

Tyler Clancy proposes the following substitute bill:

Nicotine Product Tax Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Tyler Clancy

Senate Sponsor: Jerry W Stevenson

LONG TITLE

General Description:

This bill modifies provisions related to nicotine product taxes.

Highlighted Provisions:

This bill:

- increases the rate of the tax levied on cigarettes;
- replaces a weight-based tax rate for moist snuff and alternative nicotine products with a tax rate based on a percentage of the manufacturer's sales price;
- repeals provisions providing for a tax rate reduction for certain modified risk tobacco products;
- provides for an annual distribution of a portion of the money deposited into the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account to fund certain law enforcement officer positions;
- includes coordination clauses to incorporate changes made to Section 59-14-807 with changes made to that section in H.B. 229, Restricted Account Modifications, and S.B. 98, Substance Use Rehabilitation Amendments; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates \$2,000,000 in operating and capital budgets for fiscal year 2027, all of which is from the various sources as detailed in this bill.

Other Special Clauses:

This bill provides a special effective date.

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

59-14-204 (Effective 07/01/26), as last amended by Laws of Utah 2016, Chapter 168

29 **59-14-302 (Effective 07/01/26)**, as last amended by Laws of Utah 2020, Chapter 347
 30 **59-14-804 (Effective 07/01/26)**, as last amended by Laws of Utah 2023, Chapter 300
 31 **59-14-807 (Effective 07/01/26) (Partially Repealed 07/01/30)**, as last amended by Laws
 32 of Utah 2025, Chapters 173, 366

33 REPEALS:

34 **59-14-104 (Effective 07/01/26)**, as enacted by Laws of Utah 2020, Chapter 347

35 **Utah Code Sections affected by Coordination Clause:**

36 **59-14-807 (Effective 07/01/26) (Partially Repealed 07/01/30)**, as last amended by Laws
 37 of Utah 2025, Chapters 173, 366

38

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

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

41 **59-14-204 (Effective 07/01/26). Tax basis -- Rate -- Future increase -- Cigarette**
 42 **Tax Restricted Account -- Appropriation and expenditure of revenues.**

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

45 (2) The [~~rates of the tax levied under Subsection (1) are, beginning on July 1, 2010:~~] rate of
 46 the tax levied under Subsection (1) is 17.25 cents on each cigarette.

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

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

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

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

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

58 (b) The Cigarette Tax Restricted Account consists of:

59 (i) the first \$7,950,000 of the revenues collected from a tax under this section; and

60 (ii) any other appropriations the Legislature makes to the Cigarette Tax Restricted
 61 Account.

62 (c) For each fiscal year beginning with fiscal year 2011-12 and subject to appropriation

63 by the Legislature, the Division of Finance shall distribute money from the Cigarette
64 Tax Restricted Account as follows:

- 65 (i) \$250,000 to the Department of Health to be expended for a tobacco prevention
66 and control media campaign targeted towards children;
- 67 (ii) \$2,900,000 to the Department of Health to be expended for tobacco prevention,
68 reduction, cessation, and control programs;
- 69 (iii) \$2,000,000 to the University of Utah Health Sciences Center for the Huntsman
70 Cancer Institute to be expended for cancer research; and
- 71 (iv) \$2,800,000 to the University of Utah Health Sciences Center to be expended for
72 medical education at the University of Utah School of Medicine.
- 73 (d) In determining how to appropriate revenue deposited into the Cigarette Tax
74 Restricted Account that is not otherwise appropriated under Subsection (5)(c), the
75 Legislature shall give particular consideration to enhancing Medicaid provider
76 reimbursement rates and medical coverage for the uninsured.

77 Section 2. Section **59-14-302** is amended to read:

78 **59-14-302 (Effective 07/01/26). Tax basis -- Rates.**

- 79 (1) As used in this section:
- 80 (a) "Manufacturer's sales price" means the amount the manufacturer of a tobacco
81 product charges after subtracting a discount.
- 82 (b) "Manufacturer's sales price" includes an original Utah destination freight charge,
83 regardless of:
- 84 (i) whether the tobacco product is shipped f.o.b. origin or f.o.b. destination; or
85 (ii) who pays the original Utah destination freight charge.
- 86 (2) There is levied a tax upon the sale, use, or storage of tobacco products in the state.
- 87 (3)(a) Subject to Subsection (3)(b), the tax levied under Subsection (2) shall be paid by
88 the manufacturer, jobber, distributor, wholesaler, retailer, user, or consumer.
- 89 (b) The tax levied under Subsection (2) on a cigarette produced from a cigarette rolling
90 machine shall be paid by the cigarette rolling machine operator.
- 91 (4) For tobacco products except for~~moist snuff,~~ a little cigar~~;~~ or a cigarette produced
92 from a cigarette rolling machine, the amount of the tax under this section is .86
93 multiplied by the manufacturer's sales price.
- 94 ~~[(5)(a) Subject to Subsection (5)(b), the tax under this section on moist snuff is imposed:]~~
95 ~~[(i) at a rate of \$1.83 per ounce; and]~~
96 ~~[(ii) on the basis of the net weight of the moist snuff as listed by the manufacturer.]~~

