



Substitute House Bill No. 6914

Public Act No. 23-92

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:

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

(b) Not later than September 1, 2024, and annually thereafter, the Commissioner of Mental Health and Addiction Services shall submit a report to the board of trustees of the Tobacco and Health Trust Fund established pursuant to section 4-28f of the general statutes, as amended by this act, detailing how the moneys disbursed in the preceding fiscal year were distributed by the commissioner and summarizing how the

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regional behavioral health action organizations expended such moneys for the purposes described in subsection (a) of this section in the preceding fiscal year.

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 Section 17a-674c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2023*):

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) Subject to the provisions of subdivision (6) of this subsection, fund disbursements shall be made by the commissioner upon approval of the committee. The commissioner shall not make or refuse to make any

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disbursement allowable under this subsection without the approval of the committee. The commissioner shall adhere to the committee's decisions regarding disbursement of moneys from the fund, provided such disbursement is a permissible expenditure under this section. The commissioner's role in the distribution of moneys after the distribution has been approved by the committee and after the review and approval required under subsection [(e)] (f) of this section shall be ministerial and shall not be discretionary.

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

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

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

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

(a) There is created a Tobacco and Health Trust Fund which shall be a separate nonlapsing fund. The purpose of the trust fund shall be to create a continuing significant source of funds to [(1)] support and encourage development of programs to reduce tobacco [abuse] and nicotine use through prevention, education and cessation programs [, (2) support and encourage development of programs to reduce substance abuse, and (3) develop and implement programs to meet the unmet physical and mental health needs in the state] that use evidence-based best practices regarding (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. The trust fund shall be used to support the reduction in use of all tobacco and nicotine products, including, but not limited to, combustible, noncombustible, electronic and synthetic tobacco and nicotine products.

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

(c) The trust fund shall be administered by a board of trustees, except

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that the board shall suspend its operations from July 1, 2003, to June 30, 2005, inclusive. The board shall consist of seventeen trustees. The appointment of the initial trustees shall be as follows: (1) The Governor shall appoint four trustees, one of whom shall serve for a term of one year from July 1, 2000, two of whom shall serve for a term of two years from July 1, 2000, and one of whom shall serve for a term of three years from July 1, 2000; (2) the speaker of the House of Representatives and the president pro tempore of the Senate each shall appoint two trustees, one of whom shall serve for a term of two years from July 1, 2000, and one of whom shall serve for a term of three years from July 1, 2000; (3) the majority leader of the House of Representatives and the majority leader of the Senate each shall appoint two trustees, one of whom shall serve for a term of one year from July 1, 2000, and one of whom shall serve for a term of three years from July 1, 2000; (4) the minority leader of the House of Representatives and the minority leader of the Senate each shall appoint two trustees, one of whom shall serve for a term of one year from July 1, 2000, and one of whom shall serve for a term of two years from July 1, 2000; and (5) the Secretary of the Office of Policy and Management, or the secretary's designee, shall serve as an ex-officio voting member. Following the expiration of such initial terms, subsequent trustees shall serve for a term of three years. The trustees shall continue to serve until their successors are appointed or designated. Any vacancy occurring other than by expiration of term shall be filled in the same manner as the original appointment for the balance of the unexpired term. The period of suspension of the board's operations from July 1, 2003, to June 30, 2005, inclusive, shall not be included in the term of any trustee serving on July 1, 2003. The trustees shall serve without compensation except for reimbursement for necessary expenses incurred in performing their duties. The board of trustees shall establish rules of procedure for the conduct of its business which shall include, but not be limited to, criteria, processes and procedures to be used in selecting programs to receive money from the trust fund. The trust fund shall be within the Office of Policy and

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Management for administrative purposes only. The board of trustees shall, not later than January first of each year, submit a report of its activities and accomplishments to the joint standing committees of the General Assembly having cognizance of matters relating to public health and appropriations and the budgets of state agencies, in accordance with section 11-4a.

(d) (1) For the fiscal year ending June 30, 2023, and each fiscal year thereafter, the board of trustees, by majority vote, shall recommend authorization of disbursement from the trust fund of the amount deposited in the trust fund for the fiscal year pursuant to subsection (c) of section 4-28e, for the purposes described in subsection (a) of this section and section 19a-6d. The board's recommendations shall give [(i)] (A) priority to [programs that address tobacco and substance abuse and serve minors, pregnant women and parents of young children] comprehensive tobacco and nicotine control programs for (i) prevention of initial tobacco and nicotine product use among youth and young adults, (ii) smoking cessation directed at adults and youth, (iii) elimination of exposure to secondhand smoke and aerosol, and (iv) identification and elimination of tobacco and nicotine-related disparities, and [(ii)] (B) consideration to the availability of private matching funds. Recommended disbursements from the trust fund shall be in addition to any resources that would otherwise be appropriated by the state for such purposes and programs.

