

**Introduced by Senator Caballero**  
(Principal coauthor: Assembly Member Arambula)

February 11, 2021

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An act to add Article 7 (commencing with Section 128586) of Chapter 5 of Part 3 of Division 7 to the Health and Safety Code, and to amend Section 30130.57 of, and to add Article 4 (commencing with Section 30135) to Chapter 2 of Part 13 of Division 2 of, the Revenue and Taxation Code, relating to the Healthy Outcomes and Prevention Education Act, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 395, as introduced, Caballero. Healthy Outcomes and Prevention Education Act: excise tax: electronic cigarettes: Health Careers Opportunity Grant Program.

(1) Existing law establishes a nonprofit public benefit corporation, known as the Health Professions Education Foundation, for the purpose of administering various programs related to health education, including the California Registered Nurse Education Program.

This bill would establish the Health Careers Opportunity Grant Program under the administration of the foundation for the purpose of improving access by underrepresented students from disadvantaged backgrounds to health profession programs offered by the state's public postsecondary education institutions. The bill would require the foundation to provide grants to specified types of public postsecondary education institutions, including schools of medicine, to be used only for specified purposes, including identifying, recruiting, and selecting underrepresented students from disadvantaged backgrounds to access education and training programs in a health profession. The bill would also create the Health Careers Opportunity Grant Program Fund and

would continuously appropriate the moneys in the fund for the purpose of administering the program.

(2) The Cigarette and Tobacco Products Tax Law, the violation of which is a crime, imposes a tax on distributors of cigarettes at the rate of \$2.87 per package of 20 cigarettes and a tax on distributors of tobacco products, based on wholesale cost, at a rate determined annually that is equivalent to the combined rate of all taxes imposed on cigarettes plus an additional rate equivalent to \$0.50 per package of 20 cigarettes. These taxes are inclusive of the taxes imposed under the Tobacco Tax and Health Protection Act of 1988, the California Families and Children Act of 1998, and the California Healthcare, Research and Prevention Tobacco Tax Act of 2016.

The California Healthcare, Research and Prevention Tobacco Tax Act of 2016 (Proposition 56), an initiative measure approved at the November 8, 2016, statewide general election, revised the definition of tobacco products to include electronic cigarettes, thereby extending the taxes on distributors of tobacco products to distributors of electronic cigarettes, which is based on the wholesale cost of these products. Proposition 56 requires the California Department of Tax and Fee Administration to adopt regulations providing for the implementation of the equivalent tax on electronic cigarettes and the methods for collection of the tax.

This bill would impose an additional tax for the privilege of selling electronic cigarettes, as defined, at retail of an unspecified percentage of the gross receipts from the sale of electronic cigarettes in this state. The bill would require all revenues, interest, and penalties, less refunds, collected from the tax described above to be deposited into the Health Careers Opportunity Grant Program Fund, the Cigarette and Tobacco Products Surtax Fund, the California Children and Families Trust Fund, and the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund, as specified. By allocating additional moneys to continuously appropriated funds, this bill would make an appropriation.

The bill would provide for the administration and collection of this tax pursuant to procedures set forth in the Fee Collection Procedures Law. By expanding the application of the Fee Collection Procedures Law, the violation of which is a crime, this bill would impose a state-mandated local program.

By imposing new requirements in the Cigarette and Tobacco Products Tax Law, the violation of which is a crime, the bill would also impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Article 7 (commencing with Section 128586) is  
2 added to Chapter 5 of Part 3 of Division 107 of the Health and  
3 Safety Code, to read:

4

5 Article 7. Health Careers Opportunity Grant Program

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7 128586. The Health Careers Opportunity Grant Program is  
8 hereby established under the administration of the Health  
9 Professions Education Foundation for the purpose of improving  
10 access by underrepresented students from disadvantaged  
11 backgrounds to health profession programs offered by the state’s  
12 public postsecondary education institutions.

13 128587. As used in this article:

14 (a) “Foundation” means the Health Professions Education  
15 Foundation.

