LEGISLATIVE GENERAL COUNSEL
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S.B. 263
1st Sub. (Green)

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: ____________

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.

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Money Appropriated in this Bill:

None

Other Special Clauses:

None

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

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)(d)~~] (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)(e)~~] (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).

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

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

(6) Subject to legislative appropriations, funds remaining in the Electronic Cigarette

Substance and Nicotine Product Tax Restricted Account after the distribution described in Subsection (3) may only be used for:

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

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

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

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

(1) The commission shall:

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

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

(2) The study shall include a review of:

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

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

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

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

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

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

(4) The commission shall report the commission's findings and recommendations on the study item described in Subsection (2)(e) to the Revenue and Taxation Interim Committee on or before the September 2023 interim meeting.