

Representative Wayne A. Harper proposes the following substitute bill:

**TAX CHANGES AND APPROPRIATIONS FOR
PREVENTIVE HEALTH ACTIVITIES**

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Paul Ray

Senate Sponsor: _____

7	Cosponsors:	Bradley G. Last	Jennifer M. Seelig
8	Rebecca Chavez-Houck	Steven R. Mascaró	Stephen H. Urquhart
9	Lynn N. Hemingway	Karen W. Morgan	R. Curt Webb
10	Neal B. Hendrickson	Carol Spackman Moss	

LONG TITLE

General Description:

This bill amends the Sales and Use Tax Act and the Cigarette and Tobacco Tax and Licensing Act.

Highlighted Provisions:

This bill:

- ▶ reduces the state sales and use tax rate from 4.65% to 4.59%;
- ▶ increases the cigarette tax by an amount equivalent to 50 cents per pack of 20

cigarettes (from 69.5 cents to \$1.19½ per pack for cigarettes weighing not more than three pounds per thousand, and from 81.5 cents to \$1.31½ per pack for cigarettes weighing more than three pounds per thousand);

- ▶ specifies that the lesser of \$3,100,000 or the total amount of the tax increase shall be deposited annually in the Cigarette Tax Restricted Account and, as funds are available, appropriated to the Department of Health for cancer screening and the Gold Medal Schools Program;



- 27 ▶ updates the formula for appropriating revenue remaining in the Cigarette Tax
- 28 Restricted Account at the end of the fiscal year; and
- 29 ▶ makes conforming and technical changes.

30 **Monies Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 This bill takes effect on July 1, 2008.

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **59-12-103**, as last amended by Laws of Utah 2007, Chapters 9, 101, 126, 206, and 288

37 **59-12-902**, as last amended by Laws of Utah 2004, Chapter 18

38 **59-14-204**, as last amended by Laws of Utah 2007, Chapter 6



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

41 Section 1. Section **59-12-103** is amended to read:

42 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
43 **tax revenues.**

44 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
45 charged for the following transactions:

46 (a) retail sales of tangible personal property made within the state;

47 (b) amounts paid:

48 (i) to a:

49 (A) telephone service provider regardless of whether the telephone service provider is
50 municipally or privately owned; or

51 (B) telegraph corporation:

52 (I) as defined in Section 54-2-1; and

53 (II) regardless of whether the telegraph corporation is municipally or privately owned;

54 and

55 (ii) for:

56 (A) telephone service, other than mobile telecommunications service, that originates

57 and terminates within the boundaries of this state;

- 58 (B) mobile telecommunications service that originates and terminates within the
59 boundaries of one state only to the extent permitted by the Mobile Telecommunications
60 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
- 61 (C) telegraph service;
- 62 (c) sales of the following for commercial use:
- 63 (i) gas;
- 64 (ii) electricity;
- 65 (iii) heat;
- 66 (iv) coal;
- 67 (v) fuel oil; or
- 68 (vi) other fuels;
- 69 (d) sales of the following for residential use:
- 70 (i) gas;
- 71 (ii) electricity;
- 72 (iii) heat;
- 73 (iv) coal;
- 74 (v) fuel oil; or
- 75 (vi) other fuels;
- 76 (e) sales of prepared food;
- 77 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
78 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
79 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
80 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
81 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
82 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
83 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
84 horseback rides, sports activities, or any other amusement, entertainment, recreation,
85 exhibition, cultural, or athletic activity;
- 86 (g) amounts paid or charged for services for repairs or renovations of tangible personal
87 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 88 (i) the tangible personal property; and

89 (ii) parts used in the repairs or renovations of the tangible personal property described
90 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
91 of that tangible personal property;

92 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
93 assisted cleaning or washing of tangible personal property;

94 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
95 accommodations and services that are regularly rented for less than 30 consecutive days;

96 (j) amounts paid or charged for laundry or dry cleaning services;

97 (k) amounts paid or charged for leases or rentals of tangible personal property if within
98 this state the tangible personal property is:

99 (i) stored;

100 (ii) used; or

101 (iii) otherwise consumed;

102 (l) amounts paid or charged for tangible personal property if within this state the
103 tangible personal property is:

104 (i) stored;

105 (ii) used; or

106 (iii) consumed; and

107 (m) amounts paid or charged for prepaid telephone calling cards.

108 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
109 is imposed on a transaction described in Subsection (1) equal to the sum of:

110 (i) a state tax imposed on the transaction at a tax rate of [~~4.65%~~] 4.59%; and

111 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
112 transaction under this chapter other than this part.