16 (b) “Grant program” means the Health Careers Opportunity  
17 Grant Program.

18 (c) “Public postsecondary education institution” means  
19 California community colleges, the California State University,  
20 and the University of California.

21 128588. (a) The Health Careers Opportunity Grant Program  
22 Fund is hereby created in the Treasury.

23 (b) Notwithstanding Section 13340 of the Government Code,  
24 all moneys in the Health Care Opportunity Program Fund are  
25 continuously appropriated, without regards to fiscal years, for the  
26 administration of the grant program pursuant to this article.

27 128589. (a) The foundation shall provide grants to all of the  
28 following types of public postsecondary education institutions:

29 (1) Schools of medicine.

30 (2) Schools of osteopathic medicine.

- 1 (3) Schools of public health.
- 2 (4) Schools of dentistry.
- 3 (5) Schools of optometry.
- 4 (6) Schools of pharmacy.
- 5 (7) Schools of allied health.
- 6 (8) Graduate programs in behavioral and mental health.
- 7 (9) Programs for the training of physician assistance.
- 8 (b) A grant provided by the foundation may be used only for
- 9 any of the following purposes:
  - 10 (1) Identifying, recruiting, and selecting underrepresented
  - 11 students from disadvantaged backgrounds to access education and
  - 12 training programs in a health profession.
  - 13 (2) Facilitating underrepresented students from disadvantaged
  - 14 backgrounds in accessing a public postsecondary institutions
  - 15 education or training program.
  - 16 (3) Providing counseling, mentoring, or other services designed
  - 17 to assist underrepresented students from disadvantaged
  - 18 backgrounds in successfully completing their educational program
  - 19 or training at the applicable public postsecondary institution.
  - 20 (4) Providing support services to underrepresented students
  - 21 from disadvantaged backgrounds to assist them in accessing an
  - 22 educational program or training at a public postsecondary
  - 23 institution.
  - 24 (5) Providing outreach to underrepresented students from
  - 25 disadvantaged backgrounds regarding how to access available
  - 26 programs and training at a public postsecondary institution.
  - 27 (6) Providing financial aid to underrepresented students from
  - 28 disadvantaged backgrounds to enroll in an eligible education or
  - 29 training program.
  - 30 (7) Developing and implementing programs that enable
  - 31 underrepresented students from disadvantaged backgrounds to
  - 32 gain experience regarding a career in a field of primary health care
  - 33 through working at facilities of public or private nonprofit
  - 34 community-based providers of primary health services.
  - 35 (8) Developing partnerships with institutions, school districts,
  - 36 and other community-based entities to provide information to
  - 37 underrepresented students from disadvantaged backgrounds who
  - 38 may be interested in pursuing a career in a health occupation.
- 39 128590. (a) In providing grants to eligible entities pursuant to
- 40 this article, the foundation shall prioritize applicants that reflect a

1 comprehensive approach to establishing, enhancing, and expanding  
2 health educational programs that propose to increase the number  
3 of underrepresented students from disadvantaged backgrounds  
4 pursuing a health professions career.

5 (b) The foundation shall give priority consideration, pursuant  
6 to subdivision (a), to an applicant only if the applicant does all of  
7 the following:

8 (1) Demonstrates a commitment to expanding the number of  
9 underrepresented students from disadvantaged backgrounds  
10 enrolling in public postsecondary education and training programs  
11 leading to a career in a health occupation.

12 (2) Reflects an effort to coordinate educational opportunities  
13 and support services available to underrepresented students from  
14 disadvantaged backgrounds within a specific geographic area.

15 (3) Reflects the development and implementation of outreach  
16 activities focused on expanding the number of underrepresented  
17 students from disadvantaged backgrounds pursuing a health  
18 professions career.

19 (4) Focuses on the development of educational opportunities  
20 that further enable a culturally competent health care workforce  
21 to be available to serve the state's unserved and underserved  
22 populations within a geographic area.

23 128591. The foundation shall work with other existing  
24 programs under its administration to implement this section and  
25 provide opportunities for underrepresented students from  
26 disadvantaged backgrounds to access the grant program and other  
27 foundation programs.

