

Senator Lincoln Fillmore proposes the following substitute bill:

ELECTRONIC CIGARETTES IN SCHOOLS AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Susan Pulsipher

Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill addresses student use of alcohol, tobacco, electronic cigarette products, and other substances through education and prevention programs and discipline policies.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires local school boards to adopt discipline policies to address possession and use of electronic cigarette products on school grounds;
- ▶ renames the Underage Drinking Prevention Program the Underage Drinking and Substance Abuse Prevention Program;
- ▶ adds a requirement to teach a school-based prevention program for students in grade 4 or 5;
- ▶ adds a requirement to include education about the risks of electronic cigarette products in a school-based prevention program;
- ▶ requires schools to create a plan to address the causes of student use of tobacco, alcohol, electronic cigarette products, and controlled substances;
- ▶ creates a stipend for a specialist to administer the plan; and
- ▶ requires the state board to establish a library of best practices.



26 **Money Appropriated in this Bill:**

27 This bill appropriates:

- 28 ▶ to State Board of Education - State Administrative Office:
- 29 • from the Education Fund \$5,084,200.

30 **Other Special Clauses:**

31 This bill provides a special effective date.

32 This bill provides a coordination clause.

33 **Utah Code Sections Affected:**

34 AMENDS:

- 35 **53F-9-304**, as last amended by Laws of Utah 2019, Chapter 186
- 36 **53G-1-103**, as enacted by Laws of Utah 2018, Chapter 3
- 37 **53G-7-1202**, as last amended by Laws of Utah 2019, Chapters 150, 293, and 505
- 38 **53G-7-1205**, as last amended by Laws of Utah 2019, Chapters 150, 167, and 293
- 39 **53G-8-203**, as last amended by Laws of Utah 2019, Chapters 293 and 446
- 40 **53G-8-209**, as last amended by Laws of Utah 2019, Chapter 293
- 41 **53G-8-505**, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 42 **53G-8-508**, as last amended by Laws of Utah 2019, Chapter 293
- 43 **53G-10-405**, as last amended by Laws of Utah 2019, Chapter 293
- 44 **53G-10-406**, as last amended by Laws of Utah 2019, Chapter 293

45 ENACTS:

- 46 **53G-10-407**, Utah Code Annotated 1953

47 **Utah Code Sections Affected by Coordination Clause:**

- 48 **53G-1-103**, as enacted by Laws of Utah 2018, Chapter 3
- 49 **59-14-807**, Utah Code Annotated 1953

50 **Appropriation Affected by Coordination Clause:**

51 Uncodified Section 12, Appropriation



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

54 Section 1. Section **53F-9-304** is amended to read:

55 **53F-9-304. Underage Drinking and Substance Abuse Prevention Program**

56 **Restricted Account.**

57 (1) As used in this section, "account" means the Underage Drinking and Substance
58 Abuse Prevention Program Restricted Account created in this section.

59 (2) There is created within the Education Fund a restricted account known as the
60 "Underage Drinking and Substance Abuse Prevention Program Restricted Account."

61 (3) (a) Before the Department of Alcoholic Beverage Control deposits any portion of
62 the markup collected under Section 32B-2-304 into the Liquor Control Fund in accordance
63 with Section 32B-2-301, the Department of Alcoholic Beverage Control shall deposit into the
64 account:

65 (i) for the fiscal year that begins July 1, 2017, \$1,750,000; or

66 (ii) for each fiscal year that begins on or after July 1, 2018, an amount equal to the
67 amount that the Department of Alcoholic Beverage Control deposited into the account during
68 the preceding fiscal year increased or decreased by a percentage equal to the percentage
69 difference between the Consumer Price Index for the second preceding calendar year and the
70 Consumer Price Index for the preceding calendar year.

71 (b) For purposes of this Subsection (3), the Department of Alcoholic Beverage Control
72 shall calculate the Consumer Price Index in accordance with 26 U.S.C. Secs. 1(f)(4) and
73 1(f)(5).

74 (4) The account shall be funded:

75 (a) in accordance with Subsection (3);

76 (b) by appropriations made to the account by the Legislature; and

77 (c) by interest earned on money in the account.

78 (5) The state board shall use money in the account for the Underage Drinking and
79 Substance Abuse Prevention Program described in Section 53G-10-406.

80 Section 2. Section 53G-1-103 is amended to read:

81 **53G-1-103. Definitions.**

82 [Reserved]

83 As used in this title, "electronic cigarette product" means "electronic cigarette" as that
84 term is defined in Section 76-10-101.

