



Senate

General Assembly

File No. 446

February Session, 2022

Substitute Senate Bill No. 399

Senate, April 13, 2022

The Committee on Appropriations reported through SEN. OSTEN of the 19th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING THE TOBACCO SETTLEMENT TRUST FUND
AND THE SALE OF TOBACCO PRODUCTS.***

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

1 Section 1. Section 4-28e of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2022*):

3 (a) There is created a Tobacco Settlement Fund which shall be a
4 separate nonlapsing fund. Any funds received by the state from the
5 Master Settlement Agreement executed November 23, 1998, shall be
6 deposited into the fund.

7 (b) (1) The Treasurer is authorized to invest all or any part of the
8 Tobacco Settlement Fund, all or any part of the Tobacco and Health
9 Trust Fund created in section 4-28f, as amended by this act, and all or
10 any part of the Biomedical Research Trust Fund created in section 19a-
11 32c. The interest derived from any such investment shall be credited to
12 the resources of the fund from which the investment was made.

13 (2) Notwithstanding sections 3-13 to 3-13h, inclusive, the Treasurer
14 shall invest the amounts on deposit in the Tobacco Settlement Fund, the
15 Tobacco and Health Trust Fund and the Biomedical Research Trust
16 Fund in a manner reasonable and appropriate to achieve the objectives
17 of such funds, exercising the discretion and care of a prudent person in
18 similar circumstances with similar objectives. The Treasurer shall give
19 due consideration to rate of return, risk, term or maturity,
20 diversification of the total portfolio within such funds, liquidity, the
21 projected disbursements and expenditures, and the expected payments,
22 deposits, contributions and gifts to be received. The Treasurer shall not
23 be required to invest such funds directly in obligations of the state or
24 any political subdivision of the state or in any investment or other fund
25 administered by the Treasurer. The assets of such funds shall be
26 continuously invested and reinvested in a manner consistent with the
27 objectives of such funds until disbursed in accordance with this section,
28 section 4-28f, as amended by this act, or section 19a-32c.

29 (c) [For] Commencing with the fiscal year ending June 30, [2018, and
30 each fiscal year thereafter,] 2023, annual disbursements from the
31 Tobacco Settlement Fund shall be made [to] as follows: (1) To the
32 General Fund in the amount identified as "Transfer from Tobacco
33 Settlement Fund" in the General Fund revenue schedule adopted by the
34 General Assembly; and (2) to the Tobacco and Health Trust Fund in an
35 amount equal to twelve million dollars.

36 [(d) For the fiscal year ending June 30, 2000, five million dollars shall
37 be disbursed from the Tobacco Settlement Fund to a tobacco grant
38 account to be established in the Office of Policy and Management. Such
39 funds shall not lapse on June 30, 2000, and shall continue to be available
40 for expenditure during the fiscal year ending June 30, 2001.

41 (e) Tobacco grants shall be made from the account established
42 pursuant to subsection (d) of this section by the Secretary of the Office
43 of Policy and Management in consultation with the speaker of the
44 House of Representatives, the president pro tempore of the Senate, the
45 majority leader of the House of Representatives, the majority leader of

46 the Senate, the minority leader of the House of Representatives, the
47 minority leader of the Senate, and the cochairpersons and ranking
48 members of the joint standing committees of the General Assembly
49 having cognizance of matters relating to public health and
50 appropriations and the budgets of state agencies, or their designees.
51 Such grants shall be used to reduce tobacco abuse through prevention,
52 education, cessation, treatment, enforcement and health needs
53 programs.]

54 [(f)] (d) For the fiscal year ending June 30, 2005, and each fiscal year
55 thereafter, the sum of one hundred thousand dollars is appropriated to
56 the Department of Revenue Services and the sum of twenty-five
57 thousand dollars is appropriated to the office of the Attorney General
58 for the enforcement of the provisions of sections 4-28h to 4-28q,
59 inclusive.