28 SEC. 2. Section 30130.57 of the Revenue and Taxation Code  
29 is amended to read:

30 30130.57. Implementation and Administrative Costs.

31 (a) Moneys from the California Healthcare, Research and  
32 Prevention Tobacco Tax Act of 2016 Fund shall be used to  
33 reimburse the board for expenses incurred in the administration,  
34 calculation, and collection of the tax imposed by this article and  
35 for expenses incurred in the calculation and distribution of funds  
36 and in the promulgation of regulations as required by this act,  
37 provided, however, that after deducting the necessary funds  
38 pursuant to subdivision (b) of Section 30130.54, not more than 5  
39 percent annually of the funds remaining in the California

1 Healthcare, Research and Prevention Tobacco Tax Act of 2016  
2 Fund shall be used for such administrative costs.

3 (b) Moneys from the California Healthcare, Research and  
4 Prevention Tobacco Tax Act of 2016 Fund shall be used to  
5 reimburse the independent nonpartisan California State Auditor  
6 up to four hundred thousand dollars (\$400,000) annually for actual  
7 costs incurred to conduct each of the audits required by Section  
8 30130.56 for the purpose of providing public transparency and  
9 ensuring that the revenues generated by this article are used for  
10 healthcare, tobacco use prevention and research.

11 (c) Moneys from the California Healthcare, Research and  
12 Prevention Tobacco Tax Act of 2016 Fund in the amount of forty  
13 million dollars (\$40,000,000) annually shall be used to provide  
14 funding to the University of California for the purpose and goal  
15 of increasing the number of primary care and emergency physicians  
16 trained in California. This goal shall be achieved by providing this  
17 funding to the University of California to sustain, retain, and  
18 expand graduate medical education programs to achieve the goal  
19 of increasing the number of primary care and emergency physicians  
20 in the State of California based on demonstrated workforce needs  
21 and priorities.

22 (1) For the purposes of this subdivision, “primary care” means  
23 internal medicine, family medicine, obstetrics/gynecology, and  
24 pediatrics.

25 (2) Funding shall be prioritized for direct graduate medical  
26 education costs for programs serving medically underserved areas  
27 and populations.

28 (3) For the purposes of this subdivision, all allopathic and  
29 osteopathic residency programs accredited by federally recognized  
30 accrediting organizations and located in California shall be eligible  
31 to apply to receive funding to support resident education in  
32 California.

33 (4) The University of California shall annually review physician  
34 shortages by specialty across the state and by region. Based on  
35 this review, to the extent that there are demonstrated state or  
36 regional shortages of nonprimary care physicians, funds may be  
37 used to expand graduate medical education programs that are  
38 intended to address such shortages.

39 (5) \_\_\_\_ percent of the moneys in the California Healthcare,  
40 Research and Prevention Tobacco Tax Act of 2016 Fund

1 *attributable to the California Electronic Cigarette Excise Tax,*  
2 *imposed by Section 30135.4, shall be annually allocated to the*  
3 *Health Careers Opportunity Grant Program Fund created pursuant*  
4 *to Section 128588 of the Health and Safety Code.*

5 (d) Moneys from the California Healthcare, Research and  
6 Prevention Tobacco Tax Act of 2016 Fund in the amount of thirty  
7 million dollars (\$30,000,000) annually shall be used to provide  
8 funding to the State Department of Public Health state dental  
9 program for the purpose and goal of educating about, preventing  
10 and treating dental disease, including dental disease caused by use  
11 of cigarettes and other tobacco products. This goal shall be  
12 achieved by the program providing this funding to activities that  
13 support the state dental plan based on demonstrated oral health  
14 needs, prioritizing serving underserved areas and populations.  
15 Funded program activities shall include, but not be limited to, the  
16 following: education, disease prevention, disease treatment,  
17 surveillance, and case management.

18 The department shall have broad authority to fully implement  
19 and effectuate the purposes of this subdivision, including the  
20 determination of underserved communities, the development of  
21 program protocols, the authority to reimburse state-sponsored  
22 services related to the program, and the authority to contract with  
23 one or more individuals or public or private entities to provide  
24 program activities.

