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Be it enacted by the Legislature of the state of Utah:

Section 1. Section **59-14-204** is amended to read:

59-14-204. Tax basis -- Rate -- Future increase -- Restricted account -- Use of revenues.

(1) Except for cigarettes described under Subsection 59-14-210(3), there is levied a tax upon the sale, use, storage, or distribution of cigarettes in the state.

(2) The rates of the tax levied under Subsection (1) are:

(a) 3.475 cents on each cigarette, for all cigarettes weighing not more than three pounds per thousand cigarettes; and

(b) 4.075 cents on each cigarette, for all cigarettes weighing in excess of three pounds per thousand cigarettes.

(3) Except as otherwise provided under this chapter, the tax levied under Subsection (1) shall be paid by any person who is the manufacturer, jobber, importer, distributor, wholesaler, retailer, user, or consumer.

(4) The tax rates specified in this section shall be increased by the commission by the same amount as any future reduction in the federal excise tax on cigarettes.

(5) (a) There is created within the General Fund a restricted account known as the "Cigarette Tax Restricted Account."

(b) Beginning on July 1, 1998, \$250,000 of the revenues generated by the increase in the cigarette tax under this section enacted during the 1997 Annual General Session shall be annually deposited into the account.

(c) The Department of Health shall expend the funds deposited in the account under Subsection (5)(b) for a tobacco prevention and control media campaign targeted towards children.

(d) The following revenue generated from the tax increase imposed under Subsection (1) during the 2002 General Session shall be deposited in the Cigarette Tax Restricted Account:

58 (i) 22% of the revenue to be annually appropriated to the Department of Health for
59 tobacco prevention, reduction, cessation, and control programs;

60 (ii) 15% of the revenue to be annually appropriated to the University of Utah Health
61 Sciences Center for the Huntsman Cancer Institute for cancer research; and

62 (iii) 21% of the revenue to be annually appropriated to the University of Utah Health
63 Sciences Center for medical education at the University of Utah School of Medicine.

64 ~~[(e) Any balance remaining in the Cigarette Tax Restricted Account at the end of the~~
65 ~~fiscal year shall be appropriated during the next fiscal year for the purposes set forth in~~
66 ~~Subsections (5)(d)(i) through (5)(d)(iii) in proportion to the amount of revenue deposited into~~
67 ~~the account for each purpose.]~~

68 ~~[(f)]~~ (e) The Legislature shall give particular consideration to appropriating any
69 revenues resulting from the change in tax rates under Subsection (2) adopted during the 2002
70 Annual General Session and not otherwise appropriated pursuant to Subsection (5)(d) to
71 enhance Medicaid provider reimbursement rates and medical coverage for the uninsured.

72 ~~[(g)]~~ (f) Any program or entity that receives funding under Subsection (5)(d) shall
73 provide an annual report to the Health and Human Services Interim Committee no later than
74 September 1 of each year. The report shall include:

- 75 (i) the amount funded;
- 76 (ii) the amount expended;
- 77 (iii) a description of the effectiveness of the program; and
- 78 (iv) if the program is a tobacco cessation program, the report required in Section
79 51-9-203.

80 **Section 2. Effective date.**

81 This bill takes effect on July 1, 2010.

82 **Section 3. Coordinating S.B. 259 with H.B. 196 -- Substantive amendments.**

83 If this S.B. 259 and H.B. 196, Tobacco Tax Revisions, both pass, it is the intent of the
84 Legislature that:

85 (1) Section 59-14-204 shall be amended to read as follows:

86 "59-14-204. Tax basis -- Rate -- Future increase -- Restricted account -- Use of
87 revenues.

88 (1) Except for cigarettes described under Subsection 59-14-210(3), there is levied a
89 tax upon the sale, use, storage, or distribution of cigarettes in the state.

90 (2) The rates of the tax levied under Subsection (1) are, beginning on July 1, 2010:

91 (a) [~~3.475~~] 8.5 cents on each cigarette, for all cigarettes weighing not more than three
92 pounds per thousand cigarettes; and

93 (b) [~~4.075~~] 9.963 cents on each cigarette, for all cigarettes weighing in excess of three
94 pounds per thousand cigarettes.

