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By: **Delegates Gordon and Conroy**  
Introduced and read first time: February 4, 1999  
Assigned to: Ways and Means

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A BILL ENTITLED

1 AN ACT concerning

2 **State Tobacco Tax - Developmental Disabilities - Waiting List Equity Fund**

3 FOR the purpose of altering the tobacco tax rate; altering a certain discount provision  
4 under the tobacco tax; requiring the Comptroller to distribute a portion of the  
5 tobacco tax revenues to the Waiting List Equity Fund for services from the  
6 Developmental Disabilities Administration in the Department of Health and  
7 Mental Hygiene; providing that moneys distributed to the Fund from the  
8 tobacco tax are supplemental and are not intended to take the place of funding  
9 that would otherwise be appropriated to provide services for developmentally  
10 disabled individuals; providing that the Fund may be used to provide services to  
11 certain individuals eligible to receive services from the Administration but not  
12 receiving services as of a certain date; providing for the application of this Act;  
13 and generally relating to an increase in the State tobacco tax rate and the  
14 dedication of certain tobacco tax revenues for certain purposes.

15 BY repealing and reenacting, with amendments,  
16 Article - Health - General  
17 Section 7-206  
18 Annotated Code of Maryland  
19 (1994 Replacement Volume and 1998 Supplement)

20 BY repealing and reenacting, with amendments,  
21 Article - Tax - General  
22 Section 2-1603, 12-105, and 12-303(b)  
23 Annotated Code of Maryland  
24 (1997 Replacement Volume and 1998 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
26 MARYLAND, That the Laws of Maryland read as follows:

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**Article - Health - General**

2 7-206.

3 (a) (1) There is a continuing, nonlapsing Waiting List Equity Fund in the  
4 Department of Health and Mental Hygiene.

5 (2) The purpose of the Waiting List Equity Fund is to ensure that:

6 (i) When individuals leave State residential centers, the net  
7 average cost of serving them in the State residential center, as defined in subsection  
8 (d)(2) of this section, shall follow them to community-based services; and

9 (ii) Any funds remaining after the individuals leaving State  
10 residential centers are served, are used to provide community-based services to  
11 individuals eligible for, but not receiving AS OF JULY 1, 1999, the community-based  
12 services listed in subsection (c) of this section.

13 (b) Subject to the appropriation process in the annual operating budget, the  
14 Department shall use the Waiting List Equity Fund for:

15 (1) Providing community-based services to each individual who leaves a  
16 State residential center on or after October 1, 1994; and

17 (2) Providing community-based services to individuals eligible for, but  
18 not receiving, services from the Developmental Disabilities Administration, with the  
19 funds remaining after each individual who leaves a State residential center on or  
20 after October 1, 1994 is served in the community.

21 (c) For individuals eligible for, but not receiving AS OF JULY 1, 1999, services  
22 from the Developmental Disabilities Administration in the Department, the Waiting  
23 List Equity Fund shall be used to provide:

24 (1) Individualized supported living arrangements services;

25 (2) Respite care;

26 (3) Individual and family support services;

27 (4) Supported employment; and

28 (5) Individualized community integration day services.

29 (d) (1) Subject to the appropriation process in the annual operating budget,  
30 the Waiting List Equity Fund shall consist of funds which are equal to the cost of  
31 providing services to an individual in a State residential center for each fiscal year, or  
32 part of a fiscal year, that the individual is no longer served in a State residential  
33 center and is provided community-based services as defined in paragraph (2) of this  
34 subsection.

1 (2) In determining funding for the Waiting List Equity Fund, the cost of  
2 providing services to an individual in a State residential center shall be calculated by:

3 (i) Dividing the State residential center's appropriation by the  
4 daily average census reported in the State residential center's annual operating  
5 budget for the last full fiscal year the individual was served in the State residential  
6 center prorated over the number of months the individual is served in the community;  
7 and

8 (ii) Subtracting the following:

9 1. The average annual itemized expenses associated with  
10 institutional services and administrative overhead costs that are demonstrated to be  
11 directly attributable to serving individuals remaining in the State residential center;

12 2. The cost for new admissions certified in accordance with  
13 the provisions of §§ 7-502 and 7-503 of this title;

14 3. The cost for respite care in accordance with § 7-509 of this  
15 title;

16 4. The cost for court-ordered commitments; and

17 5. Reimbursable federal revenues under TEFRA attributable  
18 to direct client costs.

19 (E) IN ADDITION TO FUNDING FOR THE WAITING LIST EQUITY FUND  
20 PROVIDED IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION, THE FUND  
21 SHALL CONSIST OF MONEYS DISTRIBUTED TO THE FUND FROM THE TOBACCO TAX  
22 UNDER § 2-1603 OF THE TAX - GENERAL ARTICLE.

23 [(e)] (F) (1) (i) The Department shall adopt regulations for the  
24 management and use of the money in the Fund.

