



ATTORNEY GENERAL WILLIAM TONG
STATE OF CONNECTICUT

**Testimony in support of House Bill No. 6914,
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 Systems and Vapor Products
*Wednesday, March 22nd, 2023***

Establishing Minimum Reporting Requirements for Municipal Opioid Settlement Funds

Over the past four years, Connecticut has led nationwide efforts to hold the entire addiction industry accountable for the opioid epidemic, securing more than \$50 billion for treatment and prevention. Connecticut will receive over \$600 million to save lives across our state. Drug manufacturers, distributors, pharmacies, and their consultants, including Purdue Pharma and the Sackler Family, Johnson & Johnson, Cardinal, McKesson, AmerisourceBergen, McKinsey, Teva, Allergan, Endo, Walgreens, Walmart, CVS, Mallinckrodt, all reaped massive profits while fueling the pain and suffering of the opioid epidemic.

In 2022, the legislature took steps in [Public Act 22-48](#) to make these funds available for evidence-based and evidence-informed treatment, prevention, and recovery programs by passing legislation based on the research-informed [model act](#) commissioned by the Office of National Drug Control Policy and developed by a variety of national experts, academics, healthcare practitioners and stakeholders, including Georgetown Law Center, the American Medical Association, Shatterproof, and Faces and Voices of Recovery. The goal of PA 22-48 was to ensure these hard-fought funds are spent as intended—on addressing the opioid crisis—and to implement lessons learned from the distribution framework setup for the Tobacco Master Settlement Agreement (MSA) two decades ago.

In accordance with best practices, the new law establishes an Opioid Settlement Advisory Committee made up of diverse stakeholders—health professionals, individuals with lived experience, and state and municipal leaders—to ensure robust and informed public involvement, accountability, and transparency in allocating and accounting for the monies in the fund. The committee held its first meeting on March 13th.

Public Act 22-48 deals only with the opioid settlement funds that come to the state, but 15% of most of the opioid settlements will go directly to municipalities from the administrator of each settlement, pursuant to a formula based on the severity of the opioid crisis in each locality. To date, Connecticut's cities and towns have received over \$9.5 million directly from opioid settlements. This money does not pass through the state and is not subject to the requirements and reporting imposed by PA 22-48. Under the settlement agreements, the municipalities are only required to report in narrow circumstances and only to the administrator of the settlement. There is no general reporting requirement or other public transparency measures imposed on the cities and towns under the settlements or current statute.



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Sections 2 and 3 of H.B. 6914 would simply require that municipalities that receive direct payments from opioid settlement administrators submit an annual report to the Opioid Settlement Advisory Committee detailing their expenditures. These reports will be posted online by the Department of Mental Health and Addiction Services, which administers the Advisory Committee, alongside the spending reporting that the Advisory Committee must already complete pursuant to PA 22-48.

Using JUUL Settlement Dollars to Address E-Cigarette Use Among Underage Users

Section 1 of this bill would require that Connecticut's share of the \$438.5 million multistate settlement with JUUL Labs is spent in accordance with the terms of the stipulated judgment in that settlement.

JUUL was, until recently, the dominant player in the vaping market. A multistate investigation revealed that JUUL rose to this position by willfully engaging in an advertising campaign that appealed to youth, even though its e-cigarettes are both illegal for them to purchase and unhealthy for the youth to use. The investigation found that JUUL relentlessly marketed to underage users with launch parties, advertisements using young and trendy-looking models, social media posts, and free samples. It marketed a technology-focused, sleek design that could be easily concealed and sold its product in flavors known to be attractive to underage users. JUUL also manipulated the chemical composition of its product to make the vapor less harsh on the throats of young and inexperienced users. To preserve its young customer base, JUUL relied on age verification techniques that it knew were ineffective.

