Accounts prescribes.

§ 9-388. Reports to the Governor and General Assembly.

The Commission shall submit a report annually to the Governor and the General Assembly.

§ 9-389. Public purpose; exemption from taxation.

A. The exercise of the powers granted by this chapter shall be in all respects for the benefit of the citizens of the Commonwealth and for the promotion of their welfare, convenience and prosperity.

B. The Commission will be performing an essential governmental function in the exercise of the powers conferred upon it by this chapter, and the property of the Commission and its income and operations shall be exempt from taxation or assessments upon any property acquired or used by the Commission under the provisions of this chapter.

CHAPTER 14.
VIRGINIA TOBACCO SETTLEMENT FOUNDATION.

§ 32.1-354. Definitions.

As used in this chapter, unless the context clearly indicates otherwise:

"Board" means the Board of Trustees of the Foundation appointed pursuant to § 32.1-357.

"Director" means the director of the Foundation appointed pursuant to § 32.1-358.

"Foundation" means the Virginia Tobacco Settlement Foundation, created pursuant to § 32.1-355.

"Fund" means the Virginia Tobacco Settlement Fund established pursuant to § 32.1-360.

§ 32.1-355. Virginia Tobacco Settlement Foundation created; purposes.

The Virginia Tobacco Settlement Foundation is hereby created as a body corporate and a political subdivision of the Commonwealth and as such shall have, and is hereby vested with, all of the politic and corporate powers as are set forth in this chapter. The Foundation is established for the purposes of determining the appropriate recipients of moneys in the Virginia Tobacco Settlement Fund and causing distribution of such moneys for the purposes provided in this chapter, including using moneys in the Virginia Tobacco Settlement Fund to assist in financing efforts to restrict the use of tobacco products by minors through such means as educational and awareness programs on the health effects of tobacco use on minors and enforcement of laws restricting the distribution of tobacco products to minors. The Foundation shall have only those powers enumerated in § 32.1-356.

§ 32.1-356. Powers of the Foundation.

The Foundation is hereby granted all powers necessary or appropriate to carry out and effectuate its corporate purposes, including, without limitation, the following:

1. To have an official seal and to alter the same at pleasure;

2. To maintain an office at such place or places within this Commonwealth as it may designate;

3. To accept, hold, and administer moneys, grants, securities, or other property transferred, given, or bequeathed to the Foundation, absolutely or in trust, for the purposes for which the Foundation is created;

4. To determine how moneys in the Fund are to be distributed and to authorize distribution of moneys in the Fund to entities whose goal is to discourage, eliminate or prevent the use of tobacco products by minors in the Commonwealth, on such terms and in such amounts as determined by the

Board;

5. To make and execute contracts and all other instruments and agreements necessary or convenient for the exercise of its powers and functions;

6. To appoint and prescribe the duties of such officers, agents, employees, advisors, and consultants as may be necessary to carry out its functions, and to fix and pay such compensation to them for their services as the Foundation may determine;

7. To adopt and from time to time amend and repeal bylaws, not inconsistent with this chapter, to carry into effect the powers and purposes of the Foundation;

8. To receive and accept aid, grants, contributions and cooperation of any kind from any source for the purposes of this chapter subject to such conditions, acceptable to the Foundation, upon which such aid, grants, contributions and cooperation may be made;

9. To do any lawful act necessary or appropriate to carry out the powers herein granted or reasonably implied, including use of whatever lawful means may be necessary and appropriate to recover any payments wrongfully made from the Fund.

§ 32.1-357. Board of Trustees; appointment; officers.

A. The Foundation shall be governed and administered by a Board of Trustees consisting of twenty-three members. Two members shall be appointed by the Speaker of the House of Delegates from among the membership of the House of Delegates, one representing rural interests and one representing urban interests, for terms concurrent with the term for which they have been elected to office; two members shall be appointed by the Senate Committee on Privileges and Elections, one representing rural interests and one representing urban interests, from among the membership of the Senate for terms concurrent with the term for which they have been elected to office; two members shall be the Commissioner of the Department of Health or his designee and the Chairman of the Alcoholic Beverage Control Board or his designee; and seventeen members shall be appointed by the Governor, subject to confirmation by the General Assembly, as follows: (i) five designated representatives of public health organizations, such as the American Cancer Society, American Heart Association, American Lung Association of Virginia, Medical Society of Virginia, and the Virginia Thoracic Society; (ii) four health professionals in the fields of oncology, cardiology, pulmonary medicine, and pediatrics; and (iii) eight citizens, including two youths.

Except as otherwise provided herein, appointments shall be for four years. Vacancies in the membership of the Board shall be filled by appointment of the entity initially making the appointment for the unexpired portion of the term. No member shall be eligible to serve for more than two successive four-year terms; however, after the expiration of a term of three years or less, or after the expiration of the remainder of a term to which he was appointed to fill a vacancy, two additional terms may be served by such member if appointed thereto. Immediately after such appointment, the members shall enter upon the performance of their duties.

The initial appointments of the representatives of the public health organizations, the health professionals, and the citizen members shall be as follows: one representative of a public health organization, two health professionals and three citizen members shall be appointed for terms of two years; two representatives of public health organizations, one health professional and three citizen members shall be appointed for terms of three years; and two representatives of public health organizations, one health professional and two citizen members shall be appointed for terms of four years. Thereafter all appointments shall be for terms of four years.