60 Sec. 2. Section 4-28f of the general statutes is repealed and the
61 following is substituted in lieu thereof (*Effective July 1, 2022*):

62 (a) There is created a Tobacco and Health Trust Fund which shall be
63 a separate nonlapsing fund. The purpose of the trust fund shall be to
64 create a continuing significant source of funds to (1) support and
65 encourage development of programs to reduce tobacco abuse through
66 prevention, education and cessation programs, (2) support and
67 encourage development of programs to reduce substance abuse, and (3)
68 develop and implement programs to meet the unmet physical and
69 mental health needs in the state.

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

74 (c) The trust fund shall be administered by a board of trustees, except
75 that the board shall suspend its operations from July 1, 2003, to June 30,
76 2005, inclusive. The board shall consist of seventeen trustees. The
77 appointment of the initial trustees shall be as follows: (1) The Governor

78 shall appoint four trustees, one of whom shall serve for a term of one
79 year from July 1, 2000, two of whom shall serve for a term of two years
80 from July 1, 2000, and one of whom shall serve for a term of three years
81 from July 1, 2000; (2) the speaker of the House of Representatives and
82 the president pro tempore of the Senate each shall appoint two trustees,
83 one of whom shall serve for a term of two years from July 1, 2000, and
84 one of whom shall serve for a term of three years from July 1, 2000; (3)
85 the majority leader of the House of Representatives and the majority
86 leader of the Senate each shall appoint two trustees, one of whom shall
87 serve for a term of one year from July 1, 2000, and one of whom shall
88 serve for a term of three years from July 1, 2000; (4) the minority leader
89 of the House of Representatives and the minority leader of the Senate
90 each shall appoint two trustees, one of whom shall serve for a term of
91 one year from July 1, 2000, and one of whom shall serve for a term of
92 two years from July 1, 2000; and (5) the Secretary of the Office of Policy
93 and Management, or the secretary's designee, shall serve as an ex-officio
94 voting member. Following the expiration of such initial terms,
95 subsequent trustees shall serve for a term of three years. The period of
96 suspension of the board's operations from July 1, 2003, to June 30, 2005,
97 inclusive, shall not be included in the term of any trustee serving on July
98 1, 2003. The trustees shall serve without compensation except for
99 reimbursement for necessary expenses incurred in performing their
100 duties. The board of trustees shall establish rules of procedure for the
101 conduct of its business which shall include, but not be limited to,
102 criteria, processes and procedures to be used in selecting programs to
103 receive money from the trust fund. The trust fund shall be within the
104 Office of Policy and Management for administrative purposes only. The
105 board of trustees shall, not later than January first of each year, [except
106 following a fiscal year in which the trust fund does not receive a deposit
107 from the Tobacco Settlement Fund, shall] submit a report of its activities
108 and accomplishments to the joint standing committees of the General
109 Assembly having cognizance of matters relating to public health and
110 appropriations and the budgets of state agencies, in accordance with
111 section 11-4a.

112 (d) (1) [During the period commencing July 1, 2000, and ending June

113 30, 2003, the board of trustees, by majority vote, may recommend
114 authorization of disbursement from the trust fund for the purposes
115 described in subsection (a) of this section and section 19a-6d, provided
116 the board may not recommend authorization of disbursement of more
117 than fifty per cent of net earnings from the principal of the trust fund for
118 such purposes. For the fiscal year commencing July 1, 2005, and each
119 fiscal year thereafter, the board may recommend authorization of the
120 net earnings from the principal of the trust fund for such purposes. For
121 the fiscal year ending June 30, 2009, and each fiscal year thereafter, the
122 board may recommend authorization of disbursement for such
123 purposes of (A) up to one-half of the annual disbursement from the
124 Tobacco Settlement Fund to the Tobacco and Health Trust Fund from
125 the previous fiscal year, pursuant to section 4-28e, up to a maximum of
126 six million dollars per fiscal year, and (B) the net earnings from the
127 principal of the trust fund from the previous fiscal year.] For the fiscal
128 year ending June 30, [2014] 2023, and each fiscal year thereafter, the
129 board [may] of trustees, by majority vote, shall recommend
130 authorization of disbursement [of up to the total unobligated balance
131 remaining in the trust fund after disbursement in accordance with the
132 provisions of the general statutes and relevant special and public acts
133 for such purposes, not to exceed twelve million dollars per fiscal year]
134 from the trust fund of the amount deposited in the trust fund for the
135 fiscal year pursuant to subsection (c) of section 4-28e, as amended by
136 this act, for the purposes described in subsection (a) of this section and
137 section 19a-6d. The board's recommendations shall give (i) priority to
138 programs that address tobacco and substance abuse and serve minors,
139 pregnant women and parents of young children, and (ii) consideration
140 to the availability of private matching funds. Recommended
141 disbursements from the trust fund shall be in addition to any resources
142 that would otherwise be appropriated by the state for such purposes
143 and programs.