113 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
114 on a transaction described in Subsection (1)(d) equal to the sum of:

115 (i) a state tax imposed on the transaction at a tax rate of 2%; and

116 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
117 transaction under this chapter other than this part.

118 (c) Except as provided in Subsection (2)(d) or (e), beginning on January 1, 2007, a
119 state tax and a local tax is imposed on amounts paid or charged for food and food ingredients

120 equal to the sum of:

121 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
122 a tax rate of 1.75%; and

123 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
124 amounts paid or charged for food and food ingredients under this chapter other than this part.

125 (d) Except as provided in Subsection (2)(e), if a seller collects a tax in accordance with
126 Subsection 59-12-107(1)(b) on a transaction described in Subsection (1), a state tax and a local
127 tax is imposed on the transaction equal to the sum of:

128 (i) a state tax imposed on the transaction at a tax rate of:

129 (A) [~~4.65%~~] 4.59% for a transaction other than a transaction described in Subsection
130 (2)(d)(i)(B) or (2)(d)(i)(C);

131 (B) 2% for a transaction described in Subsection (1)(d); or

132 (C) beginning on January 1, 2007, 1.75% on the amounts paid or charged for food and
133 food ingredients; and

134 (ii) a local tax imposed on the transaction at a tax rate equal to the sum of the following
135 tax rates:

136 (A) the tax rate authorized by Section 59-12-204, but only if all of the counties, cities,
137 and towns in the state impose the tax authorized by Section 59-12-204; and

138 (B) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the
139 state impose the tax authorized by Section 59-12-1102.

140 (e) (i) A state tax and a local tax is imposed on an entire bundled transaction as
141 provided in this Subsection (2)(e) if the bundled transaction is attributable to food and food
142 ingredients and tangible personal property other than food and food ingredients.

143 (ii) If the tax on a bundled transaction described in Subsection (2)(e)(i) is collected by a
144 seller other than a seller that collects a tax in accordance with Subsection 59-12-107(1)(b),
145 beginning on January 1, 2007, a state tax and a local tax is imposed on the entire bundled
146 transaction equal to the sum of:

147 (A) a state tax imposed on the entire bundled transaction at the tax rate described in
148 Subsection (2)(a)(i); and

149 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
150 described in Subsection (2)(a)(ii).

151 (iii) If the tax on a bundled transaction described in Subsection (2)(e)(i) is collected by
152 a seller in accordance with Subsection 59-12-107(1)(b), beginning on January 1, 2007, a state
153 tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

154 (A) a state tax imposed on the entire bundled transaction at the tax rate described in
155 Subsection (2)(d)(i)(A); and

156 (B) a local tax imposed on the entire bundled transaction at a tax rate equal to the sum
157 of the following tax rates:

158 (I) the tax rate authorized by Section 59-12-204, but only if all of the counties, cities,
159 and towns in the state impose the tax authorized by Section 59-12-204; and

160 (II) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the
161 state impose the tax authorized by Section 59-12-1102.

162 (f) Subject to Subsections (2)(g) and (h), a tax rate repeal or tax rate change for a tax
163 rate imposed under the following shall take effect on the first day of a calendar quarter:

164 (i) Subsection (2)(a)(i);

165 (ii) Subsection (2)(b)(i);

166 (iii) Subsection (2)(c)(i);

167 (iv) Subsection (2)(d)(i);

168 (v) Subsection (2)(e)(ii)(A); or

169 (vi) Subsection (2)(e)(iii)(A).

170 (g) (i) For a transaction described in Subsection (2)(g)(iii), a tax rate increase shall take
171 effect on the first day of the first billing period that begins after the effective date of the tax rate
172 increase if the billing period for the transaction begins before the effective date of a tax rate
173 increase imposed under:

174 (A) Subsection (2)(a)(i);

175 (B) Subsection (2)(b)(i);

176 (C) Subsection (2)(c)(i);

177 (D) Subsection (2)(d)(i);

178 (E) Subsection (2)(e)(ii)(A); or

179 (F) Subsection (2)(e)(iii)(A).

180 (ii) For a transaction described in Subsection (2)(g)(iii), the repeal of a tax or a tax rate
181 decrease shall take effect on the first day of the last billing period that began before the

182 effective date of the repeal of the tax or the tax rate decrease if the billing period for the
183 transaction begins before the effective date of the repeal of the tax or the tax rate decrease
184 imposed under:

- 185 (A) Subsection (2)(a)(i);
- 186 (B) Subsection (2)(b)(i);
- 187 (C) Subsection (2)(c)(i);
- 188 (D) Subsection (2)(d)(i);
- 189 (E) Subsection (2)(e)(ii)(A); or

190 (F) Subsection (2)(e)(iii)(A).

