

**ELECTRONIC CIGARETTES IN SCHOOLS AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Susan Pulsipher**

Senate Sponsor: Lincoln Fillmore

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**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.

**Money Appropriated in this Bill:**

This bill appropriates:

- ▶ 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 \$4,300,000 of the appropriation under this  
540 section to distribute to local education agencies to pay for stipends for positive behaviors  
541 specialists and to administer school-level positive behaviors plans as described in Subsection

542 53G-10-407(4)(a); and

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

547 Section 13. **Effective date.**

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

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

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

555 (b) the enactment of Section 53G-10-407.

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

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

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

562 "As used in this title, "electronic cigarette product" means the same as that term is  
563 defined in Section 76-10-101.";

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

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

569           (a) \$2,000,000 which shall be allocated to the local health departments by the  
570 Department of Health using the formula created in accordance with Section [26A-1-116](#);  
571           (b) \$2,000,000 to the Department of Health for statewide cessation programs and  
572 prevention education;  
573           (c) \$1,180,000 to the Department of Public Safety for law enforcement officers aimed  
574 at disrupting organizations and networks that provide tobacco products, electronic cigarette  
575 products, nicotine products, and other illegal controlled substances to minors;  
576           (d) \$3,000,000 which shall be allocated to the local health departments by the  
577 Department of Health using the formula created in accordance with Section [26A-1-116](#); and  
578           (e) \$5,084,200 to the State Board of Education for school-based prevention programs.  
579           (4) (a) The local health departments shall use the money received in accordance with  
580 Subsection (3)(a) for enforcing:  
581           (i) the regulation provisions described in Section [26-57-103](#);  
582           (ii) the labeling requirement described in Section [26-57-104](#); and  
583           (iii) the penalty provisions described in Section [26-62-305](#).  
584           (b) The Department of Health shall use the money received in accordance with  
585 Subsection (3)(b) for the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention  
586 Program created in Section [26-7-10](#).  
587           (c) The local health departments shall use the money received in accordance with  
588 Subsection (3)(d) to issue grants under the Electronic Cigarette, Marijuana, and Other Drug  
589 Prevention Grant Program created in Section [26A-1-129](#).  
590           (d) The State Board of Education shall use the money received in accordance with  
591 Subsection (3)(e) to distribute to local education agencies to pay for:  
592           (i) stipends for positive behaviors specialists as described in Subsection  
593 [53G-10-407\(4\)\(a\)\(i\)](#);  
594           (ii) the cost of administering the positive behaviors plan as described in Subsection  
595 [53G-10-407\(4\)\(a\)\(ii\)](#); and

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

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

600 "ITEM 1

601 To State Board of Education - State Administrative Office

602 From Electronic Cigarette Substance and Nicotine

603 Product Tax Restricted Account \$5,084,200

604 Schedule of Programs:

605 Student Support \$5,084,200

606 The Legislature intends that:

607 (1) the State Board of Education use up to \$4,300,000 of the appropriation under this  
608 section to distribute to local education agencies to pay for stipends for positive behaviors  
609 specialists and to administer school-level positive behaviors plans as described in Subsection  
610 53G-10-407(4)(a); and

611 (2) the State Board of Education use \$784,200 for the cost of qualifying one or more  
612 providers as described in Subsection 53G-10-406(6) to add an Underage Drinking and  
613 Substance Abuse Prevention Program in grade 4 or 5, as described in Subsection  
614 53G-10-406(3)(b).".