144 (2) [Except during the fiscal years ending June 30, 2004, and June 30,
145 2005, the] The board of trustees shall submit such recommendations for
146 the authorization of disbursement from the trust fund to the joint
147 standing committees of the General Assembly having cognizance of

148 matters relating to public health and appropriations and the budgets of
149 state agencies. Not later than thirty days after receipt of such
150 recommendations, said committees shall advise the board of their
151 approval, modifications, if any, or rejection of the board's
152 recommendations. If said joint standing committees do not concur, the
153 speaker of the House of Representatives, the president pro tempore of
154 the Senate, the majority leader of the House of Representatives, the
155 majority leader of the Senate, the minority leader of the House of
156 Representatives and the minority leader of the Senate each shall appoint
157 one member from each of said joint standing committees to serve as a
158 committee on conference. The committee on conference shall submit its
159 report to both committees, which shall vote to accept or reject the report.
160 The report of the committee on conference may not be amended. If a
161 joint standing committee rejects the report of the committee on
162 conference, the board's recommendations shall be deemed approved. If
163 the joint standing committees accept the report of the committee on
164 conference, the joint standing committee having cognizance of matters
165 relating to appropriations and the budgets of state agencies shall advise
166 the board of said joint standing committees' approval or modifications,
167 if any, of the board's recommended disbursement. If said joint standing
168 committees do not act within thirty days after receipt of the board's
169 recommendations for the authorization of disbursement, such
170 recommendations shall be deemed approved. Disbursement from the
171 trust fund shall be in accordance with the board's recommendations as
172 approved or modified by said joint standing committees.

173 (3) After such recommendations for the authorization of
174 disbursement have been approved or modified pursuant to subdivision
175 (2) of this subsection, any modification in the amount of an authorized
176 disbursement in excess of fifty thousand dollars or ten per cent of the
177 authorized amount, whichever is less, shall be submitted to said joint
178 standing committees and approved, modified or rejected in accordance
179 with the procedure set forth in subdivision (2) of this subsection.
180 Notification of all disbursements from the trust fund made pursuant to
181 this section shall be sent to the joint standing committees of the General
182 Assembly having cognizance of matters relating to public health and

183 appropriations and the budgets of state agencies, through the Office of
184 Fiscal Analysis.

185 (4) The board of trustees shall [, not later than February first of each
186 year , except following a fiscal year in which the trust fund does not
187 receive a deposit from the Tobacco Settlement Fund,] submit a biennial
188 report to the joint standing committees of the General Assembly having
189 cognizance of matters relating to public health and appropriations and
190 the budgets of state agencies, in accordance with the provisions of
191 section 11-4a. [, that includes] Such report shall include, but need not be
192 limited to, an accounting of the unexpended amount in the trust fund,
193 if any, all disbursements and other expenditures from the trust fund and
194 an evaluation of the performance and impact of each program receiving
195 funds from the trust fund. Such report shall also include the criteria and
196 application process used to select programs to receive such funds.

