

CIGARETTE TAX RESTRICTED ACCOUNT REVISIONS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Melvin R. Brown

LONG TITLE

General Description:

This bill amends provisions related to the Cigarette Tax Restricted Account.

Highlighted Provisions:

This bill:

- ▶ addresses funding for the Cigarette Tax Restricted Account;
- ▶ addresses the revenue to be deposited into the Cigarette Tax Restricted Account;
- ▶ addresses the expenditure of revenue from the Cigarette Tax Restricted Account;
- ▶ addresses budget considerations for the governor and the Legislature related to certain revenue deposited into the Cigarette Tax Restricted Account;
- ▶ adds the Cigarette Tax Restricted Account to the list of nonlapsing funds and accounts; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an effective date.

This bill provides for retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-14-204, as last amended by Laws of Utah 2010, Chapters 407, 415 and last amended



28 by Coordination Clause, Laws of Utah 2010, Chapter 407

29 **63J-1-201**, as last amended by Laws of Utah 2011, Chapters 334 and 378

30 **63J-1-201.7**, as enacted by Laws of Utah 2011, Chapter 378

31 **63J-1-602.3**, as last amended by Laws of Utah 2011, Chapters 30, 284, 294, 303, and

32 329



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

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

36 **59-14-204. Tax basis -- Rate -- Future increase -- Cigarette Tax Restricted**

37 **Account -- Appropriation of revenues.**

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

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

41 (a) 8.5 cents on each cigarette, for all cigarettes weighing not more than three pounds
42 per thousand cigarettes; and

43 (b) 9.963 cents on each cigarette, for all cigarettes weighing in excess of three pounds
44 per thousand cigarettes.

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

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

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

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

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

58 [~~(d) The following revenue generated from the tax increase imposed under Subsection~~

59 ~~(f) during the 2002 General Session shall be deposited in]~~

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

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

62 (ii) any other appropriations the Legislature makes to the Cigarette Tax Restricted

63 Account.

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

65 by the Legislature, the Division of Finance shall distribute money from the Cigarette Tax

66 Restricted Account as follows:

67 ~~[(i) 22% of the revenue to be annually appropriated]~~

68 (i) \$250,000 to the Department of Health to be expended for a tobacco prevention and

69 control media campaign targeted towards children;

70 (ii) \$2,900,000 to the Department of Health to be expended for tobacco prevention,

71 reduction, cessation, and control programs;

72 ~~[(ii) 15% of the revenue to be annually appropriated]~~

73 (iii) \$2,000,000 to the University of Utah Health Sciences Center for the Huntsman

74 Cancer Institute to be expended for cancer research; and

75 ~~[(iii) 21% of the revenue to be annually appropriated]~~

76 (iv) \$2,800,000 to the University of Utah Health Sciences Center to be expended for

77 medical education at the University of Utah School of Medicine.

78 ~~[(e) The] (d) In determining how to appropriate revenue deposited into the Cigarette~~

79 Tax Restricted Account that is not otherwise appropriated under Subsection (5)(c), the

80 Legislature shall give particular consideration to [appropriating any revenues resulting from the

81 change in tax rates under Subsection (2) adopted during the 2002 Annual General Session and

82 not otherwise appropriated pursuant to Subsection (5)(d) to enhance] enhancing Medicaid

83 provider reimbursement rates and medical coverage for the uninsured.

84 ~~[(f)] (e) Any program or entity that receives funding under Subsection (5)[(f)](c) shall~~

85 provide an annual report to the Health and Human Services Interim Committee no later than

86 September 1 of each year. The report shall include:

87 (i) the amount funded;

88 (ii) the amount expended;

89 (iii) a description of the effectiveness of the program; and

90 (iv) if the program is a tobacco cessation program, the report required in Section
91 51-9-203.

92 Section 2. Section **63J-1-201** is amended to read:

93 **63J-1-201. Governor's proposed budget to Legislature -- Contents -- Preparation**
94 **-- Appropriations based on current tax laws and not to exceed estimated revenues.**

95 (1) The governor shall deliver, not later than 30 days before the date the Legislature
96 convenes in the annual general session, a confidential draft copy of the governor's proposed
97 budget recommendations to the Office of the Legislative Fiscal Analyst according to the
98 requirements of this section.