The investigation further revealed that JUUL's original packaging was misleading in that it did not clearly disclose that it contained nicotine and implied that it contained a lower concentration of nicotine than it actually did. Consumers were also misled to believe that consuming one JUUL pod was the equivalent of smoking one pack of combustible cigarettes. The company also misrepresented that its product was a smoking cessation device without FDA approval to make such claims.

As part of the settlement, JUUL has agreed to refrain from several deceptive and predatory practices, including marketing to kids, selling flavors not approved by the FDA, allowing access to the website without age verification on its landing page, false and misleading representations and drastically curtail its advertising. The agreement also includes sales and distribution restrictions, including where the product may be displayed/accessed in stores, online sales limits, retail sales limits, age verification on all sales, and a retail compliance check protocol.

Because the settlement specifically resolved allegations related to JUUL's marketing to youth and the objective of the settlement is to invest JUUL funds in undoing the harm the company has wrought on our young people, the Office of the Attorney General believes that Connecticut's share of these funds—at least \$16 million—should be distributed separately from other tobacco settlement funds and allocated to organizations working on the frontline



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of youth substance use in our communities.

Section 1 would therefore require that the funds be spent to support the abatement, mitigation, cessation, reduction, and prevention of the use of nicotine or nicotine-synthetic products by residents under age 21 in accordance with the language in the stipulated judgment. The bill would do this by requiring the Department of Mental Health and Addiction Services to distribute it to the Regional Behavioral Health Action Organizations (RBHAOs). Created in statute and funded primarily through federal block grant dollars administered by DMHAS, **RBHAOs are responsible for providing a range of planning, education, and advocacy initiatives related to mental health and substance use prevention, treatment, and recovery, including addressing the youth vaping epidemic fueled by JUUL and others.** RBHAOs are engaged in our local communities – building coalitions with prevention advocates, parents, youth, educators, healthcare providers, and other community stakeholders and are well-positioned to use these funds so that they have the most impact.

Changes to Tobacco Settlement Fund Spending

In addition to requiring that JUUL funds be distributed by DMHAS to the RBHAOs, Section 1 of this bill restores the \$12 million transfer from the Tobacco Settlement Fund to the Tobacco and Health Trust Fund. As you know, the Governor’s recommended biennial budget would reduce this transfer to \$6 million in each year of the biennium. **The Office of the Attorney General supports increasing tobacco control funding to at least \$22.7 million, the minimum level recommended by the Centers for Disease Control and Prevention in Connecticut.**

In addition, section 4 of this bill would allow monies from the Tobacco and Health Trust fund to be used to address the use of nicotine products other than tobacco, such as e-cigarettes, with a focus on “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 the use of all tobacco and nicotine products, including, but not limited to, combustible, noncombustible, electronic, and synthetic tobacco, and nicotine products.” The bill would also require the Trust Funds’ Board annual report to include “measurable outcome and evaluation criteria.” The Office of the Attorney General agrees with this approach, which was proposed by the Department of Public Health in House Bill No. 6730.

Finally, section 4 would allow the Tobacco and Health Trust Fund to accept “assignments or transfers” from non-participating tobacco manufacturers who elect to assign or transfer funds to the Trust Fund (line 186). Under the MSA, the state will have to start authorizing the return of funds placed in escrow for the benefit of the state by non-participating manufacturers in 2025.

On a separate but related issue, not addressed by this legislation, the Office of the Attorney General is responsible for ensuring that both the State of Connecticut and the parties to the MSA, operate in compliance with the agreement to ensure that Connecticut continues to receive its average annual payment of \$124 million from the tobacco industry. This work is done by a small, committed group



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of lawyers and staff at the Office of the Attorney General, who have been funded through funds received under the MSA. The Governor's recommended biennial budget would eliminate this funding source. We are currently in conversations with the Appropriations Committee to restore this funding.

We appreciate the Committee's consideration of this proposal and the opportunity to submit testimony. For additional information, please contact Cara Passaro, Chief of Staff to the Attorney General at cara.passaro@ct.gov.