191 (iii) Subsections (2)(g)(i) and (ii) apply to transactions subject to a tax under:

- 192 (A) Subsection (1)(b);
- 193 (B) Subsection (1)(c);
- 194 (C) Subsection (1)(d);
- 195 (D) Subsection (1)(e);
- 196 (E) Subsection (1)(f);
- 197 (F) Subsection (1)(g);
- 198 (G) Subsection (1)(h);
- 199 (H) Subsection (1)(i);
- 200 (I) Subsection (1)(j); or
- 201 (J) Subsection (1)(k).

202 (h) (i) For a tax rate described in Subsection (2)(h)(ii), if a tax due on a catalogue sale
203 is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal
204 or change in a tax rate takes effect:

- 205 (A) on the first day of a calendar quarter; and
- 206 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

207 (ii) Subsection (2)(h)(i) applies to the tax rates described in the following:

- 208 (A) Subsection (2)(a)(i);
- 209 (B) Subsection (2)(b)(i);
- 210 (C) Subsection (2)(c)(i);
- 211 (D) Subsection (2)(d)(i);
- 212 (E) Subsection (2)(e)(ii)(A); or

213 (F) Subsection (2)(e)(iii)(A).

214 (iii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
215 the commission may by rule define the term "catalogue sale."

216 (3) (a) Except as provided in Subsections (4) through (10), the following state taxes
217 shall be deposited into the General Fund:

218 (i) the tax imposed by Subsection (2)(a)(i);

219 (ii) the tax imposed by Subsection (2)(b)(i);

220 (iii) the tax imposed by Subsection (2)(c)(i);

221 (iv) the tax imposed by Subsection (2) (d)(i);

222 (v) the tax imposed by Subsection (2)(e)(ii)(A); and

223 (vi) the tax imposed by Subsection (2)(e)(iii)(A).

224 (b) The following local taxes shall be distributed to a county, city, or town as provided
225 in this chapter:

226 (i) the tax imposed by Subsection (2)(a)(ii);

227 (ii) the tax imposed by Subsection (2)(b)(ii);

228 (iii) the tax imposed by Subsection (2)(c)(ii); and

229 (iv) the tax imposed by Subsection (2)(e)(ii)(B).

230 (c) (i) Notwithstanding any provision of this chapter, each county, city, or town in the
231 state shall receive the county's, city's, or town's proportionate share of the revenues generated
232 by the following local taxes as provided in Subsection (3)(c)(ii):

233 (A) the local tax described in Subsection (2)(d)(ii); and

234 (B) the local tax described in Subsection (2)(e)(iii)(B).

235 (ii) For revenues generated by a tax described in Subsection (3)(c)(i), the commission
236 shall determine a county's, city's, or town's proportionate share of the revenues by:

237 (A) calculating an amount equal to the population of the unincorporated area of the
238 county, city, or town divided by the total population of the state; and

239 (B) multiplying the amount determined under Subsection (3)(c)(ii)(A) by the total
240 amount of revenues generated by the taxes described in Subsection (3)(c)(i) for all counties,
241 cities, and towns.

242 (iii) (A) Except as provided in Subsection (3)(c)(iii)(B), population figures for
243 purposes of this section shall be derived from the most recent official census or census estimate

244 of the United States Census Bureau.

245 (B) If a needed population estimate is not available from the United States Census
246 Bureau, population figures shall be derived from the estimate from the Utah Population
247 Estimates Committee created by executive order of the governor.

248 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
249 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)
250 through (g):

251 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

252 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

253 (B) for the fiscal year; or

254 (ii) \$17,500,000.

255 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
256 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
257 Department of Natural Resources to:

258 (A) implement the measures described in Subsections 63-34-14(4)(a) through (d) to
259 protect sensitive plant and animal species; or

260 (B) award grants, up to the amount authorized by the Legislature in an appropriations
261 act, to political subdivisions of the state to implement the measures described in Subsections
262 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

263 (ii) Money transferred to the Department of Natural Resources under Subsection
264 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
265 person to list or attempt to have listed a species as threatened or endangered under the
266 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

267 (iii) At the end of each fiscal year:

268 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
269 Conservation and Development Fund created in Section 73-10-24;

270 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
271 Program Subaccount created in Section 73-10c-5; and

272 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
273 Program Subaccount created in Section 73-10c-5.