197 Sec. 3. Section 53-344 of the general statutes is repealed and the
198 following is substituted in lieu thereof (*Effective July 1, 2022*):

199 (a) As used in this section:

200 (1) "Cardholder" means any person who presents a driver's license or
201 an identity card to a seller or seller's agent or employee, to purchase or
202 receive tobacco from such seller or seller's agent or employee;

203 (2) "Cigarette" has the same meaning as provided in subsection (b) of
204 section 12-285;

205 (3) "Identity card" means an identification card issued in accordance
206 with the provisions of section 1-1h;

207 (4) "Sale" has the same meaning as provided in section 53-344b;

208 (5) "Give" or "giving" has the same meaning as provided in section
209 53-344b;

210 (6) "Deliver" or "delivering" has the same meaning as provided in
211 section 53-344b;

212 (7) "Seller" means any person engaged in the sale, giving or delivering
213 of cigarettes or tobacco products;

214 (8) "Tobacco products" has the same meaning as provided in section
215 12-330a;

216 (9) "Transaction scan" means the process by which a seller or seller's
217 agent or employee checks, by means of a transaction scan device, the
218 validity of a driver's license or an identity card; and

219 (10) "Transaction scan device" means any commercial device or
220 combination of devices used at a point of sale that is capable of
221 deciphering in an electronically readable format the information
222 encoded on the magnetic strip or bar code of a driver's license or an
223 identity card.

224 (b) Any person who sells, gives or delivers to any person under
225 twenty-one years of age cigarettes or a tobacco product shall be fined
226 not more than three hundred dollars for the first offense, not more than
227 seven hundred fifty dollars for a second offense on or before twenty-
228 four months after the date of the first offense and not more than one
229 thousand dollars for each subsequent offense on or before twenty-four
230 months after the date of the first offense. The provisions of this
231 subsection shall not apply to a person under twenty-one years of age
232 who is delivering or accepting delivery of cigarettes or a tobacco
233 product (1) in such person's capacity as an employee, or (2) as part of a
234 scientific study being conducted by an organization for the purpose of
235 medical research to further efforts in cigarette and tobacco product use
236 prevention and cessation, provided such medical research has been
237 approved by the organization's institutional review board, as defined in
238 section 21a-408.

239 (c) Any person under twenty-one years of age who misrepresents
240 such person's age to purchase cigarettes or a tobacco product shall be
241 fined not more than fifty dollars for the first offense and not less than
242 fifty dollars or more than one hundred dollars for each subsequent
243 offense.

244 (d) (1) A seller or seller's agent or employee shall request that each
245 person intending to purchase cigarettes or a tobacco product present a
246 driver's license or identity card to establish that such person is twenty-
247 one years of age or older.

248 [(d) (1)] (2) A seller or seller's agent or employee may perform a
249 transaction scan to check the validity of a driver's license or identity card
250 presented by a cardholder as a condition for selling, giving away or
251 otherwise distributing cigarettes or a tobacco product to the cardholder.

252 [(2)] (3) If the information deciphered by the transaction scan
253 performed under subdivision [(1)] (2) of this subsection fails to match
254 the information printed on the driver's license or identity card presented
255 by the cardholder, or if the transaction scan indicates that the
256 information so printed is false or fraudulent, neither the seller nor any
257 seller's agent or employee shall sell, give away or otherwise distribute
258 any cigarettes or a tobacco product to the cardholder.

259 [(3)] (4) Subdivision [(1)] (2) of this subsection does not preclude a
260 seller or seller's agent or employee from using a transaction scan device
261 to check the validity of a document other than a driver's license or an
262 identity card, if the document includes a bar code or magnetic strip that
263 may be scanned by the device, as a condition for selling, giving away or
264 otherwise distributing cigarettes or a tobacco product to the person
265 presenting the document.

266 (e) (1) No seller or seller's agent or employee shall electronically or
267 mechanically record or maintain any information derived from a
268 transaction scan, except the following: (A) The name and date of birth
269 of the person listed on the driver's license or identity card presented by
270 a cardholder; and (B) the expiration date and identification number of
271 the driver's license or identity card presented by a cardholder.

