



House of Representatives

File No. 796

General Assembly

January Session, 2023 **(Reprint of File No. 546)**

Substitute House Bill No. 6914
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 19, 2023

AN ACT CONCERNING THE USE OF FUNDS IN THE OPIOID AND TOBACCO SETTLEMENT FUNDS AND FUNDS RECEIVED BY THE STATE AS PART OF ANY SETTLEMENT AGREEMENT WITH A MANUFACTURER OF ELECTRONIC NICOTINE DELIVERY SYSTEM AND VAPOR PRODUCTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2023*) (a) Commencing with the
2 fiscal year ending June 30, 2024, any moneys received in the preceding
3 fiscal year pursuant to the stipulated judgment in State of Connecticut
4 v. JUUL Labs, Inc., shall be disbursed to the Commissioner of Mental
5 Health and Addiction Services for distribution to the regional
6 behavioral health action organizations, as described in section 17a-484f
7 of the general statutes, for the funding of programs to support the
8 abatement, mitigation, cessation, reduction or prevention of the use of
9 nicotine or nicotine-synthetic products by residents under twenty-one
10 years of age in accordance with such judgment.

11 (b) Not later than September 1, 2024, and annually thereafter, the
12 Commissioner of Mental Health and Addiction Services shall submit a

13 report to the board of trustees of the Tobacco and Health Trust Fund
14 established pursuant to section 4-28f of the general statutes, as amended
15 by this act, detailing how the moneys disbursed in the preceding fiscal
16 year were distributed by the commissioner and summarizing how the
17 regional behavioral health action organizations expended such moneys
18 for the purposes described in subsection (a) of this section in the
19 preceding fiscal year.

20 Sec. 2. Section 17a-674c of the general statutes is repealed and the
21 following is substituted in lieu thereof (*Effective July 1, 2023*):

22 (a) There is established an Opioid Settlement Fund which shall be a
23 separate nonlapsing fund administered by the committee.

24 (b) Any moneys intended to address opioid use, related disorders or
25 the impact of the opioid epidemic that are received by the state from any
26 judgment, consent decree or settlement paid by any defendant, which is
27 finalized on or after July 1, 2021, related to the production, distribution,
28 dispensing and other activities related to opioids shall be deposited into
29 the fund. Moneys remaining in the fund at the end of a fiscal year shall
30 not revert to the General Fund.

31 (c) Notwithstanding any provision of subsection (b) of this section, if
32 the commissioner and the Attorney General certify that the purposes of
33 such judgment, consent decree or settlement are inconsistent with the
34 intent of the provisions of this section and sections 17a-674d to 17a-674f,
35 inclusive, as amended by this act, the commissioner and Attorney
36 General (1) shall report in writing to the committee such certification,
37 including any identification by the commissioner and Attorney General
38 of an alternate fund or account and explanation of the reasons for
39 depositing such moneys in such alternate fund or account, and (2) may
40 deposit such moneys into such alternate fund or account. The
41 commissioner and Attorney General shall jointly report, in accordance
42 with the provisions of section 11-4a, to the joint standing committee of
43 the General Assembly having cognizance of matters relating to public
44 health regarding the intended use of such moneys in such alternate fund

45 or account prior to allocating such moneys for other purposes.

46 (d) Beginning on December 31, 2022, and annually thereafter, the
47 State Treasurer shall report the following to the committee:

48 (1) An inventory of fund investments as of the most recent fiscal year;
49 and

50 (2) The net income earned by the fund in the most recent fiscal year.

51 (e) Any municipality that receives moneys directly from a settlement
52 administrator pursuant to a judgment, consent decree or settlement
53 related to opioid litigation shall submit an annual report to the
54 committee detailing its expenditures for the preceding fiscal year on a
55 form prescribed by the committee. Each such municipality shall submit
56 such report to the committee on or before October 1, 2023, and annually
57 thereafter, until the total amount of such moneys received by the
58 municipality has been expended.

59 [(e)] (f) Moneys in the fund shall be spent only for the following
60 substance use disorder abatement purposes, in accordance with the
61 controlling judgment, consent decree or settlement, as confirmed by the
62 Attorney General's review of such judgment, consent decree or
63 settlement and upon the approval of the committee and the Secretary of
64 the Office of Policy and Management:

65 (1) State-wide, regional or community substance use disorder needs
66 assessments to identify structural gaps and needs to inform
67 expenditures from the fund;

68 (2) Infrastructure required for evidence-based substance use disorder
69 prevention, treatment, recovery or harm reduction programs, services
70 and supports;

71 (3) Programs, services, supports and resources for evidence-based
72 substance use disorder prevention, treatment, recovery or harm
73 reduction;

