

CIGARETTE TAX RESTRICTED ACCOUNT REVISIONS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Melvin R. Brown

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an effective date.

This bill provides for retrospective operation.

Utah Code Sections Affected:

AMENDS:

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

30 **63J-1-201**, as last amended by Laws of Utah 2011, Chapters 334 and 378
 31 **63J-1-201.7**, as enacted by Laws of Utah 2011, Chapter 378
 32 **63J-1-602.3**, as last amended by Laws of Utah 2011, Chapters 30, 284, 294, 303, and
 33 329

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

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

37 **59-14-204. Tax basis -- Rate -- Future increase -- Cigarette Tax Restricted**
 38 **Account -- Appropriation and expenditure of revenues.**

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

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

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

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

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

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

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

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

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

58 children.]

59 ~~[(d) The following revenue generated from the tax increase imposed under Subsection~~
60 ~~(1) during the 2002 General Session shall be deposited in]~~

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

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

63 (ii) any other appropriations the Legislature makes to the Cigarette Tax Restricted
64 Account.

65 (c) For each fiscal year beginning with fiscal year 2011-12 and subject to appropriation
66 by the Legislature, the Division of Finance shall distribute money from the Cigarette Tax
67 Restricted Account as follows:

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

69 (i) \$250,000 to the Department of Health to be expended for a tobacco prevention and
70 control media campaign targeted towards children;

71 (ii) \$2,900,000 to the Department of Health to be expended for tobacco prevention,
72 reduction, cessation, and control programs;

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

74 (iii) \$2,000,000 to the University of Utah Health Sciences Center for the Huntsman
75 Cancer Institute to be expended for cancer research; and

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

77 (iv) \$2,800,000 to the University of Utah Health Sciences Center to be expended for
78 medical education at the University of Utah School of Medicine.

79 ~~[(e) The]~~ (d) In determining how to appropriate revenue deposited into the Cigarette
80 Tax Restricted Account that is not otherwise appropriated under Subsection (5)(c), the
81 Legislature shall give particular consideration to [appropriating any revenues resulting from the
82 change in tax rates under Subsection (2) adopted during the 2002 Annual General Session and
83 not otherwise appropriated pursuant to Subsection (5)(d) to enhance] enhancing Medicaid
84 provider reimbursement rates and medical coverage for the uninsured.

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

86 provide an annual report to the Health and Human Services Interim Committee no later that
87 September 1 of each year. The report shall include:

- 88 (i) the amount funded;
- 89 (ii) the amount expended;
- 90 (iii) a description of the effectiveness of the program; and
- 91 (iv) if the program is a tobacco cessation program, the report required in Section
92 51-9-203.

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

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

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

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

- 103 (i) a proposed budget for the ensuing fiscal year;
- 104 (ii) a schedule for all of the proposed changes to appropriations in the proposed budget,
105 with each change clearly itemized and classified; and
- 106 (iii) as applicable, a document showing proposed changes in estimated revenues that
107 are based on changes in state tax laws or rates.

108 (b) The proposed budget shall include:

- 109 (i) a projection of the total estimated revenues and appropriations for the next fiscal
110 year;
- 111 (ii) the source of changes to all direct, indirect, and in-kind matching funds for all
112 federal grants or assistance programs included in the budget;
- 113 (iii) a plan of proposed changes to appropriations and estimated revenues for the next

114 fiscal year that is based upon the current fiscal year state tax laws and rates;

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

116 (A) the Legislative Department as certified to the governor by the president of the

117 Senate and the speaker of the House;

118 (B) the Executive Department;

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

120 administrator;

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

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

123 (E) all other changes to ongoing or one-time appropriations, including dedicated

124 credits, restricted funds, nonlapsing balances, grants, and federal funds;

125 (v) for each line item, the average annual dollar amount of staff funding associated

126 with all positions that were vacant during the last fiscal year;

127 (vi) deficits or anticipated deficits;

128 (vii) the recommendations for each state agency for new full-time employees for the

129 next fiscal year, which shall also be provided to the State Building Board as required by

130 Subsection 63A-5-103(2);

131 (viii) any explanation that the governor may desire to make as to the important features

132 of the budget and any suggestion as to methods for the reduction of expenditures or increase of

133 the state's revenue; and

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

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

136 (a) The governor shall require the proper state officials, including all public and higher

137 education officials, all heads of executive and administrative departments and state institutions,

138 bureaus, boards, commissions, and agencies expending or supervising the expenditure of the

139 state money, and all institutions applying for state money and appropriations, to provide

140 itemized estimates of changes in revenues and appropriations.

141 (b) The governor may require the persons and entities subject to Subsection (3)(a) to

142 provide other information under these guidelines and at times as the governor may direct,
143 which may include a requirement for program productivity and performance measures, where
144 appropriate, with emphasis on outcome indicators.

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

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

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

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

153 (c) area agencies under Section 62A-3-104.2;

154 (d) programs administered directly by and for operation of the Divisions of Substance
155 Abuse and Mental Health and Aging and Adult Services;

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

157 and

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

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

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

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

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

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

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

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

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

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

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

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

183 (8) (a) The governor shall include a separate recommendation in the governor's budget
184 for funds to maintain the operation and administration of the Utah Comprehensive Health
185 Insurance Pool. In making the recommendation, the governor may consider:

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

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

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

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

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

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

197 (b) In considering the factors in Subsections (8)(a)(i), (ii), and (iii), the governor may

198 consider the actuarial data and projections prepared for the board of the Utah Comprehensive
199 Health Insurance Pool as it develops the governor's financial statements and projections for
200 each fiscal year.

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

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

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

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

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

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

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

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

224 (1) In adopting a budget for each fiscal year, the Legislature shall consider an amount
225 sufficient to grant local health departments, local mental health authorities, local substance

226 abuse authorities, area agencies on aging, conservation districts, and Utah Association of
227 Conservation District employees the same percentage increase for wages and benefits that is
228 included in the budget for persons employed by the state.

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

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

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

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

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

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

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

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

245 (c) In considering the factors in Subsections (2)(b)(i), (ii), and (iii), the Legislature may
246 consider the actuarial data and projections prepared for the board of the Utah Comprehensive
247 Health Insurance Pool as it develops its financial statements and projections for each fiscal
248 year.

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

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

252 (ii) are restricted and are to be used to maintain the operation, administration, and
253 management of the Utah Comprehensive Health Insurance Pool created by Section

254 31A-29-104.

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

256 **63J-1-602.3. List of nonlapsing funds and accounts -- Title 46 through Title 60.**

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

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

261 (3) Appropriations to the Motorcycle Rider Education Program, as provided in Section
262 53-3-905.

263 (4) Appropriations from the DNA Specimen Restricted Account created in Section
264 53-10-407.

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

266 (6) Appropriations to the State Board of Education, as provided in Section
267 53A-17a-105.

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

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

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

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

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

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

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

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

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

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

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

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