99 (2) (a) When submitting a proposed budget, the governor shall, within the first three
100 days of the annual general session of the Legislature, submit to the presiding officer of each
101 house of the Legislature:

102 (i) a proposed budget for the ensuing fiscal year;

103 (ii) a schedule for all of the proposed changes to appropriations in the proposed budget,
104 with each change clearly itemized and classified; and

105 (iii) as applicable, a document showing proposed changes in estimated revenues that
106 are based on changes in state tax laws or rates.

107 (b) The proposed budget shall include:

108 (i) a projection of the total estimated revenues and appropriations for the next fiscal
109 year;

110 (ii) the source of changes to all direct, indirect, and in-kind matching funds for all
111 federal grants or assistance programs included in the budget;

112 (iii) a plan of proposed changes to appropriations and estimated revenues for the next
113 fiscal year that is based upon the current fiscal year state tax laws and rates;

114 (iv) an itemized estimate of the proposed changes to appropriations for:

115 (A) the Legislative Department as certified to the governor by the president of the
116 Senate and the speaker of the House;

117 (B) the Executive Department;

118 (C) the Judicial Department as certified to the governor by the state court
119 administrator;

120 (D) changes to salaries payable by the state under the Utah Constitution or under law

121 for lease agreements planned for the next fiscal year; and

122 (E) all other changes to ongoing or one-time appropriations, including dedicated
123 credits, restricted funds, nonlapsing balances, grants, and federal funds;

124 (v) for each line item, the average annual dollar amount of staff funding associated
125 with all positions that were vacant during the last fiscal year;

126 (vi) deficits or anticipated deficits;

127 (vii) the recommendations for each state agency for new full-time employees for the
128 next fiscal year, which shall also be provided to the State Building Board as required by
129 Subsection 63A-5-103(2);

130 (viii) any explanation that the governor may desire to make as to the important features
131 of the budget and any suggestion as to methods for the reduction of expenditures or increase of
132 the state's revenue; and

133 (ix) information detailing certain fee increases as required by Section 63J-1-504.

134 (3) For the purpose of preparing and reporting the proposed budget:

135 (a) The governor shall require the proper state officials, including all public and higher
136 education officials, all heads of executive and administrative departments and state institutions,
137 bureaus, boards, commissions, and agencies expending or supervising the expenditure of the
138 state money, and all institutions applying for state money and appropriations, to provide
139 itemized estimates of changes in revenues and appropriations.

140 (b) The governor may require the persons and entities subject to Subsection (3)(a) to
141 provide other information under these guidelines and at times as the governor may direct,
142 which may include a requirement for program productivity and performance measures, where
143 appropriate, with emphasis on outcome indicators.

144 (c) The governor may require representatives of public and higher education, state
145 departments and institutions, and other institutions or individuals applying for state
146 appropriations to attend budget meetings.

147 (4) In submitting the budgets for the Departments of Health and Human Services and
148 the Office of the Attorney General, the governor shall consider a separate recommendation in
149 the governor's budget for changes in funds to be contracted to:

150 (a) local mental health authorities under Section 62A-15-110;

151 (b) local substance abuse authorities under Section 62A-15-110;

152 (c) area agencies under Section 62A-3-104.2;
153 (d) programs administered directly by and for operation of the Divisions of Substance
154 Abuse and Mental Health and Aging and Adult Services;

155 (e) local health departments under Title 26A, Chapter 1, Local Health Departments;
156 and

157 (f) counties for the operation of Children's Justice Centers under Section 67-5b-102.

