

1st Sub. H.B. 196
TOBACCO TAX REVISIONS

Representative **Stephen E. Sandstrom** proposes the following amendments:

1. *Page 1, Lines 11 through 13:*

11 tobacco products in the state {~~for the 2010-11 state fiscal year, and by providing a~~
12 ~~calculation by which those tax rates will either remain the same, or increase, every third~~
13 ~~fiscal year after the 2010-11 state fiscal year~~ } .

2. *Page 1, Lines 17 through 18:*

17 state and for the sale, use, or storage of tobacco products in the state, {~~for the 2010-~~
18 ~~11 state fiscal year,~~} as follows:

3. *Page 2, Lines 26 through 41:*

26 {~~sets the tax rate for the sale, use, storage, or distribution of cigarettes in the state and~~
27 ~~for the sale, use, or storage of tobacco products in the state, for each third year after~~
28 ~~the 2010-11 state fiscal year, as follows:~~
29 ~~• for cigarettes weighing not more than three pounds per thousand cigarettes, at~~
30 ~~the greater of the rate for the preceding state fiscal year or one-half of one cent~~
31 ~~above the national average, excluding certain tobacco producing states;~~
32 ~~• for cigarettes weighing in excess of three pounds per thousand cigarettes, at a~~
33 ~~rate that is 1.172 times higher than the rate described in the preceding~~
34 ~~paragraph;~~
35 ~~• for tobacco products, except moist snuff, the greater of the rate for the preceding~~
36 ~~state fiscal year and a percentage rate that is modified by the percentage change~~
37 ~~in the rate for cigarettes weighing not more than three pounds per thousand~~
38 ~~cigarettes; and~~
39 ~~• for moist snuff, the greater of the tax rate for the preceding state fiscal year and~~
40 ~~an amount that is modified by the percentage change described in the preceding~~
41 ~~paragraph;}~~

4. *Page 2, Line 54:*

54 {~~63J-1-201, as last amended by Laws of Utah 2009, Chapters 183 and 368~~}

5. *Page 3, Line 65 through Page 4, Line 88:*

65 (2) The rates of the tax levied under Subsection (1) are {+} :-
66 ~~(a)~~ (a) ~~.~~ . ~~beginning on July 1, 2010~~ {, and ending on June 30, 2013} ~~:~~ ;
67 ~~[(a) 3.475]~~ ~~{(i)}~~ (a) 8.5 cents on each cigarette, for all cigarettes weighing not more than
68 three pounds per thousand cigarettes; and
69 ~~[(b) 4.075]~~ ~~{(ii)}~~ (b) 9.963 cents on each cigarette, for all cigarettes weighing in excess of
70 three pounds per thousand cigarettes {+} . {+} {+} :-
71 {(b) beginning on July 1 of every third state fiscal year after the 2010-11 fiscal year, for
72 all cigarettes weighing not more than three pounds per thousand cigarettes, the greater of:
73 —(i) the rate for the preceding state fiscal year; or
74 —(ii) the rate calculated under Subsection (3); and
75 —(c) beginning on July 1 of every third state fiscal year after the 2010-11 fiscal year, for
76 all cigarettes weighing in excess of three pounds per thousand cigarettes, calculated by:
77 —(i) multiplying the rate calculated under Subsection (3) by 1.172; and
78 —(ii) rounding the product of the calculation described in Subsection (2)(c)(i) to the
79 nearest thousandth of one cent.
80 (3) On or before April 1 of 2013, and on or before April 1 of each third year after 2013,
81 the tax commission shall calculate the tax rate described in Subsection (2)(b) by:
82 —(a) determining the sum of the state tax rates, as the rates were on January 1 of that
83 year, for the cigarettes described in Subsection (2)(b), for each state of the United States,
84 except Georgia, Kentucky, North Carolina, South Carolina, Tennessee, and Virginia;
85 —(b) dividing the sum described in Subsection (3)(a) by 44 and rounding the result to the
86 nearest thousandth of one cent; and
87 —(c) adding one-half of one cent to the rounded amount described in Subsection (3)(b):
88 {+} (3) {+} ~~{(4)}~~ Except as otherwise provided under this chapter, the tax levied
under

