

Improving the use of beer tax revenue

Municipalities and counties receive a portion of beer tax revenue, as described in [Section 59-15-109](#). Statute requires that municipalities and counties use this revenue by exclusively funding activities related to prevention, treatment, law enforcement, prosecution, and confinement for violations in which alcohol or substance use is a contributing factor.

Municipalities and counties are required to report to the Utah Substance Use and Mental Health Advisory Committee (USAAV+) on the use of beer tax funds. In recent years, a substantial portion of beer tax funds were unspent. In FY2024, approximately \$3 million was left unspent, 31% of the total distributed funds.

USAAV+ proposes updating the reporting and monitoring process to clarify statutory intent for how beer tax funds can be used and ensure these funds are fully and appropriately spent. The Office of Substance Use and Mental Health (as staff for USAAV+) will also monitor entities to track carryforward balances and potential unspent funds. These monitoring activities will not require changes in statute, and staff will reach out to provide support and education if needed. This will include:

- Notifying municipalities that they can defer their allocation to their county, if it is not feasible to regularly fully spend the allocated amount.
- Identifying innovative or best practices for spending beer tax funds.
- Providing examples of items that are or are not appropriate uses of beer tax funds.

Proposed statutory changes are outlined below:

32B-2-402. Definitions -- Calculations.

(1) As used in this part:

- (a) "Account" means the Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account created in Section 32B-2-403.
- (b) "Advisory committee" means the Utah Substance Use and Mental Health Advisory Committee created in Section 26B-5-801.
- (c) "Alcohol-related offense" means:
 - (i) a violation of:
 - (A) Section 41-6a-502; or
 - (B) an ordinance that complies with the requirements of:
 - I) Subsection 41-6a-510(1); or
 - II) Section 76-5-207; or
 - (ii) an offense involving the illegal:
 - (A) sale of an alcoholic product;
 - (B) consumption of an alcoholic product;
 - (C) distribution of an alcoholic product;
 - (D) transportation of an alcoholic product; or
 - (E) possession of an alcoholic product.
- (d) "Annual conviction time period" means the time period that:
 - (i) begins on July 1 and ends on June 30; and
 - (ii) immediately precedes the fiscal year for which an appropriation under this part is made.
- (e) "Confinement" refers to the confinement of individuals arrested for or convicted of offenses in which substance use is a contributing factor.
- (f) "Department" refers to the Department of Alcoholic Beverage Services.
- (g) "Law enforcement" means activities completed by the agencies and employees responsible for enforcing laws that are specifically related to substance use crimes.
- (h) "Municipality" means a city or town.
- (i) (i) "Prevention" is as defined by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the Division of Integrated Healthcare within the Department of Health and Human Services.
- (ii) In defining the term "prevention," the ~~Division of Substance Abuse~~ Office of Substance Use and Mental Health shall:

- (A) include only evidence-based or evidence-informed programs; and
 - (B) provide for coordination with local substance ~~abuse~~ **use** authorities designated to provide substance ~~abuse~~ **use** services in accordance with Section 17-43-201.
- (j) "Prosecution" means any activities related to prosecuting offenders of crimes related to substance use.
- (k) "Treatment" means the provision of any of the following services for substance use disorder: Screening, education, brief interventions, assessments, withdrawal management, outpatient, intensive outpatient, inpatient, residential, aftercare, continuing care, and recovery support.
- (2) For purposes of Subsection 32B-2-404(1)(b)(iii), the number of premises located within the limits of a municipality or county:
- (a) is the number determined by the department to be so located;
 - (b) includes the aggregate number of premises of the following:
 - (i) a state store;
 - (i) a package agency; and
 - (ii) a retail licensee; and
 - (c) for a county, consists only of the number located within an unincorporated area of the county.
- (3) The department shall determine:
- (a) a population figure according to the most current population estimate prepared by the Utah Population Committee;
 - (b) a county's population for the 25% distribution to municipalities and counties under Subsection 32B-2-404(1)(b)(i) only with reference to the population in the unincorporated areas of the county; and
 - (c) a county's population for the 25% distribution to counties under Subsection 32B-2-404(1)(b)(iv) only with reference to the total population in the county, including that of a municipality.
- (4) (a) A conviction occurs in the municipality or county that actually prosecutes the offense to judgment.
- (b) If a conviction is based upon a guilty plea, the conviction is considered to occur in the municipality or county that, except for the guilty plea, would have prosecuted the offense.

32B-2-403. Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account created.

(1) (a) There is created in the General Fund a restricted account known as the "Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account."

(b) The account is funded from:

- (i) money deposited by the state treasurer in accordance with Section 59-15-109;
- (ii) appropriations made to the account by the Legislature; and
- (iii) interest described in Subsection (1)(c).

(c) Interest earned on the account shall be deposited into the account.