158 (5) (a) In making budget recommendations, the governor shall consider an amount
159 sufficient to grant the following entities the same percentage increase for wages and benefits
160 that the governor includes in the governor's budget for persons employed by the state:

161 (i) local health departments, local mental health authorities, local substance abuse
162 authorities, and area agencies;

163 (ii) local conservation districts and Utah Association of Conservation District
164 employees, as related to the budget for the Department of Agriculture; and

165 (iii) employees of corporations that provide direct services under contract with:

166 (A) the Utah State Office of Rehabilitation and the Division of Services for People
167 with Disabilities;

168 (B) the Division of Child and Family Services; and

169 (C) the Division of Juvenile Justice Services within the Department of Human
170 Services.

171 (b) If the governor does not include in the governor's budget an amount sufficient to
172 grant an increase for any entity described in Subsection (5)(a), the governor shall include a
173 message to the Legislature regarding the governor's reason for not including that amount.

174 (6) (a) The Families, Agencies, and Communities Together Council may propose a
175 budget recommendation to the governor for collaborative service delivery systems operated
176 under Section 63M-9-402, as provided under Subsection 63M-9-201(4)(e).

177 (b) The Legislature may, through a specific program schedule, designate funds
178 appropriated for collaborative service delivery systems operated under Section 63M-9-402.

179 (7) The governor shall include in the governor's budget the state's portion of the budget
180 for the Utah Communications Agency Network established in Title 63C, Chapter 7, Utah
181 Communications Agency Network Act.

182 (8) (a) The governor shall include a separate recommendation in the governor's budget

183 for funds to maintain the operation and administration of the Utah Comprehensive Health
184 Insurance Pool. In making the recommendation, the governor may consider:

185 (i) actuarial analysis of growth or decline in enrollment projected over a period of at
186 least three years;

187 (ii) actuarial analysis of the medical and pharmacy claims costs projected over a period
188 of at least three years;

189 (iii) the annual Medical Care Consumer Price Index;

190 (iv) the annual base budget for the pool established by the Commerce and Revenue
191 Appropriations Subcommittee for each fiscal year;

192 (v) the growth or decline in insurance premium taxes and fees collected by the State
193 Tax Commission and the Insurance Department; and

194 (vi) the availability of surplus General Fund revenue under Section 63J-1-312 and
195 Subsection 59-14-204(5)[~~(b)~~].

196 (b) In considering the factors in Subsections (8)(a)(i), (ii), and (iii), the governor may
197 consider the actuarial data and projections prepared for the board of the Utah Comprehensive
198 Health Insurance Pool as it develops the governor's financial statements and projections for
199 each fiscal year.

200 (9) (a) In submitting the budget for the Department of Public Safety, the governor shall
201 include a separate recommendation in the governor's budget for maintaining a sufficient
202 number of alcohol-related law enforcement officers to maintain the enforcement ratio equal to
203 or below the number specified in Subsection 32B-1-201(2).

204 (b) If the governor does not include in the governor's budget an amount sufficient to
205 maintain the number of alcohol-related law enforcement officers described in Subsection
206 (9)(a), the governor shall include a message to the Legislature regarding the governor's reason
207 for not including that amount.

208 (10) (a) The governor may revise all estimates, except those relating to the Legislative
209 Department, the Judicial Department, and those providing for the payment of principal and
210 interest to the state debt and for the salaries and expenditures specified by the Utah
211 Constitution or under the laws of the state.

212 (b) The estimate for the Judicial Department, as certified by the state court
213 administrator, shall also be included in the budget without revision, but the governor may make

214 separate recommendations on the estimate.

215 (11) The total appropriations requested for expenditures authorized by the budget may
216 not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing
217 fiscal year.

218 (12) If any item of the budget as enacted is held invalid upon any ground, the invalidity
219 does not affect the budget itself or any other item in it.

220 Section 3. Section **63J-1-201.7** is amended to read:

221 **63J-1-201.7. Legislative budget considerations -- Wage increases for certain**
222 **entities -- Comprehensive health insurance pool.**

223 (1) In adopting a budget for each fiscal year, the Legislature shall consider an amount
224 sufficient to grant local health departments, local mental health authorities, local substance
225 abuse authorities, area agencies on aging, conservation districts, and Utah Association of
226 Conservation District employees the same percentage increase for wages and benefits that is
227 included in the budget for persons employed by the state.