274 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in

275 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
276 created in Section 4-18-6.

277 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
278 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
279 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
280 water rights.

281 (ii) At the end of each fiscal year:

282 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
283 Conservation and Development Fund created in Section 73-10-24;

284 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
285 Program Subaccount created in Section 73-10c-5; and

286 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
287 Program Subaccount created in Section 73-10c-5.

288 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
289 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
290 Fund created in Section 73-10-24 for use by the Division of Water Resources.

291 (ii) In addition to the uses allowed of the Water Resources Conservation and
292 Development Fund under Section 73-10-24, the Water Resources Conservation and
293 Development Fund may also be used to:

294 (A) conduct hydrologic and geotechnical investigations by the Division of Water
295 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
296 quantifying surface and ground water resources and describing the hydrologic systems of an
297 area in sufficient detail so as to enable local and state resource managers to plan for and
298 accommodate growth in water use without jeopardizing the resource;

299 (B) fund state required dam safety improvements; and

300 (C) protect the state's interest in interstate water compact allocations, including the
301 hiring of technical and legal staff.

302 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
303 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount
304 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

305 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described

306 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount
307 created in Section 73-10c-5 for use by the Division of Drinking Water to:

308 (i) provide for the installation and repair of collection, treatment, storage, and
309 distribution facilities for any public water system, as defined in Section 19-4-102;

310 (ii) develop underground sources of water, including springs and wells; and

311 (iii) develop surface water sources.

312 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
313 2006, the difference between the following amounts shall be expended as provided in this

314 Subsection (5), if that difference is greater than \$1:

315 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
316 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

317 (ii) \$17,500,000.

318 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

319 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
320 credits; and

321 (B) expended by the Department of Natural Resources for watershed rehabilitation or
322 restoration.

323 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
324 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
325 created in Section 73-10-24.

326 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
327 remaining difference described in Subsection (5)(a) shall be:

328 (A) transferred each fiscal year to the Division of Water Resources as dedicated
329 credits; and

330 (B) expended by the Division of Water Resources for cloud-seeding projects
331 authorized by Title 73, Chapter 15, Modification of Weather.

332 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
333 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
334 created in Section 73-10-24.

335 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
336 remaining difference described in Subsection (5)(a) shall be deposited into the Water

337 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
338 Division of Water Resources for:

339 (i) preconstruction costs:

340 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
341 26, Bear River Development Act; and

342 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
343 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

344 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
345 Chapter 26, Bear River Development Act;

346 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
347 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

348 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
349 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

350 (e) Any unexpended monies described in Subsection (5)(d) that remain in the Water
351 Resources Conservation and Development Fund at the end of the fiscal year are nonlapsing.

352 (f) After making the transfers required by Subsections (5)(b) and (c) and subject to
353 Subsection (5)(g), 6% of the remaining difference described in Subsection (5)(a) shall be
354 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
355 incurred for employing additional technical staff for the administration of water rights.

356 (g) At the end of each fiscal year, any unexpended dedicated credits described in
357 Subsection (5)(f) over \$150,000 lapse to the Water Resources Conservation and Development
358 Fund created in Section 73-10-24.

359 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
360 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%
361 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in
362 the Transportation Fund created by Section 72-2-102.

363 (7) (a) Notwithstanding Subsection (3)(a) and until Subsection (7)(b) applies,
364 beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial
365 Highway Fund Restricted Account created in Section 72-2-118 a portion of the taxes listed
366 under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable
367 transactions under Subsection (1).

368 (b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds
369 have been paid off and the highway projects completed that are intended to be paid from
370 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the
371 Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of
372 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section
373 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
374 by a 1/64% tax rate on the taxable transactions under Subsection (1).

375 (8) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal
376 year 2004-05, the commission shall each year on or before the September 30 immediately
377 following the last day of the fiscal year deposit the difference described in Subsection (8)(b)
378 into the Remote Sales Restricted Account created in Section 59-12-103.2 if that difference is
379 greater than \$0.

380 (b) The difference described in Subsection (8)(a) is equal to the difference between:

381 (i) the total amount of the revenues the commission received from sellers collecting the
382 taxes described in Subsections (2)(d)(i) and (2)(e)(iii)(A) for the fiscal year immediately
383 preceding the September 30 described in Subsection (8)(a); and

384 (ii) \$7,279,673.