95 (3) Except as otherwise provided under this chapter, the tax levied under Subsection
96 (1) shall be paid by any person who is the manufacturer, jobber, importer, distributor,
97 wholesaler, retailer, user, or consumer.

98 (4) The tax rates specified in this section shall be increased by the commission by the
99 same amount as any future reduction in the federal excise tax on cigarettes.

100 (5) (a) There is created within the General Fund a restricted account known as the
101 "Cigarette Tax Restricted Account."

102 (b) Beginning on July 1, 1998, \$250,000 of the revenues generated by the increase in
103 the cigarette tax under this section enacted during the 1997 Annual General Session shall be
104 annually deposited into the account.

105 (c) The Department of Health shall expend the funds deposited in the account under
106 Subsection (5)(b) for a tobacco prevention and control media campaign targeted towards
107 children.

108 (d) The following revenue generated from the tax increase imposed under Subsection
109 (1) during the 2002 General Session shall be deposited in the Cigarette Tax Restricted
110 Account:

111 (i) 22% of the revenue to be annually appropriated to the Department of Health for
112 tobacco prevention, reduction, cessation, and control programs;

113 (ii) 15% of the revenue to be annually appropriated to the University of Utah Health

114 Sciences Center for the Huntsman Cancer Institute for cancer research; and

115 (iii) 21% of the revenue to be annually appropriated to the University of Utah Health
116 Sciences Center for medical education at the University of Utah School of Medicine.

117 ~~[(e) Any balance remaining in the Cigarette Tax Restricted Account at the end of the~~
118 ~~fiscal year shall be appropriated during the next fiscal year for the purposes set forth in~~
119 ~~Subsections (5)(d)(i) through (5)(d)(iii) in proportion to the amount of revenue deposited into~~
120 ~~the account for each purpose.]~~

121 ~~[(f)]~~ (e) The Legislature shall give particular consideration to appropriating any
122 revenues resulting from the change in tax rates under Subsection (2) adopted during the 2002
123 Annual General Session and not otherwise appropriated pursuant to Subsection (5)(d) to
124 enhance Medicaid provider reimbursement rates and medical coverage for the uninsured.

125 ~~[(g)]~~ (f) Any program or entity that receives funding under Subsection (5)(d) shall
126 provide an annual report to the Health and Human Services Interim Committee no later than
127 September 1 of each year. The report shall include:

- 128 (i) the amount funded;
- 129 (ii) the amount expended;
- 130 (iii) a description of the effectiveness of the program; and
- 131 (iv) if the program is a tobacco cessation program, the report required in Section
132 51-9-203.";

133 (2) Section 59-14-215 shall be amended to read as follows:

134 **"59-14-215. Transitional inventory tax on cigarettes -- Penalties and interest for**
135 **failure to comply -- Credit or refund for outdated, unaffixed stamps.**

136 (1) In addition to the tax described in Section 59-14-204, there is imposed, beginning
137 on July 1, 2010, an inventory tax on all cigarettes subject to the tax described in Section
138 59-14-204, upon the sale, use, storage, or distribution of those cigarettes in the state, as
139 follows:

140 (a) the tax imposed in this section applies only to cigarettes sold, used, stored, or
141 distributed in the state on or after July 1, 2010:

142 (i) that have a stamp that reflects that the tax paid on those cigarettes was paid at the
143 tax rate imposed under Section 59-14-204 that was applicable on June 30, 2010; and

144 (ii) for which the tax imposed in this section has not been paid; and

145 (b) the tax imposed in this section is equal to the difference between:

146 (i) the tax imposed on those cigarettes under Section 59-14-204, beginning on July 1,
147 2010; and

148 (ii) the tax imposed on those cigarettes under Section 59-14-204 on or before June 30,
149 2010.

150 (2) Except as otherwise provided under this chapter, the tax imposed under this
151 section shall be paid by any person who is the manufacturer, jobber, importer, distributor,
152 wholesaler, or retailer.

153 (3) A person described in Subsection (2) shall remit the tax imposed in this section, on
154 a return prescribed by the commission, on or before July 31, 2010.

155 (4) Failure of a person to comply with the requirements of this section subjects the
156 person to the penalties and interest described in Sections 59-1-401 and 59-1-402.

157 (5) The commission may not waive the interest or penalties imposed on a person for
158 failure to comply with the requirements of this section.

