

Senator Lyle W. Hillyard proposes the following substitute bill:

**BUDGET IMPLEMENTATION ADJUSTMENTS -  
TOBACCO SETTLEMENT FUNDS**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ron Bigelow**

Senate Sponsor: Lyle W. Hillyard

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**LONG TITLE**

**General Description:**

This bill makes adjustments in the amounts provided to the Departments of Health and Human Services, and the Administrative Office of the Courts from Tobacco Settlement Funds.

**Highlighted Provisions:**

This bill:

- ▶ shifts monies between programs in the Departments of Health and Human Services from the Tobacco Settlement Funds and the cigarette tax;
- ▶ eliminates the drug board pilot program in the Department of Human Services; and
- ▶ increases funding to the Department of Health for the Children's Health Insurance Program.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill takes effect on July 1, 2009.

This bill coordinates with H.B. 302, Distribution of Tobacco Settlement Monies Amendments.



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **51-9-201**, as last amended by Laws of Utah 2008, Chapter 250 and renumbered and  
29 amended by Laws of Utah 2008, Chapter 382

30 **59-14-204**, as last amended by Laws of Utah 2008, Chapter 382

31 REPEALS:

32 **78A-5-202**, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

35 Section 1. Section **51-9-201** is amended to read:

36 **51-9-201. Creation of Tobacco Settlement Restricted Account.**

37 (1) There is created within the General Fund a restricted account known as the  
38 "Tobacco Settlement Restricted Account."

39 (2) The account shall earn interest.

40 (3) The account shall consist of:

41 (a) until July 1, 2003, 50% of all funds of every kind that are received by the state that  
42 are related to the settlement agreement that the state entered into with leading tobacco  
43 manufacturers on November 23, 1998;

44 (b) on and after July 1, 2003 and until July 1, 2004, 80% of all funds of every kind that  
45 are received by the state that are related to the settlement agreement that the state entered into  
46 with leading tobacco manufacturers on November 23, 1998;

47 (c) on and after July 1, 2004 and until July 1, 2005, 70% of all funds of every kind that  
48 are received by the state that are related to the settlement agreement that the state entered into  
49 with leading tobacco manufacturers on November 23, 1998;

50 (d) on and after July 1, 2005 and until July 1, 2007, 75% of all funds of every kind that  
51 are received by the state that are related to the settlement agreement that the state entered into  
52 with leading tobacco manufacturers on November 23, 1998;

53 (e) on and after July 1, 2007, 60% of all funds of every kind that are received by the  
54 state that are related to the settlement agreement that the state entered into with leading tobacco  
55 manufacturers on November 23, 1998; and

56 (f) interest earned on the account.

57 (4) To the extent that funds will be available for appropriation in a given fiscal year,  
58 those funds shall be appropriated from the account in the following order:

59 (a) [~~\$10,300,000~~] \$14,056,000 to the Department of Health for the Children's Health  
60 Insurance Program created in Section 26-40-103 and for restoration of dental benefits in the  
61 Children's Health Insurance Program;

62 (b) [~~\$4,000,000~~] \$1,500,000 to the Department of Health for alcohol, tobacco, and  
63 other drug prevention, reduction, cessation, and control programs that promote unified  
64 messages [~~and~~], make use of media outlets, including radio, newspaper, billboards, and  
65 television, [~~and~~] with a preference in funding given to tobacco-related programs, \$500,000 of  
66 which shall be used to continue the Synar Statewide Compliance Testing Program;

67 [~~(e) \$193,700~~] (b) \$352,800 to the Administrative Office of the Courts and  
68 [~~\$1,296,300~~] \$1,815,400 to the Department of Human Services for the statewide expansion of  
69 the drug court program;

70 [~~(d) \$77,400 to the Board of Pardons, \$81,700 to the Department of Corrections, and~~  
71 ~~\$350,900 to the Department of Human Services for a drug board pilot program;~~]

72 [~~(e)~~] (c) \$4,000,000 to the State Board of Regents for the University of Utah Health  
73 Sciences Center to benefit the health and well-being of Utah citizens through in-state research,  
74 treatment, and educational activities; and

75 [~~(f)~~] (d) any remaining funds as directed by the Legislature through appropriation.

76 (5) (a) If tobacco funds in dispute for attorney fees are received by the state, those  
77 funds shall be divided and deposited in accordance with Subsection (3) and Section 51-9-202.

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

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

85 (a) the Health and Human Services Interim Committee no later than September 1; and  
86 (b) the Health and Human Services Appropriations Subcommittee.

87 Section 2. Section **59-14-204** is amended to read:

88           **59-14-204. Tax basis -- Rate -- Future increase -- Restricted account -- Use of**  
89 **revenues.**

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

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

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

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

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

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

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

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

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

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

113           (i) 22% of the revenue to be annually appropriated to the Department of Health for  
114 tobacco prevention, reduction, cessation, and control programs, \$352,200 of which shall be  
115 returned annually to the General Fund;

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

118           (iii) 21% of the revenue to be annually appropriated to the University of Utah Health

119 Sciences Center for medical education at the University of Utah School of Medicine.

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

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

128 (g) Any program or entity that receives funding under Subsection (5)(d) shall provide  
129 an annual report to the Health and Human Services Interim Committee no later than September  
130 1 of each year. The report shall include:

131 (i) the amount funded;

132 (ii) the amount expended;

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

134 (iv) if the program is a tobacco cessation program, the report required in Section  
135 51-9-203.

136 Section 3. **Repealer.**

137 This bill repeals:

138 Section 78A-5-202, **Creation of Drug Board Pilot Project -- Definition of Drug**

139 **Board Pilot Project -- Criteria for parolee participation in the Drug Board Pilot Project --**  
140 **Reporting requirements.**

141 Section 4. **Effective date.**

142 This bill takes effect on July 1, 2009.

143 Section 5. **Coordinating H.B. 444 with H.B. 302 -- Superseding amendments.**

144 If this H.B. 444 and H.B. 302, Distribution of Tobacco Settlement Monies

145 Amendments, both pass, it is the intent of the Legislature that Section 51-9-201 in this bill

146 supersede Section 51-9-201 in H.B. 302 when the Office of Legislative Research and General

147 Counsel prepares the database for publication, on July 1, 2009.