385 (9) (a) Notwithstanding Subsection (3)(a), in addition to the amount deposited in
386 Subsection (7)(a), and until Subsection (9)(b) applies, for a fiscal year beginning on or after
387 July 1, 2007, the Division of Finance shall deposit into the Centennial Highway Fund
388 Restricted Account created by Section 72-2-118 a portion of the taxes listed under Subsection
389 (3)(a) equal to 8.3% of the revenues collected from the following taxes, which represents a
390 portion of the approximately 17% of sales and use tax revenues generated annually by the sales
391 and use tax on vehicles and vehicle-related products:

- 392 (i) the tax imposed by Subsection (2)(a)(i);
393 (ii) the tax imposed by Subsection (2)(b)(i);
394 (iii) the tax imposed by Subsection (2)(c)(i); and
395 (iv) the tax imposed by Subsection (2)(e)(ii)(A).

396 (b) Notwithstanding Subsection (3)(a) and in addition to the amounts deposited under
397 Subsection (7)(b), when the highway general obligation bonds have been paid off and the
398 highway projects completed that are intended to be paid from revenues deposited in the

399 Centennial Highway Fund Restricted Account as determined by the Executive Appropriations
400 Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit into the
401 Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes
402 listed under Subsection (3)(a) equal to 8.3% of the revenues collected from the following taxes,
403 which represents a portion of the approximately 17% of sales and use tax revenues generated
404 annually by the sales and use tax on vehicles and vehicle-related products:

- 405 (i) the tax imposed by Subsection (2)(a)(i);
- 406 (ii) the tax imposed by Subsection (2)(b)(i);
- 407 (iii) the tax imposed by Subsection (2)(c)(i); and
- 408 (iv) the tax imposed by Subsection (2)(e)(ii)(A).

409 (10) (a) Notwithstanding Subsection (3)(a) and until Subsection (10)(b) applies, the
410 Division of Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes
411 listed under Subsection (3)(a) into the Critical Highway Needs Fund created by Section
412 72-2-125.

413 (b) Notwithstanding Subsection (3)(a) and in addition to any amounts deposited under
414 Subsections (7) and (9), when the general obligation bonds authorized by Section 63B-16-101
415 have been paid off and the highway projects completed that are included in the prioritized
416 project list under Subsection 72-2-125(4) as determined in accordance with Subsection
417 72-2-125(6), the Division of Finance shall annually deposit \$90,000,000 of the revenues
418 generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund
419 of 2005 created by Section 72-2-124.

420 Section 2. Section **59-12-902** is amended to read:

421 **59-12-902. Sales tax refund for qualified emergency food agencies -- Use of**
422 **amounts received as refund -- Administration -- Rulemaking authority.**

423 (1) Beginning on January 1, 1998, a qualified emergency food agency may claim a
424 sales tax refund as provided in this section on the pounds of food and food ingredients donated
425 to the qualified emergency food agency.

426 (2) (a) Subject to the adjustments provided for in Subsection (2)(b), a qualified
427 emergency food agency may claim a refund in an amount equal to the pounds of food and food
428 ingredients donated to the qualified emergency food agency multiplied by:

- 429 (i) \$1.70; and

430 (ii) the sum of:
431 (A) [~~4.75%~~] 4.59%; and
432 (B) the sum of the tax rates provided for in Subsection (2)(b).
433 (b) Tax rates authorized under the following apply to Subsection (2)(a)(ii)(B):
434 (i) the tax rate authorized by Section 59-12-204;
435 (ii) the tax rate authorized by Section 59-12-501 or Section 59-12-1001, but only if all
436 of the counties, cities, and towns in the state impose the tax:
437 (A) under Section 59-12-501; or
438 (B) under Section 59-12-1001;
439 (iii) the tax rate authorized by Section 59-12-502, but only if all of the counties, cities,
440 and towns in the state impose the tax under Section 59-12-502;
441 (iv) the tax rate authorized by Section 59-12-703, but only if all of the counties in the
442 state impose the tax under Section 59-12-703; and
443 (v) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the
444 state impose the tax under Section 59-12-1102.
445 (c) Beginning on January 1, 1999, the commission shall annually adjust on or before
446 the second Monday of February the \$1.70 provided in Subsection (2)(a)(i) by a percentage
447 equal to the percentage difference between the food at home category of the Consumer Price
448 Index for:
449 (i) the preceding calendar year; and
450 (ii) calendar year 1997.
451 (3) To claim a sales tax refund under this section, a qualified emergency food agency
452 shall file an application with the commission.
453 (4) A qualified emergency food agency may use amounts received as a sales tax refund
454 under this section only for a purpose related to:
455 (a) warehousing and distributing food and food ingredients to other agencies and
456 organizations providing food and food ingredients to low-income persons; or
457 (b) providing food and food ingredients directly to low-income persons.
458 (5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
459 commission may make rules providing procedures for implementing the sales tax refund under
460 this section, including:

461 (a) standards for determining and verifying the amount of the sales tax refund; and
462 (b) procedures for a qualified emergency food agency to apply for a sales tax refund,
463 including the frequency with which a qualified emergency food agency may apply for a sales
464 tax refund.