159 (6) (a) Beginning on July 1, 2010, it is unlawful to affix a stamp to cigarettes that
160 reflects payment of the tax imposed under Section 59-14-204 at the rate that was applicable on
161 or before June 30, 2010.

162 (b) A person who violates Subsection (6)(a) may be required by the commission to pay
163 as part of the tax, and in addition to any other penalty provided in this chapter, a penalty of
164 \$25 for each offense, to be assessed and collected by the commission in accordance with
165 Chapter 1, Part 14, Assessment, Collections, and Refunds Act.

166 (c) A person who, on or after July 1, 2010, possesses tax stamps described in
167 Subsection (6)(a) may return the stamps to the commission for a credit or refund.";

168 (3) Section 59-14-302 shall be amended to read as follows:

169 **"59-14-302. Tax basis -- Rates.**

170 (1) As used in this section:

171 (a) "Manufacturer's sales price" means the amount the manufacturer of a tobacco
 172 product charges after subtracting a discount.

173 (b) "Manufacturer's sales price" includes an original Utah destination freight charge,
 174 regardless of:

175 (i) whether the tobacco product is shipped f.o.b. origin or f.o.b. destination; or
 176 (ii) who pays the original Utah destination freight charge.

177 (2) There is levied a tax upon the sale, use, or storage of tobacco products in the state.

178 (3) The tax levied under Subsection (2) shall be paid by the manufacturer, jobber,
 179 distributor, wholesaler, retailer, user, or consumer.

180 (4) The rate of the tax under this section is, beginning on July 1, 2010:

181 (a) for tobacco products except for moist snuff, [~~35% of~~] .86 multiplied by the
 182 manufacturer's sales price; [or] and

183 (b) subject to Subsection (5), for moist snuff, [~~\$.75~~] \$1.83 per ounce.

184 (5) (a) The tax under this section on moist snuff shall be imposed on the basis of the
 185 net weight of the moist snuff as listed by the manufacturer.

186 (b) If the net weight of moist snuff is in a quantity that is a fractional part of one
 187 ounce, a proportionate amount of the tax described in Subsection (4)(b) is imposed:

188 (i) on that fractional part of one ounce; and
 189 (ii) in accordance with rules made by the commission in accordance with Title 63G,
 190 Chapter 3, Utah Administrative Rulemaking Act.";

191 (4) Section 59-14-304 shall be amended to read as follows:

192 **"59-14-304. Transitional inventory tax on tobacco products -- Penalties and**
 193 **interest for failure to comply.**

194 (1) In addition to the tax described in Section 59-14-302, there is imposed, beginning
 195 on July 1, 2010, an inventory tax on all tobacco products subject to the tax described in
 196 Section 59-14-302, upon the sale, use, or storage of those tobacco products in the state, as
 197 follows:

198 (a) the tax imposed in this section applies only to tobacco products sold, used, or
199 stored in the state on or after July 1, 2010:
200 (i) for which the tax was paid at the tax rate imposed under Section 59-14-302 that
201 was applicable on June 30, 2010; and
202 (ii) for which the tax imposed in this section has not been paid; and
203 (b) the tax imposed in this section is equal to the difference between:
204 (i) the tax imposed on those tobacco products under Section 59-14-302, beginning on
205 July 1, 2010; and
206 (ii) the tax imposed on those tobacco products under Section 59-14-302 on or before
207 June 30, 2010.
208 (2) The tax imposed in this section shall be paid by the manufacturer, jobber,
209 distributor, wholesaler, or retailer.
210 (3) A person described in Subsection (2) shall remit the tax imposed in this section, in
211 a return prescribed by the commission, on or before July 31, 2010.
212 (4) Failure of a person to comply with the requirements of this section subjects the
213 person to the penalties and interest described in Sections 59-1-401 and 59-1-402.
214 (5) The commission may not waive the interest or penalties imposed on a person for
215 failure to comply with the requirements of this section.";
216 (5) the amendments to Section 63J-1-201 in H.B. 196, Tobacco Tax Revisions, do not
217 take effect;
218 (6) the effective date of H.B. 196 is July 1, 2010; and
219 (7) the Office of Legislative Research and General Counsel prepare the Utah Code
220 database for publication in accordance with Subsections (1) through (6) of this coordination
221 clause.