

59-14-204. Tax basis -- Rate -- Future increase -- Restricted account -- Use of revenues.

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

(2) The rates of the tax levied under Subsection (1) are:

(a) 3.475 cents on each cigarette, for all cigarettes weighing not more than three pounds per thousand cigarettes; and

(b) 4.075 cents on each cigarette, for all cigarettes weighing in excess of three pounds per thousand cigarettes.

(3) The tax levied under Subsection (1) shall be paid by the manufacturer, jobber, distributor, wholesaler, retailer, user, or consumer.

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

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

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

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

(d) The following revenue generated from the tax increase imposed under Subsection (1) during the 2002 General Session shall be deposited in the Cigarette Tax Restricted Account:

(i) 22% of the revenue to be annually appropriated to the Department of Health for tobacco prevention, reduction, cessation, and control programs;

(ii) 15% of the revenue to be annually appropriated to the University of Utah Health Sciences Center for the Huntsman Cancer Institute for cancer research; and

(iii) 21% of the revenue to be annually appropriated to the University of Utah Health Sciences Center for medical education at the University of Utah School of Medicine.

(e) Any balance remaining in the Cigarette Tax Restricted Account at the end of the fiscal year shall be appropriated during the next fiscal year for the purposes set forth in Subsections (5)(d)(i) through (5)(d)(iii) in proportion to the amount of revenue deposited into the account for each purpose.

(f) The Legislature shall give particular consideration to appropriating any revenues resulting from the change in tax rates under Subsection (2) adopted during the 2002 Annual General Session and not otherwise appropriated pursuant to Subsection (5)(d) to enhance Medicaid provider reimbursement rates and medical coverage for the uninsured.

(g) Any program or entity that receives funding under Subsection (5)(d) shall provide an annual report to the Health and Human Services Interim Committee no later than September 1 of each year. The report shall include:

(i) the amount funded;

(ii) the amount expended;

- (iii) a description of the effectiveness of the program; and
- (iv) if the program is a tobacco cessation program, the report required in Section 63-97-401.

63-97-201. Creation of Tobacco Settlement Restricted Account.

- (1) There is created within the General Fund a restricted account known as the "Tobacco Settlement Restricted Account."
- (2) The account shall earn interest.
- (3) The account shall consist of:
 - (a) until July 1, 2003, 50% of all funds of every kind that are received by the state that are related to the settlement agreement that the state entered into with leading tobacco manufacturers on November 23, 1998;
 - (b) on and after July 1, 2003 and until July 1, 2004, 80% of all funds of every kind that are received by the state that are related to the settlement agreement that the state entered into with leading tobacco manufacturers on November 23, 1998;
 - (c) on and after July 1, 2004 and until July 1, 2007, 50% of all funds of every kind that are received by the state that are related to the settlement agreement that the state entered into with leading tobacco manufacturers on November 23, 1998;
 - (d) on and after July 1, 2007, 40% of all funds of every kind that are received by the state that are related to the settlement agreement that the state entered into with leading tobacco manufacturers on November 23, 1998; and
 - (e) interest earned on the account.
- (4) To the extent that funds will be available for appropriation in a given fiscal year, those funds shall be appropriated from the account in the following order:
 - (a) \$7,000,000 to the Department of Health for the Children's Health Insurance Program created in Section 26-40-103 and for restoration of dental benefits in the Children's Health Insurance Program;
 - (b) \$4,000,000 to the Department of Health for alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs that promote unified messages and make use of media outlets, including radio, newspaper, billboards, and television, and with a preference in funding given to tobacco-related programs;
 - (c) \$193,700 to the Administrative Office of the Courts and \$1,296,300 to the Department of Human Services for the statewide expansion of the drug court program;
 - (d) \$77,400 to the Board of Pardons, \$81,700 to the Department of Corrections, and \$350,900 to the Department of Human Services for a drug board pilot program;
 - (e) \$4,000,000 to the State Board of Regents for the University of Utah Health Sciences Center to benefit the health and well-being of Utah citizens through in-state research, treatment, and educational activities; and
 - (f) any remaining funds as directed by the Legislature through appropriation.
- (5) (a) If tobacco funds in dispute for attorneys fees are received by the state, those funds shall be divided and deposited in accordance with Subsection (3) and Section 63-97-301.