6. Page 4, Line 91:

91 {+} (4) {+} ~~{(5)}~~ The tax rates specified in this section shall be increased by the
commission by

7. Page 4, Line 93:

93 {+} (5) {+} ~~{(6)}~~ (a) There is created within the General Fund a restricted account known
as the

8. Page 4, Line 99:

99 Subsection {+} (5) {+} ~~{(6)}~~ (b) for a tobacco prevention and control media campaign targeted
towards

9. Page 4, Line 115:

115 Subsections {+} (5) {+} ~~{(6)}~~ (d)(i) through {+} (5) {+} ~~{(6)}~~ (d)(iii) in proportion to the amount of revenue

10. Page 5, Line 119:

119 Annual General Session and not otherwise appropriated pursuant to Subsection {+} (5) {+} ~~{(6)}~~ (d) to

11. Page 5, Line 121:

121 ~~[(g)]~~ (h) Any program or entity that receives funding under Subsection {+} (5) {+} ~~{(6)}~~ (d) or

12. Page 6, Line 176 through Page 7, Line 195:

176 (4) The rate of the tax under this section is:
177 ~~{(a)}~~ beginning on July 1, 2010 ~~{, and ending on June 30, 2013}~~ ;
178 {+} (a) {+} ~~{(i)}~~ for tobacco products except for moist snuff, ~~[35% of]~~ .86 multiplied by
the
179 manufacturer's sales price; ~~[or]~~ and
180 {+} (b) {+} ~~{(ii)}~~ subject to Subsection (5), for moist snuff, ~~[\$.75]~~ \$1.83 per ounce[-]; and
181 {(b) beginning on July 1 of every third state fiscal year after the 2010-11 fiscal year:
182 —— (i) for tobacco products, except moist snuff, the greater of:
183 —— (A) the rate for the preceding state fiscal year; or
184 —— (B) an amount calculated by:
185 —— (I) dividing the rate calculated under Subsection 59-14-204(3) by the rate for all
186 cigarettes weighing not more than three pounds per thousand cigarettes for the state fiscal year
187 that ended the day before July 1; and
188 —— (II) multiplying the result of the calculation described in Subsection (4)(b)(i)(B)(I) by
189 the tax rate for tobacco products, except moist snuff, for the state fiscal year that ended the day
190 before July 1; and
191 —— (ii) for moist snuff, an amount equal to the greater of the per ounce tax rate for moist
192 snuff for:
193 —— (A) the fiscal year that ended the day before July 1; or
194 —— (B) the fiscal year that ended the day before July 1, multiplied by the result of the
195 calculation described in Subsection (4)(b)(i)(B)(I). }

13. Page 7, Line 199:

199 a proportionate amount of the tax described in Subsection (4) {+} (b) {+} ~~{(a)(ii)}~~ is imposed:

14. Page 8, Line 226 through Page 13, Line 390:

226 { ~~Section 5. Section 63J-1-201 is amended to read:~~

227 ~~—— 63J-1-201. Governor to submit budget to Legislature -- Contents -- Preparation --~~

228 ~~Appropriations based on current tax laws and not to exceed estimated revenues:~~

229 ~~—— (1) The governor shall deliver, not later than 30 days before the date the Legislature~~

230 ~~convenes in the annual general session, a confidential draft copy of the governor's proposed~~

231 ~~budget recommendations to the Office of the Legislative Fiscal Analyst.~~

232 ~~—— (2) (a) The governor shall, within the first three days of the annual general session of~~

233 ~~the Legislature, submit to the presiding officer of each house of the Legislature:~~

234 ~~—— (i) a proposed budget for the ensuing fiscal year;~~

235 ~~—— (ii) a schedule for all of the proposed appropriations of the budget, with each~~