25 (ii) The regulations shall authorize the use of money in the Fund to  
26 provide services to individuals:

27 1. Who are in crisis and need emergency services; and

28 2. Who are not in crisis and do not need emergency services.

29 (2) The Waiting List Equity Fund may not be used to supplant funds  
30 appropriated for:

31 (i) Emergency community placements; or

32 (ii) Transitioning students.

33 [(f)] (G) (1) On or before January 1 of each year the Secretary shall prepare  
34 a report to be submitted to the General Assembly and the Department of Legislative  
35 Services on the Waiting List Equity Fund.

- 1 (2) The report shall include:
- 2 (i) An accounting of all receipts and expenditures to and from the  
3 Fund;
- 4 (ii) The number of individuals who left and entered State  
5 residential centers during the previous year;
- 6 (iii) The number of additional persons who were on the waiting list  
7 for developmental disabilities services during the previous year; and
- 8 (iv) An accounting of each of the factors used in determining the  
9 cost of providing services to an individual in a State residential center in accordance  
10 with the provisions of subsection (d)(2) of this section.

11 [(g)] (H) Any unspent portions in the Waiting List Equity Fund and any  
12 interest earned on money in the Waiting List Equity Fund may not be transferred or  
13 revert to the General Fund of the State, but shall remain in the Waiting List Equity  
14 Fund to be used for the purposes specified in this section.

15 **Article - Tax - General**

16 2-1603.

17 (A) [After] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,  
18 AFTER making the distributions required under §§ 2-1601 and 2-1602 of this  
19 subtitle, the Comptroller shall distribute the remaining tobacco tax revenue to the  
20 General Fund of the State.

21 (B) (1) FOR EACH FISCAL YEAR, BEFORE MAKING THE DISTRIBUTION  
22 REQUIRED UNDER SUBSECTION (A) OF THIS SECTION, THE COMPTROLLER SHALL  
23 DISTRIBUTE TO THE WAITING LIST EQUITY FUND ESTABLISHED UNDER § 7-206 OF  
24 THE HEALTH - GENERAL ARTICLE 100% OF THE ADDITIONAL TOBACCO TAX  
25 REVENUES RESULTING FROM THE INCREASE IN THE TOBACCO TAX RATE UNDER  
26 CHAPTER \_\_\_\_\_ OF THE ACTS OF THE GENERAL ASSEMBLY OF 1999 (H.B. \_\_\_\_\_)  
27 (9LR1278), AS DETERMINED BY THE COMPTROLLER, INCLUDING THE REVENUES  
28 ATTRIBUTABLE TO THE "FLOOR TAX" REQUIREMENT UNDER SECTION 2 OF THAT ACT.

29 (2) MONEYS DISTRIBUTED TO THE WAITING LIST EQUITY FUND FROM  
30 THE TOBACCO TAX ARE SUPPLEMENTAL AND ARE NOT INTENDED TO TAKE THE  
31 PLACE OF FUNDING THAT WOULD OTHERWISE BE APPROPRIATED TO PROVIDE  
32 SERVICES FOR DEVELOPMENTALLY DISABLED INDIVIDUALS.

33 12-105.

34 The tobacco tax rate is:

- 35 (1) [18] 43 cents for each package of 10 or fewer cigarettes;

1 (2) [36] 86 cents for each package of at least 11 and not more than 20  
2 cigarettes;

3 (3) [1.8] 4.3 cents for each cigarette in a package of more than 20  
4 cigarettes; and

5 (4) [1.8] 4.3 cents for each cigarette in a package of free sample  
6 cigarettes.

7 12-303.

8 (b) The Comptroller shall allow a licensed wholesaler a discount of [1.36] .57%  
9 of the purchase price of tax stamps.

10 SECTION 2. AND BE IT FURTHER ENACTED, That all cigarettes used,  
11 possessed, or held in the State of Maryland shall be subject to the full tobacco tax  
12 imposed by this Act. This requirement includes: (1) cigarettes in vending machines or  
13 other mechanical dispensers; and (2) cigarettes (generally referred to as "floor stock")  
14 in packages which already bear stamps issued by the Comptroller under the State  
15 Tobacco Tax Act but for an amount less than the full tax imposed of 43 cents for each  
16 10 cigarettes or fractional part thereof; all cigarettes held for sale by any person in  
17 the State of Maryland on and after June 1, 1999 which bear a tax stamp issued by the  
18 Comptroller of a value less than 86 cents for each pack of 20 cigarettes must be  
19 stamped with the additional stamps necessary to make the aggregate tax value equal  
20 to 86 cents. In lieu of the additional stamps necessary to make the aggregate tax  
21 value equal to 86 cents, the Comptroller may provide an alternate method of  
22 collecting the additional tax. The revenue attributable to this requirement shall be  
23 remitted to the State Comptroller's Office by September 30, 1999. Except as provided  
24 above, on and after June 1, 1999, no Maryland stamp shall be used except the stamp  
25 issued by the Comptroller to evidence the tobacco tax of 86 cents imposed by this Act.

26 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
27 June 1, 1999.