(2) (a) Consistent with the policies provided in Subsection 32B-1-103(4)(b), money in the account shall be used for statewide public purposes, including promoting the reduction of the harmful effects of substance abuse, overconsumption of alcoholic products by an adult, and alcohol consumption by minors, by exclusively funding programs or projects related to prevention, treatment, ~~detection~~, law enforcement, and prosecution, ~~and control~~ of violations of this title and other offenses in which alcohol or substance abuse is a contributing factor except as provided in Subsection (2)(b).

(b) The portion distributed under this part to a county may also be used for the confinement or treatment of persons arrested for or convicted of offenses in which alcohol or substance abuse is a contributing factor.

(c) A municipality or county entitled to receive money shall use the money exclusively as required by this Subsection (2). Municipalities may not use money in this account for treatment purposes.

(3) The appropriations provided for under Section 32B-2-404 are:

- (a) intended to supplement the budget of the appropriate agencies of each municipality and county within the state to enable the municipalities and counties to more effectively fund the programs and projects described in Subsection (2); and
- (b) not intended to replace money that would otherwise be allocated for the programs and projects in Subsection (2).

(4) It is the intent of the Legislature that the appropriations distributed under this part be used to fund a balanced approach to reducing the harmful effects of

substance abuse, overconsumption of alcoholic products by adults, and alcohol consumption by minors. To this end, the Legislature encourages municipalities and counties receiving money under this part to use the most effective formula allocation to fund evidence-based and evidence-informed prevention programs.

32B-2-404. Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account distribution.

(1) (a) The money deposited into the account under Section 32B-2-403 shall be distributed to municipalities and counties:

- (i) to the extent appropriated by the Legislature, except that the Legislature shall appropriate each fiscal year an amount equal to at least the amount deposited in the account in accordance with Section 59-15-109; and
- (ii) as provided in this Subsection (1).

(b) The amount appropriated from the account shall be distributed as follows:

- (ii) 25% to municipalities and counties on the basis of the percentage of the state population residing in each municipality and county;
 - (iii) 30% to municipalities and counties on the basis of each municipality's and county's percentage of the statewide convictions for all alcohol-related offenses;
 - (iv) 20% to municipalities and counties on the basis of the percentage of the following in the state that are located in each municipality and county:
 - (A) state stores;
 - (B) package agencies;
 - (C) retail licensees; and
 - (D) off-premise beer retailers; and
 - (v) 25% to the counties for confinement and treatment purposes authorized by this part on the basis of the percentage of the state population located in each county.
- (c) (i) Except as provided in Subsection (1)(c)(ii), if a municipality does not have a law enforcement agency:
- (A) the municipality may not receive money under this part; and
 - (B) the State Tax Commission:

- I) may not distribute the money the municipality would receive but for the municipality not having a law enforcement agency to that municipality; and
 - II) shall distribute the money that the municipality would have received but for it not having a law enforcement agency to the county in which the municipality is located for use by the county in accordance with this part.
- (ii) If the advisory committee, before January 1, 2033, or the department, on or after January 1, 2033, finds that a municipality described in Subsection (1)(c)(i) demonstrates that the municipality can use the money that the municipality is otherwise eligible to receive in accordance with this part, the advisory committee, before January 1, 2033, or the department, on or after January 1, 2033, may direct the State Tax Commission to distribute the money to the municipality.
- (2) To determine the distribution required by Subsection (1)(b)(ii), the State Tax Commission shall annually:
 - (a) for an annual conviction time period:
 - (ii) multiply by two the total number of convictions in the state obtained during the annual conviction time period for violation of:
 - (A) Section 41-6a-502; or
 - (B) an ordinance that complies with the requirements of Subsection 41-6a-510(1) or Section 76-5-207; and
 - (iii) add to the number calculated under Subsection (2)(a)(i) the number of convictions obtained during the annual conviction time period for the alcohol-related offenses other than the alcohol-related offenses described in Subsection (2)(a)(i);
 - (b) divide an amount equal to 30% of the appropriation for that fiscal year by the sum obtained in Subsection (2)(a); and
 - (c) multiply the amount calculated under Subsection (2)(b), by the number of convictions obtained in each municipality and county during the annual conviction time period for alcohol-related offenses.
- (3) By not later than September 1 each year:
 - (a) the state court administrator shall certify to the State Tax Commission the number of convictions obtained for alcohol-related offenses in each

municipality or county in the state during the annual conviction time period;
and

- (b) the advisory committee, before January 1, 2033, or the department, on or after January 1, 2033, shall notify the State Tax Commission of any municipality that does not have a law enforcement agency.