465 (6) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
466 Division of Housing and Community Development may establish rules providing for the
467 certification of emergency food agencies to claim a refund under this part.

468 Section 3. Section **59-14-204** is amended to read:

469 **59-14-204. Tax basis -- Rate -- Future increase -- Restricted account -- Use of**
470 **revenues.**

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

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

474 (a) [~~3.475~~] 5.975 cents on each cigarette, for all cigarettes weighing not more than
475 three pounds per thousand cigarettes; and

476 (b) [~~4.075~~] 6.575 cents on each cigarette, for all cigarettes weighing in excess of three
477 pounds per thousand cigarettes.

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

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

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

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

488 [~~(c)~~] (ii) The Department of Health shall expend the funds deposited in the account
489 under Subsection (5)(b)(i) for a tobacco prevention and control media campaign targeted
490 towards children.

491 [~~(d)~~] (c) (i) The following revenue generated from the tax increase imposed under

492 ~~[Subsection (1)]~~ this section during the 2002 Annual General Session shall be deposited
 493 annually in the Cigarette Tax Restricted Account:

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

496 ~~[(ii)]~~ (B) 15% of the revenue, to be annually appropriated to the University of Utah
 497 Health Sciences Center for the Huntsman Cancer Institute for cancer research; and

498 ~~[(iii)]~~ (C) 21% of the revenue, to be annually appropriated to the University of Utah
 499 Health Sciences Center for medical education at the University of Utah School of Medicine.

500 (ii) The Legislature shall give particular consideration to appropriating any revenue
 501 generated from the tax increase imposed under this section during the 2002 Annual General
 502 Session and not otherwise appropriated pursuant to Subsection (5)(c)(i) to enhance Medicaid
 503 provider reimbursement rates and medical coverage for the uninsured.

504 (d) Beginning July 1, 2008, the lesser of \$3,100,000 or the total amount of the revenue
 505 generated by the increase in cigarette tax rates under Subsection (2) adopted during the 2008
 506 Annual General Session shall be deposited annually in the Cigarette Tax Restricted Account
 507 and, as funds are available, appropriated according to the following order:

508 (i) \$2,300,000 shall be appropriated annually to the Department of Health for cancer
 509 screening by the Cancer Screening and Mortality Reduction Program created under Section
 510 26-21a-301; and

511 (ii) \$800,000 shall be appropriated annually to the Department of Health for the Gold
 512 Medal Schools Program.

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

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

521 ~~[(g)]~~ (f) Any program or entity that receives funding under Subsection ~~[(5)(d)]~~ (5)(c)(i)
 522 shall provide an annual report to the Health and Human Services Interim Committee no later

523 that September 1 of each year. The report shall include:

524 (i) the amount funded;

525 (ii) the amount expended;

526 (iii) a description of the effectiveness of the program; and

527 (iv) if the program is a tobacco cessation program, the report required in Section

528 63-97-401.

529 Section 4. **Effective date.**

530 This bill takes effect on July 1, 2008.

Fiscal Note**H.B. 355 2nd Sub. (Gray) - Tax Changes and Appropriations for Preventive Health Activities**

2008 General Session

State of Utah

State Impact

Enactment of this bill could reduce the General Fund by \$144,200 in FY 2009 and by \$1,144,000 in FY 2010. The bill also appropriates \$3,100,000 annually for tobacco prevention activities. The General Fund reduction includes both a sales tax decrease and a cigarette tax increase.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>Revenue</u>
General Fund	\$0	\$3,100,000	\$3,100,000	\$0	(\$144,200)	(\$1,144,000)
Total	\$0	\$3,100,000	\$3,100,000	\$0	(\$144,200)	(\$1,144,000)

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments. There would be an increase of 50 cents a pack for individuals buying cigarettes. There is also a potential reduction in sales tax paid by individuals and businesses as a result of this bill.