74 (4) Evidence-informed substance use disorder prevention, treatment,
75 recovery or harm reduction pilot programs or demonstration studies
76 that are not evidence-based, but are approved by the committee as an
77 appropriate use of moneys for a limited period of time as specified by
78 the committee, provided the committee shall assess whether the
79 evidence supports funding such programs or studies or whether it
80 provides a basis for funding such programs or studies with an
81 expectation of creating an evidence base for such programs and studies;

82 (5) Evaluation of effectiveness and outcomes reporting for substance
83 use disorder abatement infrastructure, programs, services, supports and
84 resources for which moneys from the fund have been disbursed,
85 including, but not limited to, impact on access to harm reduction
86 services or treatment for substance use disorders or reduction in drug-
87 related mortality;

88 (6) One or more publicly available data interfaces managed by the
89 commissioner to aggregate, track and report data on (A) substance use
90 disorders, overdoses and drug-related harms, (B) spending
91 recommendations, plans and reports, and (C) outcomes of programs,
92 services, supports and resources for which moneys from the fund were
93 disbursed;

94 (7) Research on opioid abatement, including, but not limited to,
95 development of evidence-based treatment, barriers to treatment,
96 nonopioid treatment of chronic pain and harm reduction, supply-side
97 enforcement;

98 (8) Documented expenses incurred in administering and staffing the
99 fund and the committee, and expenses, including, but not limited to,
100 legal fees, incurred by the state or any municipality in securing
101 settlement proceeds, deposited in the fund as permitted by the
102 controlling judgment, consent decree or settlement;

103 (9) Documented expenses associated with managing, investing and
104 disbursing moneys in the fund; and

105 (10) Documented expenses, including legal fees, incurred by the state
106 or any municipality in securing settlement proceeds deposited in the
107 fund to the extent such expenses are not otherwise reimbursed pursuant
108 to a fee agreement provided for by the controlling judgment, consent
109 decree or settlement.

110 ~~[(f)]~~ (g) (1) For purposes of this section, the fund balance shall be
111 determined by the State Treasurer as of July first, annually.

112 (2) Except as permitted by subdivision (8) of subsection ~~[(e)]~~ (f) of this
113 section, or unless otherwise required by court order to refund to the
114 federal government a portion of the proceeds, moneys in the fund shall
115 be used for prospective purposes and shall not be used to reimburse
116 expenditures incurred prior to July 1, 2022.

117 (3) Proceeds derived from any state settlement of claims against a
118 defendant shall be allocated and disbursed only to those municipalities
119 that execute an agreement to participate in such settlement and adhere
120 to the terms of such agreement, provided the allocation or disbursement
121 of such settlement proceeds for the benefit of persons within
122 municipalities that do not execute an agreement to participate in such
123 settlement or do not adhere to the terms of such agreement shall not be
124 precluded or limited.

125 (4) Governmental and nonprofit nongovernmental entities shall be
126 eligible to receive moneys from the fund for programs, services,
127 supports and resources for prevention, treatment, recovery and harm
128 reduction.

129 (5) Subject to the provisions of subdivision (6) of this subsection, fund
130 disbursements shall be made by the commissioner upon approval of the
131 committee. The commissioner shall not make or refuse to make any
132 disbursement allowable under this subsection without the approval of
133 the committee. The commissioner shall adhere to the committee's
134 decisions regarding disbursement of moneys from the fund, provided
135 such disbursement is a permissible expenditure under this section. The
136 commissioner's role in the distribution of moneys after the distribution

137 has been approved by the committee and after the review and approval
138 required under subsection [(e)] (f) of this section shall be ministerial and
139 shall not be discretionary.

140 (6) Moneys expended from the fund for the purposes set forth in
141 subsection (d) of this section shall be supplemental to, and shall not
142 supplant or take the place of, any other funds, including, but not limited
143 to, insurance benefits or local, state or federal funding, that would
144 otherwise have been expended for such purposes. The commissioner
145 shall not disburse moneys from the fund during any fiscal year unless
146 the Secretary of the Office of Policy and Management transmits to the
147 committee a letter verifying that funds appropriated and allocated in
148 such fiscal year's budget for substance use disorder abatement
149 infrastructure, programs, services, supports and resources for
150 prevention, treatment, recovery and harm reduction are in an amount
151 not less than the sum of the funds for such purposes appropriated and
152 allocated in the previous fiscal year's budget. As used in this
153 subdivision, "supplemental" means additional funding, consistent with
154 the provisions of this section, for substance use disorder abatement
155 infrastructure or a substance use disorder abatement program, service,
156 support or resource to ensure that funding in the current fiscal year
157 exceeds the sum of federal, state, and local funds allocated in the
158 previous fiscal year for such substance use disorder abatement
159 infrastructure, program, service, support or resource.

