

Senator Curtis S. Bramble proposes the following substitute bill:

ELECTRONIC CIGARETTE AND OTHER NICOTINE

PRODUCT TAX AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill modifies tax provisions in the Electronic Cigarette and Nicotine Product Taxation and Licensing Act.

Highlighted Provisions:

This bill:

- ▶ provides for proportional reductions in the amounts distributed from the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account (the account) if the revenue deposited into the account is insufficient to fund the statutory amounts;
- ▶ extends the use of the account revenue to include funding compliance personnel within the State Tax Commission; and
- ▶ requires the State Tax Commission to:
 - increase enforcement of the collection of the electronic cigarette and nicotine product tax;
 - conduct a study on enforcement and collection of the electronic cigarette and nicotine product tax; and
 - report the State Tax Commission's findings and recommendations to the Revenue and Taxation Interim Committee.



Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause

Utah Code Sections Affected:**AMENDS:****59-14-807**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20**ENACTS:****59-14-809**, Utah Code Annotated 1953**Utah Code Sections Affected by Coordination Clause:****59-14-807**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20**59-14-809**, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **59-14-807** is amended to read:**59-14-807. Electronic Cigarette Substance and Nicotine Product Tax Restricted Account.**

(1) There is created within the General Fund a restricted account known as the "Electronic Cigarette Substance and Nicotine Product Tax Restricted Account."

(2) The Electronic Cigarette Substance and Nicotine Product Tax Restricted Account consists of:

(a) ~~[revenues]~~ revenue collected from the tax imposed by Section **59-14-804**; and

(b) amounts appropriated by the Legislature.

(3) (a) For each fiscal year~~[-beginning with fiscal year 2021]~~, and subject to appropriation by the Legislature, the Division of Finance shall distribute from the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account:~~[(a)]~~ (i) \$2,000,000, which shall be allocated to the local health departments by the Department of Health using the formula created in accordance with Section **26A-1-116**;~~[(b)]~~ (ii) \$2,000,000 to the Department of Health for statewide cessation programs and prevention education;~~[(c)]~~ (iii) \$1,180,000 to the Department of Public Safety for law enforcement officers

aimed at disrupting organizations and networks that provide tobacco products, electronic cigarette products, nicotine products, and other illegal controlled substances to minors;

~~[(d)]~~ (iv) \$3,000,000, which shall be allocated to the local health departments by the Department of Health using the formula created in accordance with Section 26A-1-116;

~~[(e)]~~ (v) \$5,084,200 to the State Board of Education for school-based prevention programs; and

~~[(f)]~~ (vi) \$2,000,000 to the Department of Health for alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs that promote unified messages and make use of media outlets, including radio, newspaper, billboards, and television.

(b) If the amount in the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account is insufficient to cover the distributions described in Subsection (3)(a), the distribution amounts shall be adjusted proportionately.

(4) (a) The local health departments shall use the money received in accordance with Subsection (3)(a) for enforcing:

(i) the regulation provisions described in Section 26-57-103;

(ii) the labeling requirement described in Section 26-57-104; and

(iii) the penalty provisions described in Section 26-62-305.

(b) The Department of Health shall use the money received in accordance with Subsection ~~[(3)(b)]~~ (3)(a)(ii) for the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program created in Section 26-7-10.

(c) The local health departments shall use the money received in accordance with Subsection ~~[(3)(c)]~~ (3)(a)(iv) to issue grants under the Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program created in Section 26A-1-129.

(d) The State Board of Education shall use the money received in accordance with Subsection ~~[(3)(d)]~~ (3)(a)(v) to distribute to local education agencies to pay for:

(i) stipends for positive behaviors specialists as described in Subsection 53G-10-407(4)(a)(i);

(ii) the cost of administering the positive behaviors plan as described in Subsection 53G-10-407(4)(a)(ii); and

(iii) the cost of implementing an Underage Drinking and Substance Abuse Prevention Program in grade 4 or 5, as described in Subsection 53G-10-406(3)(b).

88 (5) (a) The fund shall earn interest.

89 (b) All interest earned on fund money shall be deposited into the fund.

90 (6) Subject to legislative appropriations, funds remaining in the Electronic Cigarette
91 Substance and Nicotine Product Tax Restricted Account after the distribution described in
92 Subsection (3) may only be used for:

93 (a) funding commission personnel to enforce compliance with the tax collection
94 requirements of this part; and

95 (b) programs and activities related to the prevention and cessation of electronic
96 cigarette, nicotine products, marijuana, and other drug use.

97 Section 2. Section **59-14-809** is enacted to read:

98 **59-14-809. Commission study on enforcement and collection of tax.**

99 (1) The commission shall:

100 (a) implement increased enforcement of the tax imposed by this part; and

101 (b) study issues related to increased enforcement and compliance with the requirements
102 of this part.

103 (2) The study shall include a review of:

104 (a) the impact of increased enforcement on collections of the tax imposed by this part;

105 (b) options for long-term funding of increased enforcement of the tax imposed by this
106 part;

107 (c) the sufficiency of collections of the tax imposed by this part to fund distributions
108 from the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account under
109 Section [59-14-807](#);

110 (d) impacts of a lack of federal regulation of electronic cigarettes on enforcement and
111 compliance efforts; and

112 (e) potential impacts on compliance of changing the incidence of taxation to a tax
113 imposed on the retail sale of an electronic cigarette substance or prefilled electronic cigarette.

114 (3) The commission shall annually report the commission's findings and
115 recommendations on the study items described in Subsections (2)(a) through (d) to the
116 Revenue and Taxation Interim Committee on or before the September interim meeting.

117 (4) The commission shall report the commission's findings and recommendations on
118 the study item described in Subsection (2)(e) to the Revenue and Taxation Interim Committee

119 on or before the September 2023 interim meeting.

120 **Section 3. Coordinating S.B. 263 with H.B. 460 -- Technical amendments.**

121 If this S.B. 263 and H.B. 460, Settlement Fund Amendments, both pass and become

122 law, it is the intent of the Legislature that the Office of Legislative Research and General

123 Counsel, in preparing the Utah Code database for publication:

124 (1) modify Subsection [59-14-807\(3\)\(b\)](#) in this S.B. 263 to read:

125 "(b) If the amount in the Electronic Cigarette Substance and Nicotine Product Proceeds

126 Restricted Account is insufficient to cover the distributions described in Subsection (3)(a), the

127 distribution amounts shall be adjusted proportionately."; and

128 (2) modify Subsection [59-14-809\(2\)\(c\)](#) in this S.B. 263 to read:

129 "(c) the sufficiency of collections of the tax imposed by this part to fund distributions

130 from the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account

131 under Section [59-14-807](#);".