85 Section 3. Section 53G-7-1202 is amended to read:

86 **53G-7-1202. School community councils -- Duties -- Composition -- Election**
87 **procedures and selection of members.**

88 (1) As used in this section:

89 (a) "Digital citizenship" means the norms of appropriate, responsible, and healthy
90 behavior related to technology use, including digital literacy, ethics, etiquette, and security.

91 (b) "Educator" means the same as that term is defined in Section 53E-6-102.

92 (c) (i) "Parent member" means a member of a school community council who is a
93 parent of a student who:

94 (A) is attending the school; or

95 (B) will be enrolled at the school during the parent's term of office.

96 (ii) "Parent member" may not include an educator who is employed at the school.

97 (d) "Safety principles" means safety principles that, when incorporated into programs
98 and resources, impact academic achievement by strengthening a safe and wholesome learning
99 environment, including continual efforts for safe technology utilization and digital citizenship.

100 (e) "School community council" means a council established at a district school in
101 accordance with this section.

102 (f) "School employee member" means a member of a school community council who is
103 a person employed at the school by the school or school district, including the principal.

104 (g) "School LAND Trust Program money" means money allocated to a school pursuant
105 to Section 53F-2-404.

106 (2) A district school, in consultation with the district school's local school board, shall
107 establish a school community council at the school building level for the purpose of:

108 (a) involving parents of students in decision making at the school level;

109 (b) improving the education of students;

110 (c) prudently expending School LAND Trust Program money for the improvement of
111 students' education through collaboration among parents, school employees, and the local
112 school board; and

113 (d) increasing public awareness of:

114 (i) school trust lands and related land policies;

115 (ii) management of the State School Fund established in Utah Constitution Article X,
116 Section V; and

117 (iii) educational excellence.

118 (3) (a) Except as provided in Subsection (3)(b), a school community council shall:

- 119 (i) create the School LAND Trust Program and LAND Trust plan in accordance with
120 Section [53G-7-1206](#);
- 121 (ii) advise and make recommendations to school and school district administrators and
122 the local school board regarding:
- 123 (A) the school and its programs;
- 124 (B) school district programs;
- 125 (C) a child access routing plan in accordance with Section [53G-4-402](#);
- 126 (D) safe technology utilization and digital citizenship; and
- 127 (E) other issues relating to the community environment for students;
- 128 (iii) provide for education and awareness on safe technology utilization and digital
129 citizenship that empowers:
- 130 (A) a student to make smart media and online choices; and
- 131 (B) a parent to know how to discuss safe technology use with the parent's child;
- 132 (iv) partner with the school's principal and other administrators to ensure that adequate
133 on and off campus Internet filtering is installed and consistently configured to prevent viewing
134 of harmful content by students and school personnel, in accordance with local school board
135 policy and Subsection [53G-7-216\(3\)](#); ~~and~~
- 136 (v) in accordance with state board rule regarding school community council
137 expenditures and funding limits:
- 138 (A) work with students, families, and educators to develop and incorporate safety
139 principles at the school; and
- 140 (B) hold at least an annual discussion with the school's principal and district
141 administrators regarding safety principles at the school and district level in order to coordinate
142 the school community council's effort to develop and incorporate safety principles at the
143 school[-]; and
- 144 (vi) provide input to the school's principal on a positive behaviors plan in accordance
145 with Section [53G-10-407](#).
- 146 (b) To fulfill the school community council's duties described in Subsections (3)(a)(iii)
147 and (iv), a school community council may:
- 148 (i) partner with one or more non-profit organizations; or
- 149 (ii) create a subcommittee.

150 (c) A school or school district administrator may not prohibit or discourage a school
151 community council from discussing issues, or offering advice or recommendations, regarding
152 the school and its programs, school district programs, the curriculum, or the community
153 environment for students.

154 (4) (a) Each school community council shall consist of school employee members and
155 parent members in accordance with this section.

156 (b) Except as provided in Subsection (4)(c) or (d):

157 (i) each school community council for a high school shall have six parent members and
158 four school employee members, including the principal; and

159 (ii) each school community council for a school other than a high school shall have
160 four parent members and two school employee members, including the principal.

161 (c) A school community council may determine the size of the school community
162 council by a majority vote of a quorum of the school community council provided that:

163 (i) the membership includes two or more parent members than the number of school
164 employee members; and

165 (ii) there are at least two school employee members on the school community council.