160 Sec. 3. Subsection (j) of section 17a-674d of the general statutes is
161 repealed and the following is substituted in lieu thereof (*Effective July 1,*
162 *2023*):

163 (j) The department shall create and maintain an Internet web site
164 where the committee shall publish (1) meeting minutes, including, but
165 not limited to, records of all votes to approve expenditures of moneys
166 from the fund, (2) recipient agreements and reports required under
167 subsection (h) of this section, (3) policies and procedures approved by
168 the committee, [and] (4) reports received from municipalities pursuant
169 to subsection (e) of section 17a-674c, as amended by this act, and (5) the

170 committee's annual reports.

171 Sec. 4. Section 4-28f of the general statutes is repealed and the
172 following is substituted in lieu thereof (*Effective July 1, 2023*):

173 (a) There is created a Tobacco and Health Trust Fund which shall be
174 a separate nonlapsing fund. The purpose of the trust fund shall be to
175 create a continuing significant source of funds to [(1)] support and
176 encourage development of programs to reduce tobacco [abuse] and
177 nicotine use through prevention, education and cessation programs [,
178 (2) support and encourage development of programs to reduce
179 substance abuse, and (3) develop and implement programs to meet the
180 unmet physical and mental health needs in the state] that use evidence-
181 based best practices regarding (1) state and community interventions,
182 (2) communication methods to disseminate health information to a wide
183 audience, (3) cessation interventions, (4) surveillance and evaluation,
184 and (5) infrastructure, administration and management. The trust fund
185 shall be used to support the reduction in use of all tobacco and nicotine
186 products, including, but not limited to, combustible, noncombustible,
187 electronic and synthetic tobacco and nicotine products.

188 (b) The trust fund may accept transfers from the Tobacco Settlement
189 Fund and may apply for and accept gifts, grants, [or] donations,
190 assignments or transfers from public or private sources to enable the
191 trust fund to carry out its objectives.

192 (c) The trust fund shall be administered by a board of trustees, except
193 that the board shall suspend its operations from July 1, 2003, to June 30,
194 2005, inclusive. The board shall consist of seventeen trustees. The
195 appointment of the initial trustees shall be as follows: (1) The Governor
196 shall appoint four trustees, one of whom shall serve for a term of one
197 year from July 1, 2000, two of whom shall serve for a term of two years
198 from July 1, 2000, and one of whom shall serve for a term of three years
199 from July 1, 2000; (2) the speaker of the House of Representatives and
200 the president pro tempore of the Senate each shall appoint two trustees,
201 one of whom shall serve for a term of two years from July 1, 2000, and

202 one of whom shall serve for a term of three years from July 1, 2000; (3)
203 the majority leader of the House of Representatives and the majority
204 leader of the Senate each shall appoint two trustees, one of whom shall
205 serve for a term of one year from July 1, 2000, and one of whom shall
206 serve for a term of three years from July 1, 2000; (4) the minority leader
207 of the House of Representatives and the minority leader of the Senate
208 each shall appoint two trustees, one of whom shall serve for a term of
209 one year from July 1, 2000, and one of whom shall serve for a term of
210 two years from July 1, 2000; and (5) the Secretary of the Office of Policy
211 and Management, or the secretary's designee, shall serve as an ex-officio
212 voting member. Following the expiration of such initial terms,
213 subsequent trustees shall serve for a term of three years. The trustees
214 shall continue to serve until their successors are appointed or
215 designated. Any vacancy occurring other than by expiration of term
216 shall be filled in the same manner as the original appointment for the
217 balance of the unexpired term. The period of suspension of the board's
218 operations from July 1, 2003, to June 30, 2005, inclusive, shall not be
219 included in the term of any trustee serving on July 1, 2003. The trustees
220 shall serve without compensation except for reimbursement for
221 necessary expenses incurred in performing their duties. The board of
222 trustees shall establish rules of procedure for the conduct of its business
223 which shall include, but not be limited to, criteria, processes and
224 procedures to be used in selecting programs to receive money from the
225 trust fund. The trust fund shall be within the Office of Policy and
226 Management for administrative purposes only. The board of trustees
227 shall, not later than January first of each year, submit a report of its
228 activities and accomplishments to the joint standing committees of the
229 General Assembly having cognizance of matters relating to public
230 health and appropriations and the budgets of state agencies, in
231 accordance with section 11-4a.