272 (2) No seller or seller's agent or employee shall use a transaction scan
273 device for a purpose other than the purposes specified in subsection (e)
274 of section 53-344b, subsection (d) of this section or subsection (c) of
275 section 30-86.

276 (3) No seller or seller's agent or employee shall sell or otherwise
277 disseminate the information derived from a transaction scan to any third
278 party, including, but not limited to, selling or otherwise disseminating
279 that information for any marketing, advertising or promotional
280 activities, but a seller or seller's agent or employee may release that
281 information pursuant to a court order.

282 (4) Nothing in subsection (d) of this section or this subsection relieves
283 a seller or seller's agent or employee of any responsibility to comply
284 with any other applicable state or federal laws or rules governing the
285 sale, giving away or other distribution of cigarettes or tobacco products.

286 (5) Any person who violates this subsection shall be subject to a civil
287 penalty of not more than one thousand dollars.

288 (f) (1) In any prosecution of a seller or seller's agent or employee for
289 a violation of subsection (b) of this section, it shall be an affirmative
290 defense that all of the following occurred: (A) A cardholder attempting
291 to purchase or receive cigarettes or a tobacco product presented a
292 driver's license or an identity card; (B) a transaction scan of the driver's
293 license or identity card that the cardholder presented indicated that the
294 license or card was valid and indicated that the cardholder was at least
295 twenty-one years of age; and (C) the cigarettes or a tobacco product was
296 sold, given away or otherwise distributed to the cardholder in
297 reasonable reliance upon the identification presented and the completed
298 transaction scan.

299 (2) In determining whether a seller or seller's agent or employee has
300 proven the affirmative defense provided by subdivision (1) of this
301 section, the trier of fact in such prosecution shall consider that
302 reasonable reliance upon the identification presented and the completed
303 transaction scan may require a seller or seller's agent or employee to
304 exercise reasonable diligence and that the use of a transaction scan
305 device does not excuse a seller or seller's agent or employee from
306 exercising such reasonable diligence to determine the following: (A)
307 Whether a person to whom the seller or seller's agent or employee sells,
308 gives away or otherwise distributes cigarettes or a tobacco product is

309 twenty-one years of age or older; and (B) whether the description and
310 picture appearing on the driver's license or identity card presented by a
311 cardholder is that of the cardholder.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2022</i>	4-28e
Sec. 2	<i>July 1, 2022</i>	4-28f
Sec. 3	<i>July 1, 2022</i>	53-344

APP *Joint Favorable Subst.*

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 23 \$	FY 24 \$
Tobacco Settlement Funds	Tobacco Health Trust Fund - Revenue Gain	12,000,000	12,000,000
Tobacco Settlement Funds	GF - Revenue Loss	12,000,000	12,000,000

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill diverts twelve million annually of Tobacco Settlement proceeds (revenue) from the General Fund to the Tobacco and Health Trust Fund.

The Out Years

The annualized ongoing fiscal impact identified above would remain constant, as the amount diverted would be set in statute.

OFA Bill Analysis**sSB 399*****AN ACT CONCERNING THE TOBACCO SETTLEMENT TRUST FUND AND THE SALE OF TOBACCO PRODUCTS.*****SUMMARY:**

The bill diverts twelve million annually of Tobacco Settlement proceeds (revenue) from the General Fund to the Tobacco and Health Trust Fund.

The bill also requires a seller or seller's agent or employee to request that each person intending to purchase cigarettes or a tobacco product present a driver's license or identity card to establish that such person is twenty-one years of age or older.

EFFECTIVE DATE: July 1, 2022

BACKGROUND***Tobacco Settlement Funds***

Each year, the state receives approximately \$120 million via the Tobacco Settlement. Under current law, the entirety of those revenues are deposited into the General Fund.

COMMITTEE ACTION

Appropriations Committee

Joint Favorable Substitute	3/29/2022
Yea 49	Nay 0