236 ~~appropriation clearly itemized and classified;~~

237 ~~—— (iii) the statement described in Subsection (2)(c); and~~

238 ~~—— (iv) as applicable, a document showing proposed expenditures and estimated revenues~~

239 ~~that are based on changes in state tax laws or rates:~~

240 ~~—— (b) The proposed budget shall include:~~

241 ~~—— (i) a projection of estimated revenues and expenditures for the next fiscal year;~~

242 ~~—— (ii) the source of all direct, indirect, and in-kind matching funds for all federal grants or~~

243 ~~assistance programs included in the budget;~~

244 ~~—— (iii) a complete plan of proposed expenditures and estimated revenues for the next~~

245 ~~fiscal year that is based upon the current fiscal year state tax laws and rates;~~

246 ~~—— (iv) an itemized estimate of the proposed appropriations for:~~

247 ~~—— (A) the Legislative Department as certified to the governor by the president of the~~

248 ~~Senate and the speaker of the House;~~

249 ~~—— (B) the Executive Department;~~

250 ~~—— (C) the Judicial Department as certified to the governor by the state court~~

251 ~~administrator;~~

252 ~~—— (D) payment and discharge of the principal and interest of the indebtedness of the state;~~

253 ~~—— (E) the salaries payable by the state under the Utah Constitution or under law for the~~

254 ~~lease agreements planned for the next fiscal year;~~

255 ~~—— (F) other purposes that are set forth in the Utah Constitution or under law; and~~

256 ~~—— (G) all other appropriations;~~

257 ~~—— (v) for each line item, the average annual dollar amount of staff funding associated~~

258 ~~with all positions that were vacant during the last fiscal year; and~~

259 ~~—— (vi) deficits or anticipated deficits:~~

260 ~~—— (c) The budget shall be accompanied by a statement showing:~~

261 ~~—— (i) the revenues and expenditures for the last fiscal year;~~

262 ~~—— (ii) the current assets, liabilities, and reserves, surplus or deficit, and the debts and~~

263 ~~funds of the state;~~

264 ~~—— (iii) an estimate of the state's financial condition as of the beginning and the end of the~~
265 ~~period covered by the budget;~~
266 ~~—— (iv) a complete analysis of lease with an option to purchase arrangements entered into~~
267 ~~by state agencies;~~
268 ~~—— (v) the recommendations for each state agency for new full-time employees for the~~
269 ~~next fiscal year, which shall also be provided to the State Building Board as required by~~
270 ~~Subsection 63A-5-103(2);~~
271 ~~—— (vi) any explanation that the governor may desire to make as to the important features~~
272 ~~of the budget and any suggestion as to methods for the reduction of expenditures or increase of~~
273 ~~the state's revenue; and~~
274 ~~—— (vii) information detailing certain fee increases as required by Section 63J-1-504.~~
275 ~~—— (3) (a) (i) For the purpose of preparing and reporting the proposed budget, the governor~~
276 ~~shall require the proper state officials, including all public and higher education officials, all~~
277 ~~heads of executive and administrative departments and state institutions, bureaus, boards,~~
278 ~~commissions, and agencies expending or supervising the expenditure of the state monies, and~~
279 ~~all institutions applying for state monies and appropriations, to provide itemized estimates of~~
280 ~~revenues and expenditures.~~
281 ~~—— (ii) The governor may also require other information under these guidelines and at~~
282 ~~times as the governor may direct, which may include a requirement for program productivity~~
283 ~~and performance measures, where appropriate, with emphasis on outcome indicators.~~
284 ~~—— (b) The governor may require representatives of public and higher education, state~~
285 ~~departments and institutions, and other institutions or individuals applying for state~~
286 ~~appropriations to attend budget meetings.~~
287 ~~—— (c) (i) (A) In submitting the budgets for the Departments of Health and Human~~
288 ~~Services and the Office of the Attorney General, the governor shall consider a separate~~
289 ~~recommendation in the governor's budget for funds to be contracted to:~~
290 ~~—— (I) local mental health authorities under Section 62A-15-110;~~
291 ~~—— (H) local substance abuse authorities under Section 62A-15-110;~~
292 ~~—— (HH) area agencies under Section 62A-3-104.2;~~
293 ~~—— (IV) programs administered directly by and for operation of the Divisions of Substance~~
294 ~~Abuse and Mental Health and Aging and Adult Services;~~
295 ~~—— (V) local health departments under Title 26A, Chapter 1, Local Health Departments;~~
296 ~~and~~
297 ~~—— (VI) counties for the operation of Children's Justice Centers under Section 67-5b-102.~~
298 ~~—— (B) In the governor's budget recommendations under Subsections (3)(c)(i)(A)(I), (H),~~
299 ~~and (HH), the governor shall consider an amount sufficient to grant local health departments,~~
300 ~~local mental health authorities, local substance abuse authorities, and area agencies the same~~
301 ~~percentage increase for wages and benefits that the governor includes in the governor's budget~~
302 ~~for persons employed by the state.~~