232 (d) (1) For the fiscal year ending June 30, 2023, and each fiscal year
233 thereafter, the board of trustees, by majority vote, shall recommend
234 authorization of disbursement from the trust fund of the amount
235 deposited in the trust fund for the fiscal year pursuant to subsection (c)

236 of section 4-28e, for the purposes described in subsection (a) of this
237 section and section 19a-6d. The board's recommendations shall give [(i)]
238 (A) priority to [programs that address tobacco and substance abuse and
239 serve minors, pregnant women and parents of young children]
240 comprehensive tobacco and nicotine control programs for (i) prevention
241 of initial tobacco and nicotine product use among youth and young
242 adults, (ii) smoking cessation directed at adults and youth, (iii)
243 elimination of exposure to secondhand smoke and aerosol, and (iv)
244 identification and elimination of tobacco and nicotine-related
245 disparities, and [(ii)] (B) consideration to the availability of private
246 matching funds. Recommended disbursements from the trust fund shall
247 be in addition to any resources that would otherwise be appropriated
248 by the state for such purposes and programs.

249 (2) The board of trustees shall submit such recommendations for the
250 authorization of disbursement from the trust fund to the joint standing
251 committees of the General Assembly having cognizance of matters
252 relating to public health and appropriations and the budgets of state
253 agencies. Not later than thirty days after receipt of such
254 recommendations, said committees shall advise the board of their
255 approval, modifications, if any, or rejection of the board's
256 recommendations. If said joint standing committees do not concur, the
257 speaker of the House of Representatives, the president pro tempore of
258 the Senate, the majority leader of the House of Representatives, the
259 majority leader of the Senate, the minority leader of the House of
260 Representatives and the minority leader of the Senate each shall appoint
261 one member from each of said joint standing committees to serve as a
262 committee on conference. The committee on conference shall submit its
263 report to both committees, which shall vote to accept or reject the report.
264 The report of the committee on conference may not be amended. If a
265 joint standing committee rejects the report of the committee on
266 conference, the board's recommendations shall be deemed approved. If
267 the joint standing committees accept the report of the committee on
268 conference, the joint standing committee having cognizance of matters
269 relating to appropriations and the budgets of state agencies shall advise

270 the board of said joint standing committees' approval or modifications,
271 if any, of the board's recommended disbursement. If said joint standing
272 committees do not act within thirty days after receipt of the board's
273 recommendations for the authorization of disbursement, such
274 recommendations shall be deemed approved. Disbursement from the
275 trust fund shall be in accordance with the board's recommendations as
276 approved or modified by said joint standing committees.

277 (3) After such recommendations for the authorization of
278 disbursement have been approved or modified pursuant to subdivision
279 (2) of this subsection, any modification in the amount of an authorized
280 disbursement in excess of fifty thousand dollars or ten per cent of the
281 authorized amount, whichever is less, shall be submitted to said joint
282 standing committees and approved, modified or rejected in accordance
283 with the procedure set forth in subdivision (2) of this subsection.
284 Notification of all disbursements from the trust fund made pursuant to
285 this section shall be sent to the joint standing committees of the General
286 Assembly having cognizance of matters relating to public health and
287 appropriations and the budgets of state agencies, through the Office of
288 Fiscal Analysis.

289 (4) The board of trustees shall submit a biennial report to the joint
290 standing committees of the General Assembly having cognizance of
291 matters relating to public health and appropriations and the budgets of
292 state agencies, in accordance with the provisions of section 11-4a. Such
293 report shall include, but need not be limited to, an accounting of the
294 unexpended amount in the trust fund, if any, all disbursements and
295 other expenditures from the trust fund and an evaluation of the
296 performance and impact of each program receiving funds from the trust
297 fund. Such report shall also include the measurable outcome and
298 evaluation criteria and application process used to select programs to
299 receive such funds.

300 Sec. 5. (NEW) (*Effective October 1, 2023*) (a) Any tobacco product
301 manufacturer that places funds into escrow pursuant to subsection (a)
302 of section 4-28i of the general statutes, or a third party to which a tobacco

303 product manufacturer has transferred such manufacturer's interests in
304 such funds, may make an assignment to the state of all or part of its
305 interest in any funds in the qualified escrow fund. Such assignment shall
306 (1) be permanent and irrevocable, (2) apply to all assigned funds in the
307 qualified escrow fund, including all assigned funds deposited in such
308 fund prior to and on or after the assignment is executed and all interest
309 or other appreciation on the assigned funds, (3) be in writing and signed
310 by a duly authorized representative of the assignor, and (4) become
311 effective upon delivery of the assignment to the Attorney General and
312 the financial institution where the qualified escrow fund is maintained.
313 The tobacco product manufacturer, its transferee, the Attorney General
314 or the financial institution where the qualified escrow fund is
315 maintained may make such amendments to the qualified escrow fund
316 agreement as may be necessary to effectuate an assignment of funds
317 executed pursuant to this subdivision or a withdrawal of funds from
318 such qualified escrow fund pursuant to subsection (b) of section 4-28i of
319 the general statutes.