25 (e) Moneys from the California Healthcare, Research and  
26 Prevention Tobacco Tax Act of 2016 Fund in the amount of  
27 forty-eight million dollars (\$48,000,000) annually shall be used  
28 for the purpose of funding law enforcement efforts to reduce illegal  
29 sales of tobacco products, particularly illegal sales to minors; to  
30 reduce cigarette smuggling, tobacco tax evasion, the sale of tobacco  
31 products without a license and the sale of counterfeit tobacco  
32 products; to enforce tobacco-related laws, court judgments, and  
33 legal settlements; and to conduct law enforcement training and  
34 technical assistance activities for tobacco-related statutes; provided  
35 that these funds are not to be used to supplant existing state or  
36 local funds for these same purposes. These funds shall be  
37 apportioned in the following manner:

38 (1) Thirty million dollars (\$30,000,000) annually to the  
39 California Department of Justice/Office of the Attorney General  
40 to be distributed to local law enforcement agencies to support and

1 hire front-line law enforcement peace officers for programs,  
2 including, but not limited to, enforcement of state and local laws  
3 related to the illegal sales and marketing of tobacco to minors, and  
4 increasing investigative activities and compliance checks to reduce  
5 illegal sales of cigarettes and tobacco products to minors and youth.

6 (2) Six million dollars (\$6,000,000) annually to the board to be  
7 used to enforce laws that regulate the distribution and retail sale  
8 of cigarettes and other tobacco products, such as laws that prohibit  
9 cigarette and tobacco product smuggling, counterfeiting, selling  
10 untaxed cigarettes and other tobacco products, and selling cigarettes  
11 and other tobacco products without a proper license.

12 (3) Six million dollars (\$6,000,000) annually to the California  
13 Department of Public Health to be used to support programs,  
14 including, but not limited to, providing grants and contracts to  
15 local law enforcement agencies to provide training and funding  
16 for the enforcement of state and local laws related to the illegal  
17 sales of tobacco to minors, increasing investigative activities, and  
18 compliance checks, and other appropriate activities to reduce illegal  
19 sales of tobacco products to minors, including, but not limited to,  
20 the Stop Tobacco Access to Kids Enforcement (STAKE) Act,  
21 pursuant to Section 22952 of the Business and Professions Code.

22 (4) Six million dollars (\$6,000,000) annually to the California  
23 Attorney General to be used for activities, including, but not limited  
24 to, enforcing laws that regulate the distribution and sale of  
25 cigarettes and other tobacco products, such as laws that prohibit  
26 cigarette smuggling, counterfeiting, selling untaxed tobacco, selling  
27 tobacco without a proper license and selling tobacco to minors,  
28 and enforcing tobacco-related laws, court judgments, and  
29 settlements.

30 (f) Not more than 5 percent of the funds received pursuant to  
31 this article shall be used by any state or local agency or department  
32 receiving such funds for administrative costs.

33 (g) The California State Auditor shall promulgate regulations  
34 pursuant to the rulemaking provisions of the Administrative  
35 Procedure Act (Chapter 3.5 (commencing with Section 11340) of  
36 Part 1 of Division 3 of Title 2 of the Government Code) to define  
37 administrative costs for purposes of this article. Such regulations  
38 shall take into account the differing nature of the agencies or  
39 departments receiving funds.

1 (h) The board shall determine beginning two years following  
2 the effective date of this act, and annually thereafter, any reduction  
3 in revenues, following the first year after the effective date of this  
4 act, resulting from a reduction in the consumption of cigarettes  
5 and tobacco products due to the additional taxes imposed on  
6 cigarettes by this article, and the increase in the tax on tobacco  
7 products required by subdivision (b) of Section 30123. If the board  
8 determines there has been a reduction in revenues, the amount of  
9 funds allocated pursuant to subdivisions (c), (d) and (e) shall be  
10 reduced proportionately.