166 (d) (i) The number of parent members of a school community council who are not
167 educators employed by the school district shall exceed the number of parent members who are
168 educators employed by the school district.

169 (ii) If, after an election, the number of parent members who are not educators employed
170 by the school district does not exceed the number of parent members who are educators
171 employed by the school district, the parent members of the school community council shall
172 appoint one or more parent members to the school community council so that the number of
173 parent members who are not educators employed by the school district exceeds the number of
174 parent members who are educators employed by the school district.

175 (5) (a) Except as provided in Subsection (5)(f), a school employee member, other than
176 the principal, shall be elected by secret ballot by a majority vote of the school employees and
177 serve a two-year term. The principal shall serve as an ex officio member with full voting
178 privileges.

179 (b) (i) Except as provided in Subsection (5)(f), a parent member shall be elected by
180 secret ballot at an election held at the school by a majority vote of those voting at the election

181 and serve a two-year term.

182 (ii) (A) Except as provided in Subsection (5)(b)(ii)(B), only a parent of a student
183 attending the school may vote in, or run as a candidate in, the election under Subsection
184 (5)(b)(i).

185 (B) If an election is held in the spring, a parent of a student who will be attending the
186 school the following school year may vote in, and run as a candidate in, the election under
187 Subsection (5)(b)(i).

188 (iii) Any parent of a student who meets the qualifications of this section may file or
189 declare the parent's candidacy for election to a school community council.

190 (iv) (A) Subject to Subsections (5)(b)(iv)(B) and (5)(b)(iv)(C), a timeline for the
191 election of parent members of a school community council shall be established by a local
192 school board for the schools within the school district.

193 (B) An election for the parent members of a school community council shall be held
194 near the beginning of the school year or held in the spring and completed before the last week
195 of school.

196 (C) Each school shall establish a time period for the election of parent members of a
197 school community council under Subsection (5)(b)(iv)(B) that is consistent for at least a
198 four-year period.

199 (c) (i) At least 10 days before the date that voting commences for the elections held
200 under Subsections (5)(a) and (5)(b), the principal of the school, or the principal's designee,
201 shall provide notice to each school employee or parent of the opportunity to vote in, and run as
202 a candidate in, an election under this Subsection (5).

203 (ii) The notice shall include:

204 (A) the dates and times of the elections;

205 (B) a list of council positions that are up for election; and

206 (C) instructions for becoming a candidate for a community council position.

207 (iii) The principal of the school, or the principal's designee, shall oversee the elections
208 held under Subsections (5)(a) and (5)(b).

209 (iv) Ballots cast in an election held under Subsection (5)(b) shall be deposited in a
210 secure ballot box.

211 (d) Results of the elections held under Subsections (5)(a) and (5)(b) shall be made

212 available to the public upon request.

213 (e) (i) If a parent position on a school community council remains unfilled after an
214 election is held, the other parent members of the council shall appoint a parent who meets the
215 qualifications of this section to fill the position.

216 (ii) If a school employee position on a school community council remains unfilled after
217 an election is held, the other school employee members of the council shall appoint a school
218 employee to fill the position.

219 (iii) A member appointed to a school community council under Subsection (5)(e)(i) or
220 (ii) shall serve a two-year term.

221 (f) (i) If the number of candidates who file for a parent position or school employee
222 position on a school community council is less than or equal to the number of open positions,
223 an election is not required.

224 (ii) If an election is not held pursuant to Subsection (5)(f)(i) and a parent position
225 remains unfilled, the other parent members of the council shall appoint a parent who meets the
226 qualifications of this section to fill the position.

227 (iii) If an election is not held pursuant to Subsection (5)(f)(i) and a school employee
228 position remains unfilled, the other school employee members of the council shall appoint a
229 school employee who meets the qualifications of this section to fill the position.

230 (g) The principal shall enter the names of the council members on the School LAND
231 Trust website on or before October 20 of each year, pursuant to Section [53G-7-1203](#).

232 (h) Terms shall be staggered so that approximately half of the council members stand
233 for election each year.

234 (i) A school community council member may serve successive terms provided the
235 member continues to meet the definition of a parent member or school employee member as
236 specified in Subsection (1).

237 (j) Each school community council shall elect:

238 (i) a chair from its parent members; and

239 (ii) a vice chair from either its parent members or school employee members,
240 excluding the principal.

241 (6) (a) A school community council may create subcommittees or task forces to:

242 (i) advise or make recommendations to the council; or

243 (ii) develop all or part of a plan listed in Subsection (3).