320 (b) Any funds assigned to the state pursuant to subsection (a) of this
321 section shall be deposited in the Tobacco and Health Trust Fund created
322 in section 4-28f of the general statutes, as amended by this act.

323 (c) Any financial institution in which a qualified escrow fund is
324 maintained for which an assignment of funds has been executed
325 pursuant to subsection (a) of this section may file a petition in the
326 Superior Court for an order authorizing a transfer of funds in such
327 qualified escrow fund to the Tobacco and Health Trust Fund. The
328 petition shall state the factual and legal basis for the relief sought. The
329 financial institution shall serve the petition on the Attorney General at
330 the time the petition is filed in the Superior Court.

331 (d) Nothing in this section shall be construed to (1) waive the right of
332 the state to bring a claim against a tobacco product manufacturer under
333 section 4-28j of the general statutes, or (2) relieve a tobacco product
334 manufacturer from any past, current or future obligations such
335 manufacturer may have pursuant to chapter 47 of the general statutes.

336 Any funds assigned to the state pursuant to subsection (a) of this section
337 shall be credited on a dollar-for-dollar basis against any judgment or
338 settlement applicable to the escrow obligation the assigned funds were
339 initially deposited to satisfy.

340 Sec. 6. Section 4-28n of the general statutes is repealed and the
341 following is substituted in lieu thereof (*Effective October 1, 2023*):

342 (a) (1) Any nonparticipating manufacturer that has not registered to
343 do business in this state, pursuant to title 33 or 34, as a foreign
344 corporation or business entity shall, as a condition precedent to having
345 its brand families listed or retained in the directory maintained pursuant
346 to section 4-28m, appoint and continually engage without interruption
347 the services of an agent in this state to act as agent for the service of
348 process on whom all process and any action or proceeding against it
349 concerning or arising out of the enforcement of the provisions of
350 sections 4-28h to 4-28r, inclusive, may be served in any manner
351 authorized by law.

352 (2) Any nonparticipating manufacturer that maintains funds in
353 escrow pursuant to subsection (a) of section 4-28i shall appoint and
354 continually engage without interruption the services of an agent in this
355 state to act as agent for the service of process on whom all process and
356 any action or proceeding against it concerning or arising out of the
357 enforcement of the provisions of sections 4-28h to 4-28r, inclusive, may
358 be served in any manner authorized by law.

359 (3) Such service on such agent shall constitute legal and valid service
360 of process on the nonparticipating manufacturer. The nonparticipating
361 manufacturer shall provide the name, address, telephone number and
362 proof of the appointment and availability of such agent to, and to the
363 satisfaction of, the commissioner and the Attorney General.

364 (b) A nonparticipating manufacturer shall provide notice to the
365 commissioner and the Attorney General at least thirty calendar days
366 prior to termination of the authority of an agent and shall further
367 provide proof, to the satisfaction of the commissioner and the Attorney

368 General, of the appointment of a new agent no less than five calendar
369 days prior to the termination of an existing agent appointment. In the
370 event an agent terminates an agency, the nonparticipating manufacturer
371 shall notify the commissioner and the Attorney General of such
372 termination not later than five calendar days after such termination and
373 shall include proof, to the satisfaction of the commissioner and the
374 Attorney General, of the appointment of a new agent.

375 (c) Any nonparticipating manufacturer whose products are or
376 previously have been sold in this state [without appointing or
377 designating] and that has not appointed or designated an agent as
378 required in this section shall be deemed to have appointed the Secretary
379 of the State as such agent and may be proceeded against in courts of this
380 state by service of process upon the Secretary of the State, except that
381 the appointment of the Secretary of the State as such agent shall not
382 satisfy the condition precedent to having the brand families of the
383 nonparticipating manufacturer listed or retained in the directory.

384 (d) As a condition precedent to having its brand families listed or
385 retained in the directory, a nonparticipating manufacturer located
386 outside of the United States shall cause each of its importers into the
387 United States of each of its brand families to be sold in the state to
388 appoint and maintain the services of an agent in the state, and shall
389 provide notification to the commissioner and the Attorney General
390 regarding the agents of its importers in the manner prescribed in
391 subsections (a) and (b) of this section. Each importer of a
392 nonparticipating manufacturer's cigarettes that are sold in the state who
393 does not appoint or designate an agent as required in this section shall
394 be deemed to have appointed the Secretary of the State as such agent
395 and may be proceeded against in courts of this state by service of process
396 upon the Secretary of the State, except that the appointment of the
397 Secretary of the State as such agent shall not satisfy the condition
398 precedent to having the brand families of the nonparticipating
399 manufacturer listed or retained in the directory.