303 ~~—— (C) If the governor does not include in the governor's budget an amount sufficient to~~
304 ~~grant the increase described in Subsection (3)(c)(i)(B), the governor shall include a message to~~
305 ~~the Legislature regarding the governor's reason for not including that amount.~~
306 ~~—— (ii) (A) In submitting the budget for the Department of Agriculture, the governor shall~~
307 ~~consider an amount sufficient to grant local conservation districts and Utah Association of~~
308 ~~Conservation District employees the same percentage increase for wages and benefits that the~~
309 ~~governor includes in the governor's budget for persons employed by the state.~~
310 ~~—— (B) If the governor does not include in the governor's budget an amount sufficient to~~
311 ~~grant the increase described in Subsection (3)(c)(ii)(A), the governor shall include a message to~~
312 ~~the Legislature regarding the governor's reason for not including that amount.~~
313 ~~—— (iii) (A) In submitting the budget for the Utah State Office of Rehabilitation and the~~
314 ~~Division of Services for People with Disabilities, the Division of Child and Family Services,~~
315 ~~and the Division of Juvenile Justice Services within the Department of Human Services, the~~
316 ~~governor shall consider an amount sufficient to grant employees of corporations that provide~~
317 ~~direct services under contract with those divisions, the same percentage increase for~~
318 ~~cost-of-living that the governor includes in the governor's budget for persons employed by the~~
319 ~~state.~~
320 ~~—— (B) If the governor does not include in the governor's budget an amount sufficient to~~
321 ~~grant the increase described in Subsection (3)(c)(iii)(A), the governor shall include a message~~
322 ~~to the Legislature regarding the governor's reason for not including that amount.~~
323 ~~—— (iv) (A) The Families, Agencies, and Communities Together Council may propose a~~
324 ~~budget recommendation to the governor for collaborative service delivery systems operated~~
325 ~~under Section 63M-9-402, as provided under Subsection 63M-9-201(4)(c).~~
326 ~~—— (B) The Legislature may, through a specific program schedule, designate funds~~
327 ~~appropriated for collaborative service delivery systems operated under Section 63M-9-402.~~
328 ~~—— (v) The governor shall include in the governor's budget the state's portion of the budget~~
329 ~~for the Utah Communications Agency Network established in Title 63C, Chapter 7, Utah~~
330 ~~Communications Agency Network Act.~~
331 ~~—— (vi) (A) The governor shall include a separate recommendation in the governor's~~
332 ~~budget for funds to maintain the operation and administration of the Utah Comprehensive~~
333 ~~Health Insurance Pool:~~
334 ~~—— (B) In making the recommendation, the governor may consider:~~
335 ~~—— (I) actuarial analysis of growth or decline in enrollment projected over a period of at~~
336 ~~least three years;~~
337 ~~—— (H) actuarial analysis of the medical and pharmacy claims costs projected over a period~~
338 ~~of at least three years;~~
339 ~~—— (H) the annual Medical Care Consumer Price Index;~~
340 ~~—— (IV) the annual base budget for the pool established by the Commerce and Revenue~~
341 ~~Appropriations Subcommittee for each fiscal year;~~