(b) The amount appropriated from the Tobacco Settlement Restricted Account to the Department of Health for alcohol, tobacco, and other drug programs described in Subsection (4)(b), including the funding preference for tobacco-related programs, shall be increased by up to \$2,000,000 in a given fiscal year to the extent that funds in dispute for attorneys fees are available to the state for appropriation from the account.

(6) Each state agency identified in Subsection (4) shall provide an annual report on the program and activities funded under Subsection (4) to:

(a) the Health and Human Services Interim Committee no later than September 1; and

(b) the Health and Human Services Joint Appropriations Subcommittee.

63-97-401. Requirements for tobacco programs.

(1) To be eligible to receive funding under this chapter for a tobacco prevention, reduction, cessation, or control program, an organization, whether private, governmental, or quasi-governmental, shall:

(a) submit a request to the Department of Health containing the following information:

(i) for media campaigns to prevent or reduce smoking, the request shall demonstrate sound management and periodic evaluation of the campaign's relevance to the intended audience, particularly in campaigns directed toward youth, including audience awareness of the campaign and recollection of the main message;

(ii) for school-based education programs to prevent and reduce youth smoking, the request shall describe how the program will be effective in preventing and reducing youth smoking;

(iii) for community-based programs to prevent and reduce smoking, the request shall demonstrate that the proposed program:

(A) has a comprehensive strategy with a clear mission and goals;

(B) provides for committed, caring, and professional leadership; and

(C) if directed toward youth:

(I) offers youth-centered activities in youth accessible facilities;

(II) is culturally sensitive, inclusive, and diverse;

(III) involves youth in the planning, delivery, and evaluation of services that affect them; and

(IV) offers a positive focus that is inclusive of all youth; and

(iv) for enforcement, control, and compliance program, the request shall demonstrate that the proposed program can reasonably be expected to reduce the extent to which tobacco products are available to individuals under the age of 19;

(b) agree, by contract, to file an annual written report with the Department of Health.

The report shall contain the following:

(i) the amount funded;

(ii) the amount expended;

(iii) a description of the program or campaign and the number of adults and youth

who participated;

(iv) specific elements of the program or campaign meeting the applicable criteria set forth in Subsection (1)(a); and

(v) a statement concerning the success and effectiveness of the program or campaign;

(c) agree, by contract, to not use any funds received under this chapter directly or indirectly, to:

(i) engage in any lobbying or political activity, including the support of, or opposition to, candidates, ballot questions, referenda, or similar activities; or

(ii) engage in litigation with any tobacco manufacturer, retailer, or distributor, except to enforce:

(A) the provisions of the Master Settlement Agreement;

(B) Title 26, Chapter 38, Utah Clean Air Act;

(C) Title 26, Chapter 42, Civil Penalties for Tobacco Sales to Underaged Persons;

and

(D) Title 77, Chapter 39, Sale of Tobacco and Alcohol to Underaged Persons; and

(d) agree, by contract, to repay the funds provided under this chapter if the organization:

(i) fails to file a timely report as required by Subsection (1)(b); or

(ii) uses any portion of the funds in violation of Subsection (1)(c).

(2) The Department of Health shall review and evaluate the success and effectiveness of any program or campaign that receives funding pursuant to a request submitted under Subsection (1). The review and evaluation:

(a) shall include a comparison of annual smoking trends;

(b) may be conducted by an independent evaluator; and

(c) may be paid for by funds appropriated from the account for that purpose.

(3) The Department of Health shall annually report to the Health and Human Services Appropriations Subcommittee on the reviews conducted pursuant to Subsection (2).

(4) An organization that fails to comply with the contract requirements set forth in Subsection (1) shall:

(a) repay the state as provided in Subsection (1)(d); and

(b) be disqualified from receiving funds under this chapter in any subsequent fiscal year.

(5) The attorney general shall be responsible for recovering funds that are required to be repaid to the state under this section.

(6) Nothing in this section may be construed as applying to funds that are not appropriated under this chapter.