97 ~~[(b) If the net weight of moist snuff is in a quantity that is a fractional part of one ounce,~~
 98 ~~a proportionate amount of the tax described in Subsection (5)(a) is imposed:]~~

99 ~~[(i) on that fractional part of one ounce; and]~~

100 ~~[(ii) in accordance with rules made by the commission in accordance with Title 63G,~~
 101 ~~Chapter 3, Utah Administrative Rulemaking Act.]~~

102 ~~[(6)]~~ (5)(a) A little cigar is taxed at the same tax rates as a cigarette is taxed under
 103 Subsection 59-14-204(2).

104 (b)(i) Subject to Subsection ~~[(6)(b)(ii)]~~ (5)(b)(ii), a cigarette produced from a cigarette
 105 rolling machine is taxed at the same tax rates as a cigarette is taxed under
 106 Subsection 59-14-204(2).

107 (ii) A tax under this Subsection ~~[(6)(b)]~~ (5)(b) is imposed on the date the cigarette is
 108 produced from the cigarette rolling machine.

109 ~~[(7)]~~ (6)(a) Moisture content of a tobacco product is determined at the time of packaging.

110 (b) A manufacturer who distributes a tobacco product in, or into, Utah, shall:

111 (i) for a period of three years after the last day on which the manufacturer distributes
 112 the tobacco product in, or into, Utah, keep valid scientific evidence of the
 113 moisture content of the tobacco product available for review by the commission,
 114 upon demand; and

115 (ii) provide a document, to the person described in Subsection (3) to whom the
 116 manufacturer distributes the tobacco product, that certifies the moisture content of
 117 the tobacco product, as verified by the scientific evidence described in Subsection [
 118 ~~(7)(b)(i)]~~ (6)(b)(i).

119 (c) A manufacturer who fails to comply with the requirements of Subsection ~~[(7)(b)]~~
 120 (6)(b) is liable for the nonpayment or underpayment of taxes on the tobacco product
 121 by a person who relies, in good faith, on the document described in Subsection [
 122 ~~(7)(b)(ii)]~~ (6)(b)(ii).

123 (d) A person described in Subsection (3) who is required to pay tax on a tobacco product:

124 (i) shall, for a period of three years after the last day on which the person pays the tax
 125 on the tobacco product, keep the document described in Subsection ~~[(7)(b)(ii)]~~
 126 (6)(b)(ii) available for review by the commission, upon demand; and

127 (ii) is not liable for nonpayment or underpayment of taxes on the tobacco product due
 128 to the person's good faith reliance on the document described in Subsection [
 129 ~~(7)(b)(ii)]~~ (6)(b)(ii).

130 Section 3. Section **59-14-804** is amended to read:

131 **59-14-804 (Effective 07/01/26). Taxation of electronic cigarette substance,**
132 **prefilled electronic cigarette, alternative nicotine product, nontherapeutic nicotine device**
133 **substance, and prefilled nontherapeutic nicotine device.**

134 (1)(a) Beginning on July 1, 2020, a tax is imposed upon the following:

- 135 (i) an electronic cigarette substance; and
- 136 (ii) a prefilled electronic cigarette.

137 (b) Beginning on July 1, 2021, a tax is imposed upon the following:

- 138 (i) a nontherapeutic nicotine device substance; and
- 139 (ii) a prefilled nontherapeutic nicotine device.

140 (c) Beginning on July 1, 2021, a tax is imposed upon an alternative nicotine product.

141 (2)[(a)] The amount of tax imposed under [~~Subsections (1)(a) and (b)~~] Subsection (1) is
142 .56 multiplied by the manufacturer's sales price.

143 [~~(b)(i) The tax under Subsection (1)(c) on an alternative nicotine product is imposed:]~~

144 [~~(A) at a rate of \$1.83 per ounce; and]~~

145 [~~(B) on the basis of the net weight of the alternative nicotine product as listed by~~
146 ~~the manufacturer.]~~

147 [(ii) If the net weight of the alternative nicotine product is in a quantity that is a
148 fractional part of one ounce, a proportionate amount of the tax described in
149 Subsection (2)(b)(i)(A) is imposed:]

150 [~~(A) on that fractional part of one ounce; and]~~

151 [~~(B) in accordance with rules made by the commission in accordance with Title~~
152 ~~63G, Chapter 3, Utah Administrative Rulemaking Act.]~~

153 (3) If a product is sold in the same package as a product that is taxed under Subsection (1),
154 the tax described in Subsection (2) shall apply to the wholesale manufacturer's sale price
155 of the entire packaged product.