400 (e) (1) In conjunction with the certification required under section 4-

401 28l and as a condition precedent to having its brand families listed or
 402 retained in the directory, each nonparticipating manufacturer shall post
 403 annually with the commissioner either a good and valid bond that is
 404 issued by a surety company authorized to do business in this state or
 405 other security acceptable to the commissioner. Any bond or other
 406 security shall be in favor of the state of Connecticut and shall be equal
 407 in amount to the greater of (A) twenty-five thousand dollars, or (B) the
 408 greatest amount of the total escrow owed for a calendar year in any of
 409 the five calendar years preceding the posting of such bond or other
 410 security. The commissioner may, in consultation with the Attorney
 411 General, authorize the release of such bond or other security once it has
 412 been established that the nonparticipating manufacturer has met the
 413 requirements of section 4-28i.

414 (2) If the nonparticipating manufacturer that posted a bond has failed
 415 to make, or have made on its behalf, escrow deposits equal to the full
 416 amount owed for a quarter not later than fifteen days following the due
 417 date for the quarter under section 4-28i, the commissioner may execute
 418 on the bond, to (A) recover the delinquent escrow, which amount shall
 419 be deposited into a qualified escrow account as defined in section 4-28h,
 420 or a reasonable alternative account as determined by the commissioner,
 421 and (B) recover civil penalties and costs authorized under section 4-28j.
 422 Escrow amounts above the amount collected on the bond shall remain
 423 due from the nonparticipating manufacturer and, as provided in
 424 subsection (d) of section 4-28j, from the importers that sold such
 425 nonparticipating manufacturer's cigarettes in this state during such
 426 calendar quarter.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2023	New section
Sec. 2	July 1, 2023	17a-674c
Sec. 3	July 1, 2023	17a-674d(j)
Sec. 4	July 1, 2023	4-28f
Sec. 5	October 1, 2023	New section
Sec. 6	October 1, 2023	4-28n

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 24 \$	FY 25 \$
Tobacco Health Trust Fund	Tobacco Health Trust Fund - Revenue Gain	Potential	Potential

Municipal Impact: None

Explanation

The bill directs the use of proceeds¹ from the recent, multi-state JUUL settlement, which has no fiscal impact.

The bill also enables the recovery of certain tobacco funds placed in escrow for the benefit of Connecticut. According to testimony by the Office of the Attorney General, some non-participating manufacturers may be defunct or have very few funds in their accounts. The bill would allow them (or banks holding the accounts, if the non-participating manufacturer has abandoned them) to close the account and transfer the money to the state Tobacco and Health Trust Fund.

House "A" removed the provision in the underlying bill that would have increased the statutory transfer of tobacco settlement fund proceeds to the tobacco and health trust fund beginning in FY 24. This provision of the underlying bill would have resulted in a \$10.7 million revenue gain annually to the tobacco and health trust fund and

¹ CT proceeds of approximately \$16.2 million in total are anticipated over six to ten years.

commensurate revenue loss to the General Fund.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 6914 (as amended by House "A")******AN ACT CONCERNING THE USE OF FUNDS IN THE OPIOID AND TOBACCO SETTLEMENT FUNDS AND FUNDS RECEIVED BY THE STATE AS PART OF ANY SETTLEMENT AGREEMENT WITH A MANUFACTURER OF ELECTRONIC NICOTINE DELIVERY SYSTEM AND VAPOR PRODUCTS.*****SUMMARY**

This bill makes changes affecting tobacco and opioid settlement funds, including the following:

1. starting FY 24, requiring the amount of JUUL settlement funds (see BACKGROUND) the state received in the prior fiscal year to be disbursed from the Tobacco Settlement Fund to the Department of Mental Health and Addiction Services (DMHAS) to fund specified programs targeting residents under age 21 (§ 1);
2. requiring the DMHAS commissioner, starting by September 1, 2024, to annually report to the Tobacco and Health Trust Fund board on how the prior fiscal year's JUUL settlement funds were disbursed and spent (§ 1); and
3. starting by October 1, 2023, requiring municipalities that receive opioid settlement funds directly from a settlement administrator to annually report to the Opioid Settlement Advisory Committee until they spend all the funds (§§ 2 & 3).