244 (b) Any plan or part of a plan developed by a subcommittee or task force shall be
245 subject to the approval of the school community council.

246 (c) A school community council may appoint individuals who are not council members
247 to serve on a subcommittee or task force, including parents, school employees, or other
248 community members.

249 (7) (a) A majority of the members of a school community council is a quorum for the
250 transaction of business.

251 (b) The action of a majority of the members of a quorum is the action of the school
252 community council.

253 (8) A local school board shall provide training for a school community council each
254 year, including training:

255 (a) for the chair and vice chair about their responsibilities;

256 (b) on resources available on the School LAND Trust website; and

257 (c) on this part.

258 Section 4. Section **53G-7-1205** is amended to read:

259 **53G-7-1205. Charter trust land councils.**

260 (1) As used in this section, "council" means a charter trust land council described in
261 this section.

262 (2) To receive School LAND Trust Program funding as described in Sections
263 [53F-2-404](#) and [53G-7-1206](#), a charter school governing board shall establish a charter trust
264 land council, which shall prepare a plan for the use of School LAND Trust Program money that
265 includes the elements described in Subsection [53G-7-1206\(4\)](#).

266 (3) (a) The membership of the council shall include parents or grandparents of students
267 enrolled at the charter school and may include other members.

268 (b) The number of council members who are parents or grandparents of students
269 enrolled at the charter school shall exceed all other members combined by at least two.

270 (4) A charter school governing board may serve as the charter school's council if the
271 membership of the charter school governing board meets the requirements of Subsection (3)(b).

272 (5) (a) Except as provided in Subsection (5)(b), council members who are parents or
273 grandparents of students enrolled at the school shall be elected in accordance with procedures

274 established by the charter school governing board.

275 (b) Subsection (5)(a) does not apply to a charter school governing board that serves as
276 a council.

277 (6) A parent or grandparents of a student enrolled at a charter school shall serve as
278 chair or co-chair of the charter school's council.

279 (7) In accordance with state board rule regarding charter trust land council
280 expenditures and funding limits, a charter trust land council shall:

281 (a) work with students, families, and educators to develop and incorporate safety
282 principles, as defined in Section [53G-7-1202](#), at the school; and

283 (b) hold at least an annual discussion with charter school administrators to coordinate
284 efforts to develop and incorporate safety principles, as defined in Section [53G-7-1202](#), at the
285 school level.

286 (8) A charter trust land council shall provide input to the school's principal on a
287 positive behaviors plan in accordance with Section [53G-10-407](#).

288 Section 5. Section **53G-8-203** is amended to read:

289 **53G-8-203. Conduct and discipline policies and procedures.**

290 (1) The conduct and discipline policies required under Section [53G-8-202](#) shall
291 include:

292 (a) provisions governing student conduct, safety, and welfare;

293 (b) standards and procedures for dealing with students who cause disruption in the
294 classroom, on school grounds, on school vehicles, or in connection with school-related
295 activities or events;

296 (c) procedures for the development of remedial discipline plans for students who cause
297 a disruption at any of the places referred to in Subsection (1)(b);

298 (d) procedures for the use of reasonable and necessary physical restraint in dealing with
299 students posing a danger to themselves or others, consistent with Section [53G-8-302](#);

300 (e) standards and procedures for dealing with student conduct in locations other than
301 those referred to in Subsection (1)(b), if the conduct threatens harm or does harm to:

302 (i) the school;

303 (ii) school property;

304 (iii) a person associated with the school; or

- 305 (iv) property associated with a person described in Subsection (1)(e)(iii);
- 306 (f) procedures for the imposition of disciplinary sanctions, including suspension and
307 expulsion;
- 308 (g) specific provisions, consistent with Section 53E-3-509, for preventing and
309 responding to gang-related activities in the school, on school grounds, on school vehicles, or in
310 connection with school-related activities or events;
- 311 (h) standards and procedures for dealing with habitual disruptive or unsafe student
312 behavior in accordance with the provisions of this part; and
- 313 (i) procedures for responding to reports received through the SafeUT Crisis Line under
314 Subsection 53B-17-1202(3).
- 315 (2) (a) Each local school board shall establish a policy on detaining students after
316 regular school hours as a part of the district-wide discipline plan required under Section
317 53G-8-202.
- 318 (b) (i) The policy described in Subsection (2)(a) shall apply to elementary school
319 students, grades kindergarten through 6.
- 320 (ii) The local school board shall receive input from teachers, school administrators, and
321 parents of the affected students before adopting the policy.
- 322 (c) The policy described in Subsection (2)(a) shall provide for:
- 323 (i) notice to the parent of a student prior to holding the student after school on a
324 particular day; and
- 325 (ii) exceptions to the notice provision if detention is necessary for the student's health
326 or safety.
- 327 (3) (a) Each LEA shall adopt a policy for responding to possession or use of electronic
328 cigarette products by a student on school property.
- 329 (b) The policy described in Subsection (3)(a) shall:
- 330 (i) prohibit students from possessing or using electronic cigarette products on school
331 property;
- 332 (ii) include policies or procedures for the confiscation or surrender of electronic
333 cigarette products; and
- 334 (iii) require a school administrator or school administrator's designee to dispose of or
335 destroy a confiscated electronic cigarette product.

336 (c) Notwithstanding Subsection (3)(b)(iii), an LEA may release a confiscated electronic
337 cigarette product to local law enforcement if:

338 (i) a school official has a reasonable suspicion that a confiscated electronic cigarette
339 product contains an illegal substance; and

340 (ii) local law enforcement requests that the LEA release the confiscated electronic
341 cigarette product to local law enforcement as part of an investigation or action.

342 Section 6. Section **53G-8-209** is amended to read:

343 **53G-8-209. Extracurricular activities -- Prohibited conduct -- Reporting of**
344 **violations -- Limitation of liability.**

345 (1) The Legislature recognizes that:

346 (a) participation in student government and extracurricular activities may confer
347 important educational and lifetime benefits upon students, and encourages school districts and
348 charter schools to provide a variety of opportunities for all students to participate in such
349 activities in meaningful ways;

350 (b) there is no constitutional right to participate in these types of activities, and does
351 not through this section or any other provision of law create such a right;

352 (c) students who participate in student government and extracurricular activities,
353 particularly competitive athletics, and the adult coaches, advisors, and assistants who direct
354 those activities, become role models for others in the school and community;

355 (d) these individuals often play major roles in establishing standards of acceptable
356 behavior in the school and community, and establishing and maintaining the reputation of the
357 school and the level of community confidence and support afforded the school; and

358 (e) it is of the utmost importance that those involved in student government, whether as
359 officers or advisors, and those involved in competitive athletics and related activities, whether
360 students or staff, comply with all applicable laws and standards of behavior and conduct
361 themselves at all times in a manner befitting their positions and responsibilities.

362 (2) (a) The state board may, and local school boards and charter school governing
363 boards shall, adopt rules or policies implementing this section that apply to both students and
364 staff.

365 (b) The rules or policies described in Subsection (2)(a) shall include prohibitions
366 against the following types of conduct in accordance with Section **53G-8-211**, while in the

367 classroom, on school property, during school sponsored activities, or regardless of the location
368 or circumstance, affecting a person or property described in Subsections 53G-8-203(1)(e)(i)
369 through (iv):

370 (i) use of foul, abusive, or profane language while engaged in school related activities;

371 (ii) illicit use, possession, or distribution of controlled substances or drug
372 paraphernalia, and the use, possession, or distribution of an electronic cigarette [~~as defined in~~
373 ~~Section 76-10-101~~] product, tobacco, or alcoholic beverages contrary to law; and

374 (iii) hazing, demeaning, or assaultive behavior, whether consensual or not, including
375 behavior involving physical violence, restraint, improper touching, or inappropriate exposure
376 of body parts not normally exposed in public settings, forced ingestion of any substance, or any
377 act which would constitute a crime against a person or public order under Utah law.

378 (3) (a) School employees who reasonably believe that a violation of this section may
379 have occurred shall immediately report that belief to the school principal, district
380 superintendent, or chief administrative officer of a charter school.

381 (b) Principals who receive a report under Subsection (3)(a) shall submit a report of the
382 alleged incident, and actions taken in response, to the district superintendent or the
383 superintendent's designee within 10 working days after receipt of the report.

384 (c) Failure of a person holding a professional certificate to report as required under this
385 Subsection (3) constitutes an unprofessional practice.

386 (4) Limitations of liability set forth under Section 53G-8-405 apply to this section.

387 Section 7. Section 53G-8-505 is amended to read:

388 **53G-8-505. Definitions.**

389 For purposes of Sections 53G-8-506 through 53G-8-509:

390 (1) The definitions in Sections 58-37-2, 58-37a-3, and 58-37b-2 apply to Sections
391 53G-8-506 through 53G-8-509.

