

SETTLEMENT FUND AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Raymond P. Ward

Senate Sponsor: Jen Plumb

LONG TITLE

General Description:

This bill addresses the state's proceeds from certain settlement agreements related to electronic cigarette products.

Highlighted Provisions:

This bill:

- ▶ renames the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account to the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account;
- ▶ specifies that proceeds from certain settlements regarding the manufacture, marketing, distribution, or sale of electronic cigarette products be deposited into the restricted account amended in this bill; and
- ▶ makes technical and corresponding changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-7-10, as last amended by Laws of Utah 2022, Chapter 255

59-14-804, as enacted by Laws of Utah 2020, Chapter 347

59-14-807, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20

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

Section 1. Section **26-7-10** is amended to read:

26-7-10. Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program.

(1) As used in this section:

(a) "Committee" means the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee created in Section [26B-1-204](#).

(b) "Program" means the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program created in this section.

(2) (a) There is created within the department the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program.

(b) In consultation with the committee, the department shall:

(i) establish guidelines for the use of funds appropriated to the program;

(ii) ensure that guidelines developed under Subsection (2)(b)(i) are evidence-based and appropriate for the population targeted by the program; and

(iii) subject to appropriations from the Legislature, fund statewide initiatives to prevent use of electronic cigarettes, nicotine products, marijuana, and other drugs by youth.

(3) (a) The committee shall advise the department on:

(i) preventing use of electronic cigarettes, marijuana, and other drugs by youth in the state;

(ii) developing the guidelines described in Subsection (2)(b)(i); and

(iii) implementing the provisions of the program.

(b) The executive director shall:

(i) appoint members of the committee; and

(ii) consult with the Utah Substance Use and Mental Health Advisory Council created in Section [63M-7-301](#) when making the appointments under Subsection (3)(b)(i).

(c) The committee shall include, at a minimum:

(i) the executive director of a local health department as defined in Section [26A-1-102](#),

or the local health department executive director's designee;

(ii) one designee from the department;

(iii) one representative from the Department of Public Safety;

(iv) one representative from the behavioral health community; and

(v) one representative from the education community.

(d) A member of the committee may not receive compensation or benefits for the member's service on the committee, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(e) The department shall provide staff support to the committee.

(4) On or before October 31 of each year, the department shall report to:

(a) the Health and Human Services Interim Committee regarding:

(i) the use of funds appropriated to the program;

(ii) the impact and results of the program, including the effectiveness of each program funded under Subsection (2)(b)(iii), during the previous fiscal year;

(iii) a summary of the impacts and results on reducing youth use of electronic cigarettes and nicotine products by entities represented by members of the committee, including those entities who receive funding through the Electronic Cigarette Substance and Nicotine Product [Tax] Proceeds Restricted Account created in Section 59-14-807; and

(iv) any recommendations for legislation; and

(b) the Utah Substance Use and Mental Health Advisory Council created in Section 63M-7-301, regarding:

(i) the effectiveness of each program funded under Subsection (2)(b)(iii) in preventing youth use of electronic cigarettes, nicotine products, marijuana, and other drugs; and

(ii) any collaborative efforts and partnerships established by the program with public and private entities to prevent youth use of electronic cigarettes, marijuana, and other drugs.

86 Section 2. Section **59-14-804** is amended to read:

87 **59-14-804. Taxation of electronic cigarette substance, prefilled electronic**
88 **cigarette, alternative nicotine product, nontherapeutic nicotine device substance, and**
89 **prefilled nontherapeutic nicotine device.**

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

91 (i) an electronic cigarette substance; and

92 (ii) a prefilled electronic cigarette.

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

94 (i) a nontherapeutic nicotine device substance; and

95 (ii) a prefilled nontherapeutic nicotine device.

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

97 (2) (a) The amount of tax imposed under Subsections (1)(a) and (b) is .56 multiplied by
98 the manufacturer's sales price.

99 (b) (i) The tax under Subsection (1)(c) on an alternative nicotine product is imposed:

100 (A) at a rate of \$1.83 per ounce; and

101 (B) on the basis of the net weight of the alternative nicotine product as listed by the
102 manufacturer.

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

106 (A) on that fractional part of one ounce; and

107 (B) in accordance with rules made by the commission in accordance with Title 63G,
108 Chapter 3, Utah Administrative Rulemaking Act.

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

112 (4) (a) A manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user shall
113 pay the tax levied under Subsection (1) at the time that an electronic cigarette substance, a

prefilled electronic cigarette, an alternative nicotine product, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device is first received in the state.

(b) A manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user may not resell an electronic cigarette substance, a prefilled electronic cigarette, an alternative nicotine product, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device to another distributor, another retailer, or a consumer before paying the tax levied under Subsection (1).

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

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

Section 3. Section 59-14-807 is amended to read:

59-14-807. Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account.

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

(2) The Electronic Cigarette Substance and Nicotine Product [~~Tax~~] Proceeds Restricted Account consists of:

(a) revenues collected from the tax imposed by Section 59-14-804; [~~and~~]

(b) all money received by the attorney general or the Department of Commerce as a result of any judgment, settlement, or compromise of claims pertaining to alleged violations of law related to the manufacture, marketing, distribution, or sale of electronic cigarette products, as defined in Section 76-10-101:

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

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

142 ~~[(b)]~~ (c) amounts appropriated by the Legislature.

143 (3) For each fiscal year, beginning with fiscal year 2021, and subject to appropriation
144 by the Legislature, the Division of Finance shall distribute from the Electronic Cigarette
145 Substance and Nicotine Product ~~[Tax]~~ Proceeds Restricted Account:

146 (a) \$2,000,000 which shall be allocated to the local health departments by the
147 Department of Health and Human Services using the formula created in accordance with
148 Section 26A-1-116;

149 (b) \$2,000,000 to the Department of Health and Human Services for statewide
150 cessation programs and prevention education;

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

154 (d) \$3,000,000 which shall be allocated to the local health departments by the
155 Department of Health and Human Services using the formula created in accordance with
156 Section 26A-1-116;

157 (e) \$5,084,200 to the State Board of Education for school-based prevention programs;
158 and

159 (f) \$2,000,000 to the Department of Health and Human Services for alcohol, tobacco,
160 and other drug prevention, reduction, cessation, and control programs that promote unified
161 messages and make use of media outlets, including radio, newspaper, billboards, and
162 television.

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

165 (i) the regulation provisions described in Section 26-57-103;

166 (ii) the labeling requirement described in Section 26-57-104; and

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

168 (b) The Department of Health and Human Services shall use the money received in
169 accordance with Subsection (3)(b) for the Youth Electronic Cigarette, Marijuana, and Other

170 Drug Prevention Program created in Section 26-7-10.

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

174 (d) The State Board of Education shall use the money received in accordance with
175 Subsection (3)(e) to distribute to local education agencies to pay for:

176 (i) stipends for positive behaviors specialists as described in Subsection
177 53G-10-407(4)(a)(i);

178 (ii) the cost of administering the positive behaviors plan as described in Subsection
179 53G-10-407(4)(a)(ii); and

180 (iii) the cost of implementing an Underage Drinking and Substance Abuse Prevention
181 Program in grade 4 or 5, as described in Subsection 53G-10-406(3)(b).

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

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

184 (6) Subject to legislative appropriations, funds remaining in the Electronic Cigarette
185 Substance and Nicotine Product [~~Tax~~] Proceeds Restricted Account after the distribution
186 described in Subsection (3) may only be used for programs and activities related to the
187 prevention and cessation of electronic cigarette, nicotine products, marijuana, and other drug
188 use.