B. The Governor shall appoint from the membership of the Board a chairman and vice-chairman, both of whom shall serve in such capacities at the pleasure of the Governor. The chairman, or in his absence, the vice-chairman, shall preside at all meetings of the Board. A majority of the members of the Board serving at any one time shall constitute a quorum for the transaction of business. The Board shall meet annually or more frequently at the call of the chairman.

C. Members of the Board shall receive reimbursement for actual expenses incurred in the performance of their duties on behalf of the Board. Such expenses shall be paid from the Fund.

D. Notwithstanding the provisions of any other law, no officer or employee of the Commonwealth shall be deemed to have forfeited or shall forfeit his office or employment by reason of his acceptance of membership on the Board or his service to the Foundation.

§ 32.1-358. Appointment of director; counsel to the Board and Foundation.

A. The Governor shall appoint a director, whose compensation shall be determined by the Board, subject to approval by the Governor, and who shall also be the secretary of the Board. The director shall administer, manage and direct the affairs and business of the Foundation in accordance with the provisions of this chapter, subject to the policies, control and direction of the Board. The Board may employ technical experts and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. The Board may delegate to one or more of its agents or employees such administrative duties as it may deem proper. The actual expenses incurred in the performance of such duties shall be paid from the Fund.

B. The Office of the Attorney General shall provide counsel to the Board and the Foundation.

§ 32.1-359. Duties of the Board.

The Board shall perform the following duties:

1. Establish specific criteria and procedures governing decisions by the Foundation to cause the moneys in the Fund to be distributed to entities for use in the discouragement, elimination or prevention of the use of tobacco products by minors;

2. Establish requirements that every recipient of money distributed from the Fund establish and maintain policies that restrict the use of tobacco products by minors, as provided in § 32.1-361;

3. Evaluate the proposals for the use of the assets of the Fund in accordance with the criteria established by the Board and the provisions of this chapter; and

4. Evaluate the implementation and results of all efforts receiving support from the Foundation.

§ 32.1-360. Virginia Tobacco Settlement Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Tobacco Settlement Fund. The Fund shall be established on the books of the Comptroller. Ten percent of the annual amount received by the Commonwealth from the Master Settlement Agreement shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes described in this chapter. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written authorization signed by the chairman of the Board or his designee. Moneys in the Fund shall be used for the purposes of discouraging, eliminating or preventing the use of tobacco products by minors, including but not limited to educational and awareness programs on the health effects of tobacco use on minors and laws restricting the distribution of tobacco products to minors.

§ 32.1-361. Use of moneys distributed.

Any recipient of any moneys distributed from the Fund pursuant to this chapter for the purpose of restricting the use of tobacco products by minors shall be required, as a condition precedent to the release of such moneys to such entity, to establish and maintain policies restricting or preventing tobacco use by minors. The Foundation shall (i) establish criteria for determining whether an entity's policies support the restriction of tobacco use by minors and (ii) monitor the distribution of such moneys to ensure that the recipients of such funds are in compliance with the provisions of this section.

§ 32.1-362. Audit.

The accounts of the Foundation shall be audited annually by the Auditor of Public Accounts, or his legally authorized representatives. Copies of the annual audit shall be distributed to the Governor and to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance.

§ 32.1-363. Forms of accounts and records.

The accounts and records of the Foundation showing the receipt and disbursement of funds from whatever source derived shall be in such form as the Auditor of Public Accounts prescribes.

§ 32.1-364. Reports to the Governor and General Assembly.

The Foundation shall submit a report annually to the Governor and the General Assembly. The report shall include information regarding programs supported by the Foundation and expenditures from the Fund.

§ 32.1-365. Public purpose; exemption from taxation.

A. The exercise of the powers granted by this chapter shall be in all respects for the benefit of the citizens of the Commonwealth and for the promotion of their safety, health, welfare, knowledge, convenience and prosperity.

B. The Foundation will be performing an essential governmental function in the exercise of the powers conferred upon it by this chapter, and the property of the Foundation and its income and operations shall be exempt from taxation or assessments upon any property acquired or used by the Foundation under the provisions of this chapter.

2. That there is hereby appropriated to the Tobacco Indemnification and Community Revitalization Fund fifty percent of all amounts received by the Commonwealth from the Master Settlement Agreement between the effective date of this act and June 30, 2000. There is hereby appropriated to the Virginia Tobacco Settlement Fund ten percent of all amounts received by the Commonwealth from the Master Settlement Agreement between the effective date of this act and June 30, 2000. All remaining funds received by the Commonwealth from the Master Settlement Agreement between the effective date of this act and June 30, 2000, shall be deposited in the general fund.

3. That the amounts appropriated by this act shall be subject to reduction in the event that the federal government takes as recovery of the federal share of Medicaid expenditures money from the amounts received by the Commonwealth from the Master Settlement Agreement. Should such recovery by the federal government occur, the appropriations provided by this act to the Tobacco Indemnification and Community Revitalization Fund and the Virginia Tobacco Settlement Fund shall be fifty percent and ten percent, respectively, of the net amounts received from the Master Settlement Agreement, after any amounts recovered by the federal government are subtracted from all amounts received from the Master Settlement Agreement.

4. That notwithstanding § 4-11.00 and all other provisions of Chapter 464, Acts of Assembly of 1998, as amended by Chapter 1, Acts of Assembly of 1998, Special Session I, and as may be further amended, and until June 30, 2000, the provisions of this act shall prevail over any conflicting provision of any other law.