392 (2) "Prohibited act" means:

393 (a) an act punishable under Section 53G-8-602, Section 58-37-8, Section 58-37a-5, or
394 Title 58, Chapter 37b, Imitation Controlled Substances Act[-]; or

395 (b) possession of an electronic cigarette product by a student on school property.

396 (3) "School" means a public or private elementary or secondary school.

397 Section 8. Section 53G-8-508 is amended to read:

398 **53G-8-508. Admissibility of evidence in civil and criminal actions.**

399 (1) Evidence relating to a violation of Section [53G-8-505](#), [53G-8-506](#), [53G-8-507](#), or
400 [53G-8-509](#), which is seized by school authorities acting alone, on their own authority, and not
401 in conjunction with or at the behest of law enforcement authorities is admissible in civil and
402 criminal actions.

403 (2) An LEA shall dispose of or destroy seized electronic cigarette products in
404 accordance with the LEA's policies adopted under Subsection [53G-8-203](#)(3).

405 ~~[(2)]~~ (3) A search under this section must be based on at least a reasonable belief that
406 the search will turn up evidence of a violation of this part. The measures adopted for the search
407 must be reasonably related to the objectives of the search and not excessively intrusive in light
408 of the circumstances, including the age and sex of the person involved and the nature of the
409 infraction.

410 Section 9. Section **53G-10-405** is amended to read:

411 **53G-10-405. Instruction on the harmful effects of alcohol, tobacco, electronic**
412 **cigarette products, and controlled substances -- Rulemaking authority -- Assistance from**
413 **the Division of Substance Abuse and Mental Health.**

414 (1) The state board shall adopt rules providing for instruction at each grade level on the
415 harmful effects of alcohol, tobacco, electronic cigarette products, and controlled substances
416 upon the human body and society. The rules shall require ~~[but are not limited to]~~ instruction on
417 the following:

418 (a) teaching of skills needed to evaluate advertisements for, and media portrayal of,
419 alcohol, tobacco, electronic cigarette products, and controlled substances;

420 (b) directing students towards healthy and productive alternatives to the use of alcohol,
421 tobacco, electronic cigarette products, and controlled substances; and

422 (c) discouraging the use of alcohol, tobacco, electronic cigarette products, and
423 controlled substances.

424 (2) At the request of the state board, the Division of Substance Abuse and Mental
425 Health shall cooperate with the state board in developing programs to provide this instruction.

426 (3) The state board shall participate in efforts to enhance communication among
427 community organizations and state agencies, and shall cooperate with those entities in efforts
428 which are compatible with the purposes of this section.

429 (4) The state board shall establish a library of documented best practices and resources
430 for alcohol, tobacco, and electronic cigarette product cessation interventions for use by local
431 school districts.

432 Section 10. Section **53G-10-406** is amended to read:

433 **53G-10-406. Underage Drinking and Substance Abuse Prevention Program --**
434 **State board rules.**

435 (1) As used in this section:

436 (a) "Advisory council" means the Underage Drinking and Substance Abuse Prevention
437 Program Advisory Council created in this section.

438 (b) "Program" means the Underage Drinking and Substance Abuse Prevention Program
439 created in this section.

440 (c) "School-based prevention program" means an evidence-based program [~~intended~~
441 ~~for students aged 13 and older~~] that:

442 (i) is aimed at preventing underage consumption of alcohol and underage use of
443 electronic cigarette products;

444 (ii) is delivered by methods that engage students in storytelling and visualization;

445 (iii) addresses the behavioral risk factors associated with underage drinking and use of
446 electronic cigarette products; and

447 (iv) provides practical tools to address the dangers of underage drinking and use of
448 electronic cigarette products.

449 (2) There is created the Underage Drinking and Substance Abuse Prevention Program
450 that consists of:

451 (a) a school-based prevention program for students in grade 4 or 5;

452 [~~(a)~~] (b) a school-based prevention program for students in grade 7 or 8; and

453 [~~(b)~~] (c) a school-based prevention program for students in grade 9 or 10 that increases
454 awareness of the dangers of driving under the influence of alcohol.

455 (3) (a) Beginning with the 2018-19 school year, an LEA shall offer the program each
456 school year to each student in grade 7 or 8 and grade 9 or 10.

