

1 **USE OF TOBACCO SETTLEMENT REVENUES**

2 2000 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: L. Steven Poulton**

5 AN ACT RELATING TO STATE AFFAIRS IN GENERAL; REQUIRING THAT TOBACCO
6 SETTLEMENT FUNDS BE ALLOCATED IN THE FOLLOWING ORDER: \$5,500,000 FOR
7 THE CHILDREN'S HEALTH INSURANCE PROGRAM, \$10,000,0000 FOR TOBACCO
8 PREVENTION, \$5,000,000 TO THE STATE BOARD OF REGENTS FOR THE HUNTSMAN
9 CANCER INSTITUTE, AND THE REMAINDER TO THE PERMANENT STATE SCHOOL
10 FUND; DIRECTING THE APPROPRIATION OF FUNDS FOR FISCAL YEAR 2000-01;
11 REPEALING THE HOSPITAL PROVIDER ASSESSMENT; AND PROVIDING AN
12 EFFECTIVE DATE.

13 This act affects sections of Utah Code Annotated 1953 as follows:

14 AMENDS:

15 **26-40-102**, as enacted by Chapter 360, Laws of Utah 1998

16 **26-40-103**, as last amended by Chapters 21 and 61, Laws of Utah 1999

17 **63-97-102**, as enacted by Chapter 78, Laws of Utah 1999

18 REPEALS:

19 **26-40-111**, as enacted by Chapter 360, Laws of Utah 1998

20 **26-40-112**, as last amended by Chapter 78, Laws of Utah 1999

21 **26-40-113**, as enacted by Chapter 360, Laws of Utah 1998

22 **26-40-114**, as enacted by Chapter 360, Laws of Utah 1998

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

24 Section 1. Section **26-40-102** is amended to read:

25 **26-40-102. Definitions.**

26 As used in this chapter:

27 [(1) "Assessment" means the hospital provider assessment established in Section

28 ~~26-40-111.]~~

29 ~~[(2)] (1) "Child" means a person who is under 19 years of age.~~

30 ~~[(3)] (2) "Eligible child" means a child who qualifies for enrollment in the program as~~
31 ~~provided in Section 26-40-105.~~

32 ~~[(4)] (3) "Enrollee" means any child enrolled in the program.~~

33 ~~[(5)] "Freestanding ambulatory surgical facility" means an urban or rural nonhospital-based~~
34 ~~or nonhospital-affiliated licensed facility, as defined in Section 26-21-2, as an ambulatory surgical~~
35 ~~facility, with an organized professional staff that provides surgical services to patients who do not~~
36 ~~require an inpatient bed.]~~

37 ~~[(6) (a) "Hospital" means any general acute hospital, as defined in Section 26-21-2,~~
38 ~~operating in this state.]~~

39 ~~[(b) "Hospital" does not include:]~~

40 ~~[(i) a residential care or treatment facility, as defined in Subsections 62A-2-101(16), (17),~~
41 ~~and (19);]~~

42 ~~[(ii) the Utah State Hospital;]~~

43 ~~[(iii) any rural hospital that operates outside of a metropolitan statistical area, a~~
44 ~~metropolitan area, or an urbanized area as designated by the U.S. Bureau of Census; or]~~

45 ~~[(iv) any specialty hospital operating in this state, as defined in Section 26-21-2, that is~~
46 ~~engaged exclusively in rendering psychiatric or other mental health treatment.]~~

47 ~~[(7) "Hospital-based ambulatory surgical facility" means an urban or rural on-hospital~~
48 ~~campus or hospital-affiliated licensed facility with an organized professional staff that provides~~
49 ~~surgical services to patients who do not require an inpatient bed.]~~

50 ~~[(8)] (4) "Plan" means the department's plan submitted to the United States Department~~
51 ~~of Health and Human Services pursuant to 42 U.S.C. Sec. 1397ff.~~

52 ~~[(9)] (5) "Program" means the Utah Children's Health Insurance Program created by this~~
53 ~~chapter.~~

54 Section 2. Section **26-40-103** is amended to read:

55 **26-40-103. Creation and administration of the Utah Children's Health Insurance**
56 **Program.**

57 (1) There is created the Utah Children's Health Insurance Program to be administered by
58 the department in accordance with the provisions of:

- 59 (a) this chapter; and
- 60 (b) the State Children's Health Insurance Program, 42 U.S.C. Sec. 1397aa et seq.
- 61 (2) The department shall:
- 62 (a) prepare and submit the state's children's health insurance plan before May 1, 1998, and
- 63 any amendments to the federal Department of Health and Human Services in accordance with 42
- 64 U.S.C. Sec. 1397ff; and
- 65 (b) make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
- 66 Act regarding:
- 67 (i) eligibility requirements consistent with Subsection 26-18-3(6);
- 68 (ii) program benefits;
- 69 (iii) the level of coverage for each program benefit;
- 70 (iv) cost-sharing requirements for enrollees, which may not:
- 71 (A) exceed the guidelines set forth in 42 U.S.C. Sec. 1397ee; or
- 72 (B) impose deductible, copayment, or coinsurance requirements on an enrollee for
- 73 well-child, well-baby, and immunizations; and
- 74 (v) the administration of the program[; ~~and~~].
- 75 [~~(vi) the provider assessment, including:~~
- 76 [~~(A) the factor for the assessment;~~
- 77 [~~(B) the administration, collection, and enforcement of the assessment, including:~~
- 78 [~~(f) auditing a provider's records; and~~
- 79 [~~(H) imposing penalties for failure to pay the assessment as required; and~~
- 80 [~~(C) reducing the amount of the assessment to the extent funds are deposited into the~~
- 81 ~~Hospital Provider Assessment Account created in Section 26-40-112 as a result of private~~
- 82 ~~contributions to the program.]~~
- 83 (3) Before July 1, 2001, the Governor's Office of Planning and Budget shall study the
- 84 effectiveness of the department's administration of the program and report any findings to:
- 85 (a) the Health and Human Services Interim Committee of the Legislature;
- 86 (b) the Health Policy Commission; and
- 87 (c) the department.
- 88 Section 3. Section **63-97-102** is amended to read:
- 89 **63-97-102. Creation of restricted account.**

90 (1) There is created within the General Fund a restricted account known as the Tobacco
91 Settlement Account.

92 (2) The account shall earn interest.

93 [~~(2)~~] (3) The account shall consist of:

94 (a) all funds received by the state that are related to the settlement agreement that the state
95 entered into with leading tobacco manufacturers on November 23, 1998[. (3) Funds in the
96 account may only be used as directed by the Legislature through appropriation.]; and

97 (b) interest earned on the account.

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

100 (a) \$5,500,000 to the Department of Health for the Children's Health Insurance Program
101 created in Section 26-40-103;

102 (b) \$10,000,000 to the Department of Health for tobacco prevention, reduction, and control
103 programs that promote a unified message and make use of media outlets;

104 (c) \$5,000,000 to the State Board of Regents to be appropriated to the Huntsman Cancer
105 Institute to benefit the health and well-being of Utah citizens through in-state research, treatment,
106 and educational activities; and

107 (d) any amount remaining after Subsection (4)(a) and (b) to the permanent State School
108 Fund created by and operated under Utah Constitution Article X, Section 5.

109 **Section 4. Repealer.**

110 This act repeals:

111 **Section 26-40-111, Provider assessment.**

112 **Section 26-40-112, Hospital Provider Assessment Account.**

113 **Section 26-40-113, Intergovernmental transfers.**

114 **Section 26-40-114, Repeal of assessment.**

115 **Section 5. Appropriation.**

116 (1) All tobacco settlement funds that are available for appropriation in fiscal year 2000-01,
117 regardless of the specific date on which they are received, shall be appropriated in the following
118 order:

119 (a) \$5,500,000 to the Department of Health for the Children's Health Insurance Program;

120 (b) \$10,000,000 to the Department of Health for tobacco prevention, reduction, and control

121 programs as described in Section 63-97-102;
122 (c) \$5,000,000 to the State Board of Regents to be appropriated to the Huntsman Cancer
123 Institute as provided in Section 63-97-102; and
124 (d) all remaining amounts to the permanent State School Fund created by and operated
125 under Utah Constitution Article X, Section 5.
126 (2) Any funds remaining in the Hospital Providers Assessment Account as of June 30,
127 2000, shall lapse into the General Fund.
128 **Section 6. Effective date.**
129 This act takes effect on July 1, 2000.

Legislative Review Note
as of 12-13-99 3:28 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel