

**Progress Report on Expenditures from the Youth
Electronic Nicotine Dependence Abatement Fund**

Session Law 2021-180, Section 9G.10.(c)



Report to

**The Joint Legislative Oversight Committee on
Health and Human Services**

and

Fiscal Research Division

by

North Carolina Department of Health and Human Services

September 1, 2022

BACKGROUND

Per the final consent judgement resolving the case, State of North Carolina, ex rel. Joshua H. Stein, Attorney General v. Juul Labs, Inc. (JLI), in the General Court of Justice, Superior Court Division, Durham County (JLI Case), Juul shall pay \$40 million to the State over six years, with payment to be used to the maximum extent possible to fund e-cigarette cessation, prevention, evaluation, a documents depository and litigation costs. The \$40 million Settlement amount is to be received by the State over the course of six years as follows:

- \$13 million in Year 1
- \$8 million in Year 2
- \$7.5 million in Year 3
- \$7 million in Year 4
- \$2.25 million in Year 5
- \$2.25 million in Year 6

Session Law 2021-180 Section 9G.10.(a) created the Youth Electronic Nicotine Dependence Abatement Fund (Fund) within the Department of Health and Human Services (NCDHHS), Division of Public Health (DPH), as a non-reverting special fund to receive these Settlement monies. The Fund shall consist of (i) monies received by the State as a beneficiary of the final consent judgment resolving the JLI Case and (ii) all interest and investment earnings received on monies in the Fund. Monies in the Fund shall be expended only by an act of appropriation by the General Assembly and in accordance with the final consent judgment resolving the JLI Case.

Section 9G.10.(b) appropriated the Year 1 Settlement funds in the sum of thirteen million dollars (\$13,000,000) in nonrecurring funds for the 2021-2022 fiscal year from the Youth Electronic Nicotine Dependence Abatement Fund created in subsection (a) to NCDHHS, DPH. This subsection requires that the funds be allocated as follows:

- \$4,400,000 shall be allocated for tobacco cessation media campaigns, resources, and programs to help both youth and young adults who have become addicted to nicotine using e-cigarettes and other tobacco/nicotine products quit.
- \$3,300,000 shall be allocated for evidence-based media and education campaigns to prevent the initiation of tobacco use, especially with respect to e-cigarettes and other new and emerging tobacco/nicotine products.
- \$2,000,000 of this amount was transferred to the Department of Justice to cover the costs of litigation incurred by the Office of the Attorney General with respect to the JLI Case.
- \$1,100,000 shall be allocated for data monitoring to track tobacco/nicotine use and exposure among youth and young adults and populations at risk; and for independent evaluation of the reach and effectiveness of the State's tobacco prevention and cessation programs with respect to evidence-based programs designed to help youth addicted to nicotine through e-cigarettes and other new and emerging tobacco and nicotine products quit.
- \$2,200,000 shall be allocated for staff, projects, and systems to educate partners and stakeholders about evidence-based policy, systems, and environmental change to help youth quit tobacco/nicotine products and prevent initiation of tobacco/nicotine products;

and to track compliance with the conduct provisions set forth in Part III of the final consent judgment resolving the JLI Case.

During the 2022 Legislative Session, no changes were made to the appropriation or allocation of the Year 1 Settlement funds, however, the following clarifying language was added by way of Session Law 2022-74:

- Funds allocated under Section 9G.10.(a) shall remain available for expenditure as specified until expended.

Section 9G.10.(c) of Session law 2021-180 requires that annually on September 1, NCDHHS shall report to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division on the expenditures made from the Fund during the preceding fiscal year. The report shall identify each expenditure and shall indicate the authority under this section for the expenditure.

Status of Activities

As required by SL 2021-180 Section 9G.10.(b), the Youth Electronic Nicotine Dependence Abatement Fund has been created within NCDHHS, DPH and is managed by the Tobacco Prevention and Control Branch in the Chronic Disease and Injury Section. In accordance with Section 9G.10.(b), NCDHHS, DPH completed the transfer of \$2,000,000 from the Youth Electronic Nicotine Dependence Abatement Fund to the Department of Justice to cover the costs of litigation incurred by the Office of the Attorney General with respect to the JLI Case.

Currently, the N.C Tobacco Prevention and Control Branch is working to obligate the Year 1 settlement funds for evidence-based tobacco use prevention and cessation, with an emphasis on reducing the e-cigarette epidemic among youth and young adults. New contracts are in process and no funds have been expended yet. This funding plan is focused on advancing health equity by identifying and eliminating commercial tobacco-product related inequities and disparities, primarily through policy, systems, and environmental change as follows:

Tobacco Cessation: \$4,400,000

- Contracting for public education and media campaign interventions to promote customized content. The contract is presently under review as part of NCDHHS's administrative process with a target execution date of September 1, 2022.
- Contracting to promote tobacco-free colleges and education at selected NC universities. The contract is presently under review as part of NCDHHS's administrative process with a target execution date of September 1, 2022.
- Contracting for a new peer-based virtual cessation group program for teens that are using e-cigarettes and other tobacco products and prefer to have peer-based social support for quitting tobacco. The contract is presently under review as part of NCDHHS's administrative process with a target execution date of September 1, 2022.
- Working with the NCDHHS's media contractor to promote and provide live coaching via texts messaging with teens to help them quit e-cigarettes. Promotions are targeted to begin early in the fourth quarter of 2022.

Tobacco Prevention: \$3,300,000

- Contracting for peer crowd media approaches to tobacco prevention tailored to North Carolina. The contract is under review as part of NCDHHS’s administrative process with a target execution date of September 1, 2022.

Data Monitoring and Independent Evaluation: \$1,100,000

- Working on plans and contracts for data monitoring and evaluation and providing additional support for the 2022 statewide Youth Tobacco Survey. A purchase request is under review as part of NCDHHS’s administrative process with targeted delivery by September 1, 2022.
- Working on planning and contracting for an independent program evaluation.

Staffing needs and Special Projects: \$2,200,000

- Working to establish and recruit three new staff positions: a policy development analyst, a youth tobacco treatment specialist, and a youth tobacco prevention specialist.
- Planning a statewide Request for Applications for Regional/Local Tobacco Prevention Youth Engagement grants. These two- or three-year period grants will focus on collaborative work with local organizations interested in supporting result-based and tailored interventions to reduce tobacco use, with an emphasis on e-cigarettes, among youth and young adults, to include, for example, community-based organizations, schools, colleges, and local public health departments.
- Working with the North Carolina Department of Justice on plans for a state university to create and implement a documents depository, in accordance with the final consent judgment resolving the JLI case. The depository will be created and utilized to house documents submitted by Juul Labs Incorporated to the State and will be available to the public for historic and research purposes.

Year 2 Settlement Funds

To date, the State has received Year 1 and Year 2 Settlement payments from JLI in accordance with the schedule established within the final consent judgement. The Year 2 Settlement funds in the amount of \$8 million were received from JLI by the State on June 28, 2022, however, they have not yet been appropriated. As required by Session Law 2021-180 Section 9G.10.(a), NCDHHS will not proceed with activities pertaining to the Year 2 Settlement funds until the General Assembly acts to appropriate these funds to NCDHHS.