156 (4)(a) A manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user shall
157 pay the tax levied under Subsection (1) at the time that an electronic cigarette
158 substance, a prefilled electronic cigarette, an alternative nicotine product, a
159 nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine
160 device is first received in the state.

161 (b) A manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user may not
162 resell an electronic cigarette substance, a prefilled electronic cigarette, an alternative
163 nicotine product, a nontherapeutic nicotine device substance, or a prefilled
164 nontherapeutic nicotine device to another distributor, another retailer, or a consumer

165 before paying the tax levied under Subsection (1).

166 (5)(a) The manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user shall
167 remit the taxes collected in accordance with this section to the commission.

168 (b) The commission shall deposit revenues generated by the tax imposed by this section
169 into the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted
170 Account created in Section 59-14-807.

171 *The following section is affected by a coordination clause at the end of this bill.*

172 Section 4. Section **59-14-807** is amended to read:

173 **59-14-807 (Effective 07/01/26) (Partially Repealed 07/01/30). Electronic**
174 **Cigarette Substance and Nicotine Product Proceeds Restricted Account.**

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

177 (2) The Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account
178 consists of:

179 (a) revenue collected from the tax imposed by Section 59-14-804;

180 (b) fees and penalties collected under Section 59-14-810;

181 (c) all money received by the attorney general or the Department of Commerce as a
182 result of any judgment, settlement, or compromise of claims pertaining to alleged
183 violations of law related to the manufacture, marketing, distribution, or sale of
184 electronic cigarette products, as defined in Section 76-9-1101:

185 (i) if the total amount of the judgment, settlement, or compromise received by the
186 state exceeds \$1,000,000; and

187 (ii) after reimbursement to the attorney general and the Department of Commerce for
188 expenses related to the matters described in this Subsection (2)(c); and

189 (d) amounts appropriated by the Legislature.

190 (3)(a) Subject to Subsections (3)(b) and (c), for each fiscal year and subject to
191 appropriation by the Legislature, the Division of Finance shall distribute from the
192 Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account:

193 (i) \$2,000,000 to the Department of Health and Human Services for enforcement
194 services aimed at disrupting organizations and networks that provide tobacco
195 products, electronic cigarette products, nicotine products, or other illegal
196 controlled substances to minors, which the Department of Health and Human
197 Services shall allocate to the local health departments using the formula created in
198 accordance with Section 26A-1-116;

- 199 (ii) \$1,180,000 to the Department of Public Safety for law enforcement officers
 200 aimed at disrupting organizations and networks that provide tobacco products,
 201 electronic cigarette products, nicotine products, and other illegal controlled
 202 substances to minors;
- 203 (iii) \$1,000,000 to the Department of Health and Human Services for enforcement
 204 services aimed at disrupting organizations and networks that provide tobacco
 205 products, electronic cigarette products, nicotine products, and other illegal
 206 controlled substances to minors;
- 207 (iv) \$3,000,000 to the Department of Health and Human Services for community
 208 partner prevention programs, which the Department of Health and Human
 209 Services shall allocate to the local health departments using the formula created in
 210 accordance with Section 26A-1-116;
- 211 (v) \$1,000,000 to the Department of Health and Human Services for statewide
 212 cessation programs and prevention education;
- 213 (vi) \$2,000,000 to the Department of Health and Human Services for alcohol,
 214 tobacco, and other drug prevention, reduction, cessation, and control programs
 215 that promote unified messages and make use of media outlets, including radio,
 216 newspaper, billboards, and television; ~~and~~
- 217 (vii) \$5,084,200 to the State Board of Education for school-based prevention
 218 programs~~[-]~~ ; and
- 219 (viii) \$2,000,000 to the Department of Public Safety, in addition to the distribution
 220 described in Subsection (3)(a)(ii), for law enforcement officers:
 221 (A) of the law enforcement agency of a city that is the seat of government for a
 222 county of the first class; and
 223 (B) aimed at disrupting organizations and networks that provide tobacco products,
 224 electronic cigarette products, nicotine products, and other illegal controlled
 225 substances to minors.
- 226 (b) If the amount in the Electronic Cigarette Substance and Nicotine Product Proceeds
 227 Restricted Account is insufficient to cover the distributions described in Subsection
 228 (3)(a), the Division of Finance shall make the distributions under Subsection (3)(a):
 229 (i) sequentially in the order of priority the distributions are listed under Subsection
 230 (3)(a);
 231 (ii) in full or, if insufficient funds are available to satisfy the next distribution in the
 232 sequence, in part; and