The bill also makes various other changes affecting the Tobacco and Health Trust Fund, such as (1) updating its statutory purposes for fund disbursements; (2) requiring that funding be directed to programs that use evidence-based best practices for various objectives; (3) requiring the fund's board, in recommending annual fund disbursements, to give priority to comprehensive tobacco and nicotine control programs for specified purposes; and (4) specifying that board vacancies occurring

other than by a term's expiration must be filled in the same way as the original appointment for the remainder of the term.

Additionally, the bill makes several changes to the state's tobacco settlement law requirements for tobacco product manufacturers, such as (1) allowing nonparticipating manufacturers or their transferees to irrevocably assign their interest in qualified escrow funds to the state, (2) requiring these assigned funds to be deposited into the Tobacco Health and Trust Fund, and (3) requiring nonparticipating manufacturers that maintain a qualified escrow fund to designate an agent for service of process.

Lastly, the bill makes technical and conforming changes.

*House Amendment "A" eliminates the provision in the underlying bill that increases, from \$12 million to \$22.7 million, the annual disbursement from the Tobacco Settlement Fund to the Tobacco and Health Trust Fund. It also adds the provisions (1) requiring the DMHAS commissioner to annually report on how JUUL settlement funds are disbursed and spent and (2) modifying the state tobacco settlement law's requirements for tobacco product manufacturers.

EFFECTIVE DATE: July 1, 2023, except that the provisions on tobacco product manufacturers take effect October 1, 2023.

§ 1 — TOBACCO SETTLEMENT FUND DISBURSEMENTS

Starting FY 24, the bill modifies annual disbursements from the Tobacco Settlement Fund by requiring the amount of JUUL settlement funds the state received the prior fiscal year to be disbursed to DMHAS, to distribute to the state's five regional behavioral health action organizations (RBHAOs, see BACKGROUND) for programs that support the abatement, mitigation, cessation, reduction, or prevention of nicotine or nicotine-synthetic product use by residents under age 21.

Starting by September 1, 2024, the bill requires the DMHAS commissioner to annually report to the Tobacco and Health Trust Fund board on how the settlement funds disbursed the prior fiscal year were distributed and how each RBHAO spent the funds for the purposes

described above.

§§ 2 & 3 — OPIOID SETTLEMENT FUNDS

The bill requires municipalities that receive opioid settlement funds directly from a settlement administrator to annually report to the Opioid Settlement Advisory Committee (see BACKGROUND) on their expenditures for the prior year on a form the committee prescribes. The committee must publish the reports on its website.

Under the bill, municipalities must report by October 1, 2023, and annually afterwards, until they spend all their settlement funds.

§ 4 — TOBACCO AND HEALTH TRUST FUND

Fund Purposes

The bill updates the statutory purposes for fund disbursements to include the reduction of tobacco and nicotine use in all forms, including combustible, non-combustible, electronic, and synthetic products.

It requires that funding be directed to support and encourage tobacco and nicotine use prevention, education, and cessation programs that use evidence-based best practices for the following:

1. state and community interventions;
2. communication methods to disseminate health information to a wide audience;
3. cessation interventions;
4. surveillance and evaluation; and
5. infrastructure, administration, and management.

Under current law, funding must be directed to (1) support and encourage programs to reduce tobacco abuse through prevention, education, and cessation; (2) support and encourage program development for substance abuse reduction; and (3) develop and implement programs to meet the state's unmet physical and mental health needs.

Annual Disbursements

Under current law, the Tobacco and Health Trust Fund board, in recommending annual fund disbursements, must give priority to tobacco and substance abuse programs that serve minors, pregnant women, and parents of young children.

The bill instead requires the board to give priority to comprehensive tobacco and nicotine control programs for the following purposes:

1. preventing initial use of these products by youth and young adults,
2. smoking cessation directed at adults and youth,
3. eliminating exposure to secondhand smoke and aerosol, and
4. identifying and eliminating tobacco and nicotine-related disparities.

As under current law, the board must also consider the availability of private-matching funds.

Board Vacancies

By law, board members serve three-year terms. The bill specifically requires board members to continue to serve until their successors are appointed or designated. Under the bill, if a vacancy occurs other than by a term's expiration, it must be filled in the same way as the original appointment for the remainder of the term.

Biennial Report

Existing law requires the board to submit a biennial report to the Appropriations and Public Health committees on the trust fund, including (1) all fund disbursements and expenditures, (2) an evaluation of the performance and impact of each program that receives funding, and (3) an accounting of any unexpended funds.

Current law also requires the report to include the criteria and application process used to select fund recipients. The bill specifies that this must include measurable outcome and evaluation criteria.