228 (2) (a) In adopting a budget each year for the Utah Comprehensive Health Insurance
229 Pool, the Legislature shall determine an amount that is sufficient to fund the pool for each
230 fiscal year.

231 (b) When making a determination under this Subsection (2), the Legislature shall
232 consider factors it determines are appropriate, which may include:

233 (i) actuarial analysis of growth or decline in enrollment projected over a period of at
234 least three years;

235 (ii) actuarial analysis of the medical and pharmacy claims costs projected over a period
236 of at least three years;

237 (iii) the annual Medical Care Consumer Price Index;

238 (iv) the annual base budget for the pool established by the Commerce and Revenue
239 Appropriations Subcommittee for each fiscal year;

240 (v) the growth or decline in insurance premium taxes and fees collected by the tax
241 commission and the insurance department from the previous fiscal year; and

242 (vi) the availability of surplus General Fund revenue under Section 63J-1-312 and
243 Subsection 59-14-204(5)(~~b~~).

244 (c) In considering the factors in Subsections (2)(b)(i), (ii), and (iii), the Legislature may

245 consider the actuarial data and projections prepared for the board of the Utah Comprehensive
246 Health Insurance Pool as it develops its financial statements and projections for each fiscal
247 year.

248 (d) The funds appropriated by the Legislature to fund the Utah Comprehensive Health
249 Insurance Pool as determined under this Subsection (2):

250 (i) shall be deposited into the fund established by Section 31A-29-120; and

251 (ii) are restricted and are to be used to maintain the operation, administration, and
252 management of the Utah Comprehensive Health Insurance Pool created by Section
253 31A-29-104.

254 Section 4. Section **63J-1-602.3** is amended to read:

255 **63J-1-602.3. List of nonlapsing funds and accounts -- Title 46 through Title 60.**

256 (1) Funding for the Search and Rescue Financial Assistance Program, as provided in
257 Section 53-2-107.

258 (2) Appropriations made to the Department of Public Safety from the Department of
259 Public Safety Restricted Account, as provided in Section 53-3-106.

260 (3) Appropriations to the Motorcycle Rider Education Program, as provided in Section
261 53-3-905.

262 (4) Appropriations from the DNA Specimen Restricted Account created in Section
263 53-10-407.

264 (5) The Canine Body Armor Restricted Account created in Section 53-16-201.

265 (6) Appropriations to the State Board of Education, as provided in Section
266 53A-17a-105.

267 (7) Certain funds appropriated from the Uniform School Fund to the State Board of
268 Education for new teacher bonus and performance-based compensation plans, as provided in
269 Section 53A-17a-148.

270 (8) Money received by the State Office of Rehabilitation for the sale of certain products
271 or services, as provided in Section 53A-24-105.

272 (9) Certain funds appropriated from the General Fund to the State Board of Regents for
273 teacher preparation programs, as provided in Section 53B-6-104.

274 (10) A certain portion of money collected for administrative costs under the School
275 Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

276 (11) Certain surcharges on residential and business telephone numbers imposed by the
277 Public Service Commission, as provided in Section 54-8b-10.

278 (12) Certain fines collected by the Division of Occupational and Professional Licensing
279 for violation of unlawful or unprofessional conduct that are used for education and enforcement
280 purposes, as provided in Section 58-17b-505.

281 (13) Certain fines collected by the Division of Occupational and Professional Licensing
282 for use in education and enforcement of the Security Personnel Licensing Act, as provided in
283 Section 58-63-103.

284 (14) Appropriations from the Relative Value Study Restricted Account created in
285 Section 59-9-105.

286 (15) The Cigarette Tax Restricted Account created in Section 59-14-204.

287 Section 5. **Effective date -- Retrospective Operation.**

288 (1) Subject to Subsection (2), this bill takes effect on May 8, 2012.

289 (2) This bill has retrospective operation to July 1, 2011.

Legislative Review Note
as of 2-3-12 11:29 AM

Office of Legislative Research and General Counsel