- 233 (iii) until the available funds in the Electronic Cigarette Substance and Nicotine
234 Product Proceeds Restricted Account are exhausted.
- 235 (c) For each fiscal year and subject to appropriation by the Legislature, the Division of
236 Finance shall distribute from the funds deposited under Section 59-14-810 into the
237 Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account:
- 238 (i) to the commission, in an amount equal to the amount necessary to create and
239 maintain the registry described in Section 59-14-810;
- 240 (ii) to the Department of Health and Human Services, in an amount necessary for
241 completing duties described in Section 59-14-810; and
- 242 (iii) to the Department of Health and Human Services, the remainder to be divided
243 among the local health departments for inspection and enforcement described in
244 Sections 26A-1-131 and 59-14-810.
- 245 (4)(a) The local health departments shall use the money received in accordance with
246 Subsection (3)(a) for enforcing:
- 247 (i) the regulation provisions described in Section 26B-7-505;
- 248 (ii) the labeling requirement described in Section 26B-7-505; and
- 249 (iii) the penalty provisions described in Section 26B-7-518.
- 250 (b) The Department of Health and Human Services shall use the money received in
251 accordance with Subsection (3)(a)(v) for the Youth Electronic Cigarette, Marijuana,
252 and Other Drug Prevention Program created in Section 26B-1-428.
- 253 (c) The local health departments shall use the money received in accordance with
254 Subsection (3)(a)(iv) to issue grants under the Electronic Cigarette, Marijuana, and
255 Other Drug Prevention Grant Program created in Section 26A-1-129.
- 256 (d) The State Board of Education shall use the money received in accordance with
257 Subsection (3)(a)(vii) to distribute to local education agencies to pay for:
- 258 (i)(A) stipends for positive behaviors specialists as described in Subsection
259 53G-10-407(4)(a)(i);
- 260 (B) the cost of administering the positive behaviors plan as described in
261 Subsection 53G-10-407(4)(a)(ii); and
- 262 (C) the cost of implementing an Underage Drinking and Substance Abuse
263 Prevention Program in grade 4 or 5, as described in Subsection
264 53G-10-406(3)(b); or
- 265 (ii) a comprehensive prevention plan, as that term is defined in Section 53F-2-525.
- 266 (e) The Department of Public Safety shall distribute the money received in accordance

267 with Subsection (3)(a)(viii) to the law enforcement agency of a city that is the seat of
 268 government for a county of the first class to fund 10 law enforcement officer
 269 positions responsible for conducting the operations described in Subsection
 270 (3)(a)(viii)(B).

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

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

273 (6) Subject to legislative appropriations, funds remaining in the Electronic Cigarette
 274 Substance and Nicotine Product Proceeds Restricted Account after the distribution
 275 described in Subsection (3) may only be used for:

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

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

280 **Section 5. Repealer.**

281 This bill repeals:

282 **Section 59-14-104, Rate reduction for modified risk tobacco products.**

283 **Section 6. FY 2027 Appropriations.**

284 The following sums of money are appropriated for the fiscal year beginning July 1,
 285 2026, and ending June 30, 2027. These are additions to amounts previously appropriated for
 286 fiscal year 2027.

287 **Subsection 6(a). Operating and Capital Budgets**

288 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the
 289 Legislature appropriates the following sums of money from the funds or accounts indicated for
 290 the use and support of the government of the state of Utah.

291 **ITEM 1 To Department of Public Safety - Programs & Operations**

292 From Electronic Cigarette Substance and Nicotine

293 Product Proceeds Restricted Account

2,000,000

294 Schedule of Programs:

295 Department Commissioner's Office

2,000,000

296 The Legislature intends that the appropriation
 297 under this item be used by the Department of Public
 298 Safety for the purpose described in Subsection
 299 59-14-807(4)(e).

300 **Section 7. Effective Date.**

301 This bill takes effect on July 1, 2026.

302 **Section 8. Coordinating H.B. 337 with H.B. 229.**

303 If H.B. 337, Nicotine Product Tax Amendments, and H.B. 229, Restricted Account

304 Modifications, both pass and become law, the Legislature intends that, on July 1, 2026,

305 Subsection 59-14-807(3)(a)(viii), enacted in H.B. 337, be amended to read:

306 "(viii) to the Department of Public Safety, in addition to the distribution described in

307 Subsection (3)(a)(ii), for law enforcement officers:

308 (A) of the law enforcement agency of a city that is the seat of government for a county of

309 the first class; and

310 (B) aimed at disrupting organizations and networks that provide tobacco products,

311 electronic cigarette products, nicotine products, and other illegal controlled substances to

312 minors."

313 **Section 9. Coordinating H.B. 337 with S.B. 98.**

314 If H.B. 337, Nicotine Product Tax Amendments, and S.B. 98, Substance Use

315 Rehabilitation Amendments, both pass and become law, the Legislature intends that, on July 1,

316 2026, Subsection 59-14-807(3)(a)(viii), enacted in S.B. 98, be renumbered to Subsection

317 59-14-807(3)(a)(ix).