(2) The board of trustees shall submit such recommendations for the authorization of disbursement from the trust fund to the joint standing committees of the General Assembly having cognizance of matters relating to public health and appropriations and the budgets of state agencies. Not later than thirty days after receipt of such recommendations, said committees shall advise the board of their approval, modifications, if any, or rejection of the board's recommendations. If said joint standing committees do not concur, the

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speaker of the House of Representatives, the president pro tempore of the Senate, the majority leader of the House of Representatives, the majority leader of the Senate, the minority leader of the House of Representatives and the minority leader of the Senate each shall appoint one member from each of said joint standing committees to serve as a committee on conference. The committee on conference shall submit its report to both committees, which shall vote to accept or reject the report. The report of the committee on conference may not be amended. If a joint standing committee rejects the report of the committee on conference, the board's recommendations shall be deemed approved. If the joint standing committees accept the report of the committee on conference, the joint standing committee having cognizance of matters relating to appropriations and the budgets of state agencies shall advise the board of said joint standing committees' approval or modifications, if any, of the board's recommended disbursement. If said joint standing committees do not act within thirty days after receipt of the board's recommendations for the authorization of disbursement, such recommendations shall be deemed approved. Disbursement from the trust fund shall be in accordance with the board's recommendations as approved or modified by said joint standing committees.

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

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

Sec. 5. (NEW) (*Effective October 1, 2023*) (a) Any tobacco product manufacturer that places funds into escrow pursuant to subsection (a) of section 4-28i of the general statutes, or a third party to which a tobacco product manufacturer has transferred such manufacturer's interests in such funds, may make an assignment to the state of all or part of its interest in any funds in the qualified escrow fund. Such assignment shall (1) be permanent and irrevocable, (2) apply to all assigned funds in the qualified escrow fund, including all assigned funds deposited in such fund prior to and on or after the assignment is executed and all interest or other appreciation on the assigned funds, (3) be in writing and signed by a duly authorized representative of the assignor, and (4) become effective upon delivery of the assignment to the Attorney General and the financial institution where the qualified escrow fund is maintained. The tobacco product manufacturer, its transferee, the Attorney General or the financial institution where the qualified escrow fund is maintained may make such amendments to the qualified escrow fund agreement as may be necessary to effectuate an assignment of funds executed pursuant to this subdivision or a withdrawal of funds from such qualified escrow fund pursuant to subsection (b) of section 4-28i of the general statutes.

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

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

(d) Nothing in this section shall be construed to (1) waive the right of the state to bring a claim against a tobacco product manufacturer under section 4-28j of the general statutes, or (2) relieve a tobacco product manufacturer from any past, current or future obligations such manufacturer may have pursuant to chapter 47 of the general statutes. Any funds assigned to the state pursuant to subsection (a) of this section shall be credited on a dollar-for-dollar basis against any judgment or settlement applicable to the escrow obligation the assigned funds were initially deposited to satisfy.

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

(a) (1) Any nonparticipating manufacturer that has not registered to do business in this state, pursuant to title 33 or 34, as a foreign corporation or business entity shall, as a condition precedent to having its brand families listed or retained in the directory maintained pursuant to section 4-28m, appoint and continually engage without interruption the services of an agent in this state to act as agent for the service of process on whom all process and any action or proceeding against it concerning or arising out of the enforcement of the provisions of

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sections 4-28h to 4-28r, inclusive, may be served in any manner authorized by law.

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

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

(b) A nonparticipating manufacturer shall provide notice to the commissioner and the Attorney General at least thirty calendar days prior to termination of the authority of an agent and shall further provide proof, to the satisfaction of the commissioner and the Attorney General, of the appointment of a new agent no less than five calendar days prior to the termination of an existing agent appointment. In the event an agent terminates an agency, the nonparticipating manufacturer shall notify the commissioner and the Attorney General of such termination not later than five calendar days after such termination and shall include proof, to the satisfaction of the commissioner and the Attorney General, of the appointment of a new agent.

(c) Any nonparticipating manufacturer whose products are or previously have been sold in this state [without appointing or designating] and that has not appointed or designated an agent as required in this section shall be deemed to have appointed the Secretary of the State as such agent and may be proceeded against in courts of this

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state by service of process upon the Secretary of the State, except that the appointment of the Secretary of the State as such agent shall not satisfy the condition precedent to having the brand families of the nonparticipating manufacturer listed or retained in the directory.

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

(e) (1) In conjunction with the certification required under section 4-28l and as a condition precedent to having its brand families listed or retained in the directory, each nonparticipating manufacturer shall post annually with the commissioner either a good and valid bond that is issued by a surety company authorized to do business in this state or other security acceptable to the commissioner. Any bond or other security shall be in favor of the state of Connecticut and shall be equal in amount to the greater of (A) twenty-five thousand dollars, or (B) the greatest amount of the total escrow owed for a calendar year in any of the five calendar years preceding the posting of such bond or other security. The commissioner may, in consultation with the Attorney

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General, authorize the release of such bond or other security once it has been established that the nonparticipating manufacturer has met the requirements of section 4-28i.

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