457 (b) In addition to Subsection (3)(a), beginning with the 2020-21 school year, an LEA
458 shall offer the program each school year to each student in grade 4 or 5.

459 [~~(b)~~] (c) An LEA shall select from the providers qualified by the state board under

460 Subsection (6) to offer the program.

461 (4) The state board shall administer the program with input from the advisory council.

462 (5) There is created the Underage Drinking and Substance Abuse Prevention Program

463 Advisory Council comprised of the following members:

464 (a) the executive director of the Department of Alcoholic Beverage Control or the
465 executive director's designee;

466 (b) the executive director of the Department of Health or the executive director's
467 designee;

468 (c) the director of the Division of Substance Abuse and Mental Health or the director's
469 designee;

470 (d) the director of the Division of Child and Family Services or the director's designee;

471 (e) the director of the Division of Juvenile Justice Services or the director's designee;

472 (f) the state superintendent or the state superintendent's designee; and

473 (g) two members of the state board, appointed by the chair of the state board.

474 (6) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state
475 board shall qualify one or more providers to provide the program to an LEA.

476 (b) In selecting a provider described in Subsection (6)(a), the state board shall consider:

477 (i) whether the provider's program complies with the requirements described in this
478 section;

479 (ii) the extent to which the provider's [~~underage drinking~~] prevention program aligns
480 with core standards for Utah public schools; and

481 (iii) the provider's experience in providing a program that is effective[~~at reducing~~
482 ~~underage drinking~~].

483 (7) (a) The state board shall use money from the Underage Drinking and Substance
484 Abuse Prevention Program Restricted Account described in Section [53F-9-304](#) for the
485 program.

486 (b) The state board may use money from the Underage Drinking Prevention Program
487 Restricted Account to fund up to .5 of a full-time equivalent position to administer the
488 program.

489 (8) The state board shall make rules that:

490 (a) beginning with the 2018-19 school year, require an LEA to offer the Underage

491 Drinking and Substance Abuse Prevention Program each school year to each student in grade 7
492 or 8 and grade 9 or 10; [~~and~~]

493 (b) beginning with the 2020-21 school year, require an LEA to offer the Underage
494 Drinking and Substance Abuse Prevention Program each school year to each student in grade 4
495 or 5; and

496 [~~(b)~~] (c) establish criteria for the state board to use in selecting a provider described in
497 Subsection (6).

498 Section 11. Section **53G-10-407** is enacted to read:

499 **53G-10-407. Positive behaviors plan -- Positive behaviors specialist stipend --**
500 **Reports.**

501 (1) As used in this section:

502 (a) "Positive behaviors plan" means a plan to address the causes of student use of
503 tobacco, alcohol, electronic cigarette products, and other controlled substances through
504 promoting positive behaviors.

505 (b) "Positive behaviors specialist" means an individual designated to administer a
506 positive behaviors plan.

507 (2) (a) A school principal shall:

508 (i) create a positive behaviors plan based on the input of students, parents, and staff;
509 and

510 (ii) submit the positive behaviors plan to the LEA governing board for approval.

511 (b) A positive behaviors plan shall address issues including peer pressure, mental
512 health, and creating meaningful relationships.

513 (c) A positive behaviors plan may include programs, clubs, service opportunities, and
514 pro-social activities.

515 (3) Each LEA shall designate one or more employees as a positive behaviors specialist
516 for each school to administer the positive behaviors plan.

517 (4) (a) The state board shall distribute annually to each school:

518 (i) \$3,000 as a stipend for the positive behaviors specialists; and

519 (ii) \$1,000 to administer the positive behaviors plan.

520 (b) Notwithstanding Subsection (4)(a), if funding is insufficient to cover the costs
521 associated with stipends, the state board may reduce the amount of the stipend.

522 (5) (a) A positive behaviors specialist shall annually submit a written report to the LEA
523 governing board detailing how the positive behaviors plan was implemented in the prior year.

524 (b) An LEA governing board shall submit an annual report to the state board
525 confirming that each school under the governing board's jurisdiction has an approved positive
526 behaviors plan.

527 **Section 12. Appropriation.**

528 The following sums of money are appropriated for the fiscal year beginning July 1,
529 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for
530 fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
531 Act, the Legislature appropriates the following sums of money from the funds or accounts
532 indicated for the use and support of the government of the state of Utah.