11 SEC. 3. Article 4 (commencing with Section 30135) is added  
12 to Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation  
13 Code, to read:

14  
15 Article 4. Healthy Outcomes and Prevention Education (HOPE)  
16 Act

17  
18 30135. This article shall be known, and may be cited, as the  
19 “Healthy Outcomes and Prevention Education (HOPE) Act.”

20 30135.2. For purposes of this article:

21 (a) “California Electronic Cigarette Excise Tax” means the tax  
22 imposed by Section 30135.4.

23 (b) (1) “Electronic cigarette” means any of the following:

24 (A) A device or delivery system sold in combination with any  
25 liquid or substance containing nicotine that can be used to deliver  
26 to a person nicotine in aerosolized or vaporized form, including,  
27 but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or  
28 e-hookah.

29 (B) A component, part, or accessory of a device described in  
30 subparagraph (A) that is used during the operation of the device  
31 if sold in combination with a liquid or substance containing  
32 nicotine.

33 (C) A liquid or substance, whether sold separately or sold in  
34 combination with any device, that could be used to deliver to a  
35 person nicotine in aerosolized or vaporized form.

36 (2) “Electronic cigarette” does not include a product that has  
37 been approved by the United States Food and Drug Administration  
38 for sale as a tobacco cessation product or for other therapeutic  
39 purposes if that product is marketed and sold solely for that  
40 approved use.

1 (c) “In this state” means within the exterior limits of California  
2 and includes all territory within these limits owned by or ceded to  
3 the United States of America.

4 (d) (1) “Retailer” means a person that engages in this state in  
5 the sale of electronic cigarettes directly to the public.

6 (2) “Retailer” includes a person that operates vending machines  
7 from which electronic cigarettes are sold in this state or a person  
8 conducting a sale regulated by Section 22963 of the Business and  
9 Professions Code.

10 30135.4. (a) For the privilege of selling electronic cigarettes  
11 at retail a tax is hereby imposed upon all retailers at the rate of \_\_\_  
12 percent of the gross receipts from the retail sale of electronic  
13 cigarettes in this state.

14 (b) A retailer shall include the amount of the tax in any price  
15 marketing on any sign or display inside or outside a licensed brick  
16 and mortar establishment.

17 (c) (1) The tax imposed by this section shall be collected  
18 pursuant to the Fee Collection Procedures Law (Part 30  
19 (commencing with Section 55001)).

20 (2) For purposes of this article, the references in the Fee  
21 Collection Procedures Law to “fee” shall include the tax imposed  
22 by this part, and references to “feepayer” shall include any person  
23 liable for the payment of the tax imposed by this article.

24 (d) The department may adopt regulations to implement the tax  
25 on electronic cigarettes imposed by this article.

26 30135.8. For each retail sale of an electronic cigarette, a retailer  
27 shall provide a purchaser with a receipt or other document that  
28 sets out and separately identifies the “California Electronic  
29 Cigarette Excise Tax” and the amount paid by the purchaser.

30 30135.12. All revenues, interest, and penalties derived from  
31 the California Electronic Cigarette Excise Tax, less refunds, shall  
32 be deposited in accordance with the following:

33 (a) Twenty-six percent of the moneys into the Cigarette and  
34 Tobacco Products Surtax Fund created by Section 30122.

35 (b) Fifteen percent of the moneys into the California Children  
36 and Families Trust Fund created by Section 30131.

37 (c) Fifty-nine percent of the moneys into the California  
38 Healthcare, Research and Prevention Tobacco Tax Act of 2016  
39 Fund created by Section 30130.53.

1     SEC. 4. No reimbursement is required by this act pursuant to  
2 Section 6 of Article XIII B of the California Constitution because  
3 the only costs that may be incurred by a local agency or school  
4 district will be incurred because this act creates a new crime or  
5 infraction, eliminates a crime or infraction, or changes the penalty  
6 for a crime or infraction, within the meaning of Section 17556 of  
7 the Government Code, or changes the definition of a crime within  
8 the meaning of Section 6 of Article XIII B of the California  
9 Constitution.

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