342 ~~—— (V) the growth or decline in insurance premium taxes and fees collected by the State~~
343 ~~Tax Commission and the Insurance Department; and~~
344 ~~—— (VI) the availability of surplus General Fund revenue under Section 63J-1-312 and~~
345 ~~Subsection 59-14-204[(5)](6)(b):~~
346 ~~—— (d) (i) The governor may revise all estimates, except those relating to the Legislative~~
347 ~~Department, the Judicial Department, and those providing for the payment of principal and~~
348 ~~interest to the state debt and for the salaries and expenditures specified by the Utah~~
349 ~~Constitution or under the laws of the state.~~
350 ~~—— (ii) The estimate for the Legislative Department, as certified by the presiding officers~~
351 ~~of both houses, shall be included in the budget without revision by the governor.~~
352 ~~—— (iii) The estimate for the Judicial Department, as certified by the state court~~
353 ~~administrator, shall also be included in the budget without revision, but the governor may make~~
354 ~~separate recommendations on the estimate.~~
355 ~~—— (e) The total appropriations requested for expenditures authorized by the budget may~~
356 ~~not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing~~
357 ~~fiscal year:~~
358 ~~—— (4) In considering the factors in Subsections (3)(c)(vi)(B)(I), (H), and (II) and~~
359 ~~Subsections (5)(b)(ii)(A), (B), and (C), the governor and the Legislature may consider the~~
360 ~~actuarial data and projections prepared for the board of the Utah Comprehensive Health~~
361 ~~Insurance Pool as it develops its financial statements and projections for each fiscal year:~~
362 ~~—— (5) (a) In adopting a budget for each fiscal year, the Legislature shall consider an~~
363 ~~amount sufficient to grant local health departments, local mental health authorities, local~~
364 ~~substance abuse authorities, area agencies on aging, conservation districts, and Utah~~
365 ~~Association of Conservation District employees the same percentage increase for wages and~~
366 ~~benefits that is included in the budget for persons employed by the state.~~
367 ~~—— (b) (i) In adopting a budget each year for the Utah Comprehensive Health Insurance~~
368 ~~Pool, the Legislature shall determine an amount that is sufficient to fund the pool for each~~
369 ~~fiscal year:~~
370 ~~—— (ii) When making a determination under Subsection (5)(b)(i), the Legislature shall~~
371 ~~consider factors it determines are appropriate, which may include:~~
372 ~~—— (A) actuarial analysis of growth or decline in enrollment projected over a period of at~~
373 ~~least three years;~~
374 ~~—— (B) actuarial analysis of the medical and pharmacy claims costs projected over a period~~
375 ~~of at least three years;~~
376 ~~—— (C) the annual Medical Care Consumer Price Index;~~
377 ~~—— (D) the annual base budget for the pool established by the Commerce and Revenue~~
378 ~~Appropriations Subcommittee for each fiscal year;~~
379 ~~—— (E) the growth or decline in insurance premium taxes and fees collected by the tax~~
380 ~~commission and the insurance department from the previous fiscal year; and~~

381 ~~—— (F) the availability of surplus General Fund revenue under Section 63J-1-312 and~~
382 ~~Subsection 59-14-204[(5)](6)(b):~~
383 ~~—— (iii) The funds appropriated by the Legislature to fund the Utah Comprehensive Health~~
384 ~~Insurance Pool as determined under Subsection (5)(b)(i):~~
385 ~~—— (A) shall be deposited into the fund established by Section 31A-29-120; and~~
386 ~~—— (B) are restricted and are to be used to maintain the operation, administration, and~~
387 ~~management of the Utah Comprehensive Health Insurance Pool created by Section~~
388 ~~31A-29-104.~~
389 ~~—— (6) If any item of the budget as enacted is held invalid upon any ground, the invalidity~~
390 ~~does not affect the budget itself or any other item in it. }~~