533 ITEM 1

534 To State Board of Education - State Administrative Office

535 From Education Fund \$5,084,200

536 Schedule of Programs:

537 Student Support \$5,084,200

538 The Legislature intends that:

539 (1) the State Board of Education use up to \$4,000,000 of the appropriation under this
540 section to pay for stipends for positive behaviors specialists as described in Subsection
541 53G-10-407(4)(a)(i); and

542 (2) the State Board of Education use \$300,000 for the cost of administering the positive
543 behaviors plan as described in Subsection 53G-10-407(4)(a)(ii); and

544 (3) the State Board of Education use \$784,200 for the cost of qualifying one or more
545 providers as described in Subsection 53G-10-406(6) to add an Underage Drinking and
546 Substance Abuse Prevention Program for grades 4 and 5, as described in Subsection
547 53G-10-406(3)(b).

548 **Section 13. Effective date.**

549 (1) Except as provided in Subsection (2), if approved by two-thirds of all the members
550 elected to each house, this bill takes effect upon approval of the governor, or the day following
551 the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's
552 signature, or in the case of a veto, the date of veto override.

553 (2) The following sections take effect on May 12, 2020:

554 (a) the amendments to Sections [53F-9-304](#), [53G-7-1202](#), [53G-7-1205](#), [53G-10-405](#),
555 and [53G-10-406](#); and

556 (b) the enactment of Section [53G-10-407](#).

557 Section 14. **Coordinating H.B. 58 with S.B. 37 -- Substantive and technical**
558 **amendments.**

559 If this H.B. 58 and S.B. 37, Electronic Cigarette and Other Nicotine Product
560 Amendments, both pass and become law, the Legislature intends that:

561 (1) the Office of Legislative Research and General Counsel, in preparing the Utah
562 Code database for publication, modify Section [53G-1-103](#) to read:

563 "As used in this title, "electronic cigarette product" means the same as that term is
564 defined in Section [76-10-101](#).";

565 (2) the Office of Legislative Research and General Counsel, in preparing the Utah
566 Code database for publication, modify Subsections 59-14-807(3) and (4) to read:

567 "(3) For each fiscal year, beginning with fiscal year 2021, and subject to appropriation
568 by the Legislature, the Division of Finance shall distribute from the Electronic Cigarette
569 Substance and Nicotine Product Tax Restricted Account:

570 (a) \$2,000,000 which shall be allocated to the local health departments by the
571 Department of Health using the formula created in accordance with Section [26A-1-116](#);

572 (b) \$2,000,000 to the Department of Health for statewide cessation programs and
573 prevention education;

574 (c) \$1,180,000 to the Department of Public Safety for law enforcement officers aimed
575 at disrupting organizations and networks that provide tobacco products, electronic cigarette
576 products, nicotine products, and other illegal controlled substances to minors;

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

579 (e) \$5,084,200 to the State Board of Education for school-based prevention programs.

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

582 (i) the regulation provisions described in Section [26-57-103](#);

583 (ii) the labeling requirement described in Section [26-57-104](#); and

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

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

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

591 (d) The State Board of Education shall use the money received in accordance with
592 Subsection (3)(e) to pay for:

593 (i) stipends for positive behaviors specialists as described in Subsection
594 53G-10-407(4)(a)(i);

595 (ii) the cost of administering the positive behaviors plan as described in Subsection
596 53G-10-407(4)(a)(ii); and

597 (iii) the cost of implementing an Underage Drinking and Substance Abuse Prevention
598 Program for grades 4 and 5, as described in Subsection 53G-10-406(3)(b)."; and

599 (3) Item 1 of the appropriation in H.B. 58, Uncodified Section 12, Appropriation, be
600 modified to read:

601 "ITEM 1

602 To State Board of Education - State Administrative Office

603 From Electronic Cigarette Substance and Nicotine

604 Product Tax Restricted Account

\$5,084,200

605 Schedule of Programs:

606 Student Support

\$5,084,200

607 The Legislature intends that:

608 (1) the State Board of Education use up to \$4,000,000 of the appropriation under this
609 section to pay for stipends for positive behaviors specialists as described in Subsection
610 53G-10-407(4)(a)(i);

611 (2) the State Board of Education use \$300,000 for the cost of administering the positive
612 behaviors plan as described in Subsection 53G-10-407(4)(a)(ii); and

613 (3) the State Board of Education use \$784,200 for the cost of qualifying one or more
614 providers as described in Subsection 53G-10-406(6) to add an Underage Drinking and

615 Substance Abuse Prevention Program for grades 4 and 5, as described in Subsection
616 [53G-10-406\(3\)\(b\).](#)".