(4) By not later than December 1 of each year, the advisory committee, before January 1, 2033, or the department, on or after January 1, 2033, shall notify the State Tax Commission for the fiscal year of appropriation of:

- (a) a municipality that may receive a distribution under Subsection (1)(c)(ii);
- (b) a county that may receive a distribution allocated to a municipality described in Subsection (1)(c)(i);
- (c) a municipality or county that may not receive a distribution because the advisory committee, before January 1, 2033, or the department, on or after January 1, 2033, has suspended the payment under Subsection 32B-2-405(2)(a); and
- (d) a municipality or county that receives a distribution because the suspension of payment has been cancelled under Subsection 32B-2-405(2).

(5) (a) By not later than January 1 of the fiscal year of appropriation, the State Tax Commission shall annually distribute to each municipality and county the portion of the appropriation that the municipality or county is eligible to receive under this part, except for any municipality or county that the advisory committee, before January 1, 2033, or the department, on or after January 1, 2033, notifies the State Tax Commission in accordance with Subsection (4) may not receive a distribution in that fiscal year.

- (b) (i) The advisory committee, before January 1, 2033, or the department, on or after January 1, 2033, shall prepare forms for use by a municipality or county in applying for a distribution under this part.

- (ii) A form described in this Subsection (5) may require the submission of information the advisory committee, before January 1, 2033, or the department, on or after January 1, 2033, considers necessary to enable the State Tax Commission to comply with this part.

- (c) The advisory committee, before January 1, 2033, or the department, on or after January 1, 2033, shall provide guidance to municipalities and counties on the appropriate uses of appropriations, in consultation with the advisory

committee, the Utah Association of Counties, and the Utah League of Cities and Towns.

32B-2-405. Reporting by municipalities and counties -- Grants.

(1) A municipality or county that receives money under this part during a fiscal year shall by no later than October 1 following the fiscal year:

- (a) report to the advisory committee, before January 1, 2033, or the department, on or after January 1, 2033:
 - (i) the programs or projects of the municipality or county that receive money under this part;
 - (ii) if the money for programs or projects were exclusively used as required by Subsection 32B-2-403(2);
 - (iii) indicators of whether the programs or projects that receive money under this part are effective; and
 - (iv) if money received under this part was not expended by the municipality or county; and
- (b) provide the advisory committee, before January 1, 2033, or the department, on or after January 1, 2033, a statement signed by the chief executive officer of the county or municipality attesting that the money received under this part was used in addition to money appropriated or otherwise available for the county's or municipality's law enforcement and was not used to supplant that money.

(2) The advisory committee, before January 1, 2033, may, by a majority vote, or the department, on or after January 1, 2033, may:

- (a) suspend future payments under Subsection 32B-2-404(4) to a municipality or county that:
 - (i) does not file a report that meets the requirements of Subsection (1); or
 - (ii) the advisory committee, before January 1, 2033, or the department, on or after January 1, 2033, finds does not use the money as required by Subsection 32B-2-403(2) on the basis of the report filed by the municipality or county under Subsection (1); and
- (b) cancel a suspension under Subsection (2)(a).

(c) If a municipality or county's carryforward balance of appropriations exceeds both three times the previous year's allocation and \$50,000, no further

distribution shall be made in the following year. As soon as a municipality or county's balance no longer exceeds three times the previous year's allocation or \$50,000, distribution would continue to said entity.

(d) Funding that has been suspended under 2(c) will be allocated to all other municipalities and counties.

(e) The advisory committee, before January 1, 2033, or the department, on or after January 1, 2033, shall grant a municipality or a county an exception to the requirement in 2(c) if the entity provides a reasonable justification for how and when it plans to use these funds.

(f) The advisory committee, before January 1, 2033, or the department, on or after January 1, 2033, will provide the State Tax Commission with a report on any municipalities and counties that had funding suspended under 2(c).

(3) The State Tax Commission shall notify the advisory committee, before January 1, 2033, or the department, on or after January 1, 2033, of the balance of any undistributed money after the annual distribution under Subsection 32B-2-404(5).

(4) (a) Subject to the requirements of this Subsection (4), the advisory committee, before January 1, 2033, or the department, on or after January 1, 2033, shall award the balance of undistributed money under Subsection (3):

(i) as prioritized by majority vote of the advisory committee, before January 1, 2033, or by the department, on or after January 1, 2033; and

(ii) as grants to:

(A) a county;

(B) a municipality;

(C) the department;

(D) the Department of Human Services;

(E) the Department of Public Safety; or

(F) the State Board of Education.

(b) By not later than May 30 of the fiscal year of the appropriation, the advisory committee, before January 1, 2033, or the department, on or after January 1, 2033, shall notify the State Tax Commission of grants awarded under this Subsection (4).

(c) The State Tax Commission shall make payments of a grant:

(i) upon receiving notice as provided under Subsection (4)(b); and

(ii) by not later than June 30 of the fiscal year of the appropriation.

(d) An entity that receives a grant under this Subsection (4) shall use the grant money exclusively for programs or projects described in Subsection 32B-2-403(2).