Funding Sources

The bill specifically allows the trust fund to apply for and accept assignments or transfers from public or private funding sources to carry out its purposes. The law already allows the fund to apply for and accept gifts, grants, or donations from these funding sources.

§ 5 — TOBACCO PRODUCT MANUFACTURERS

The bill makes several changes in the state's tobacco settlement law. Under this law, tobacco product manufacturers selling cigarettes in Connecticut must either (1) enter into the master settlement agreement between Connecticut and four leading tobacco companies and comply with its terms and conditions or (2) pay into a qualified escrow fund a specified amount for each cigarette they sell in the state. Manufacturers that choose the latter option are considered "nonparticipating manufacturers."

Assignment of Escrowed Funds

The bill authorizes any tobacco product manufacturer that places funds into a qualified escrow fund under Connecticut's tobacco settlement law, or any third party to which the manufacturer has transferred its interest in the funds, to assign to the state all or part of its interest in the funds. Under the bill, the assignment:

1. is permanent and irrevocable;
2. applies to all of the qualified escrow fund's assigned funds, including (a) those deposited before, on, or after the assignment and (b) any interest or other appreciation on the funds;
3. must be in writing and signed by the assignor's duly authorized representative; and
4. is effective when delivered to the attorney general and financial institution that maintains the fund.

The tobacco product manufacturer, transferee, attorney general, or financial institution may amend the qualified escrow fund agreement as needed for this assignment or any withdrawal authorized under the

tobacco settlement law (e.g., to pay a judgment or settlement on a claim brought against the manufacturer by the state).

The bill requires any funds assigned to the state under this provision to be deposited in the state's Tobacco and Health Trust Fund. Any financial institution maintaining an assigned escrow fund may petition the Superior Court for an order authorizing a transfer of funds from the escrow fund to the Tobacco and Health Trust Fund. The financial institution must (1) state the factual and legal basis for the relief sought in its petition and (2) serve the petition on the attorney general when filing it in the court.

Compliance With Escrow Requirements

Under the bill, these provisions must not be construed to (1) waive the state's right to bring a claim against a tobacco product manufacturer for failing to place required funds into escrow or (2) relieve a tobacco product manufacturer from any past, current, or future obligations it may have under the tobacco settlement law. Any assigned funds must be credited dollar-for-dollar against any judgment or settlement that applies to the escrow obligation the assigned funds were initially deposited to satisfy.

Agent for Service of Process Requirement

The bill requires any nonparticipating manufacturer that maintains a qualified escrow fund to appoint and continually engage the services of an agent for service of process in Connecticut for all legal proceedings arising out of the tobacco settlement law's enforcement. The law already requires nonparticipating manufacturers to do so as a condition of selling their products in the state. As under current law, service on these agents is legal and valid service of process on the nonparticipating manufacturer. The nonparticipating manufacturer must provide the agent's name, address, telephone number, and proof of appointment and availability to the revenue services commissioner and attorney general.

As under current law for nonparticipating manufacturers whose products are currently sold in the state, if a nonparticipating

manufacturer whose products were previously sold in Connecticut does not comply with this requirement, the bill makes the secretary of the state its agent.

BACKGROUND

JUUL Settlement Funds

Connecticut is part of a recently approved \$438.5 million multistate settlement with JUUL Labs, a manufacturer of e-cigarette and vapor products. Thirty-four states and U.S. territories have signed on to the agreement. The state is expected to receive at least \$16.2 million over a six- to 10-year period and must use the funds for cessation, prevention, and mitigation.

Opioid Settlement Advisory Committee

By law, the Opioid Settlement Advisory Committee ensures (1) Opioid Settlement Fund moneys are allocated and spent on specified substance use disorder abatement purposes and (2) robust public involvement, accountability, and transparency in allocating and accounting for the fund's moneys.

The committee consists of 31 state and local government officials and six public members and is chaired by the DMHAS commissioner and a municipal representative. The committee must meet quarterly and annually report to the Appropriations and Public Health committees on the fund's activities.

Regional Behavioral Health Action Organizations

By law, the state's five contracted RBHAOs are responsible for (1) behavioral health planning, education, and promotion; (2) coordinating behavioral health issues prevention; and (3) advocacy for behavioral health needs and services within their respective mental health regions.

Related Bill

sHB 6730, favorably reported by the Public Health Committee, contains identical provisions on the Tobacco and Health Trust Fund's board and statutory purpose.

HB 6924, favorably reported by the Finance, Revenue and Bonding

Committee, contains identical provisions on tobacco product manufacturers.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute

Yea 37 Nay 0 (03/27/2023)