

Senator L. Steven Poulton proposes to substitute the following bill:

USE OF TOBACCO SETTLEMENT REVENUES

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: L. Steven Poulton

1 AN ACT RELATING TO THE TOBACCO SETTLEMENT ACCOUNT; CREATING THE
2 TOBACCO SETTLEMENT ENDOWMENT AND RENAMING THE TOBACCO
3 SETTLEMENT ACCOUNT; APPORTIONING TOBACCO SETTLEMENT FUNDS BETWEEN
4 THE ACCOUNT AND THE ENDOWMENT; REQUIRING THAT FUNDS IN THE TOBACCO
5 SETTLEMENT RESTRICTED ACCOUNT BE ALLOCATED EACH YEAR IN THE
6 FOLLOWING ORDER: \$5,500,000 FOR THE CHILDREN'S HEALTH INSURANCE
7 PROGRAM, \$4,000,000 FOR TOBACCO PREVENTION, \$2,000,000 FOR THE DRUG
8 COURT PROGRAM, AND \$4,000,000 FOR THE UNIVERSITY OF UTAH HEALTH
9 SCIENCES CENTER; IMPOSING AN ANNUAL REPORTING REQUIREMENT; DIRECTING
10 THE APPROPRIATION OF FUNDS FOR FISCAL YEAR 2000-01; REPEALING THE
11 HOSPITAL PROVIDER ASSESSMENT; PROVIDING AN EFFECTIVE DATE; AND
12 PROVIDING A COORDINATING CLAUSE TO ALLOCATE TOBACCO SETTLEMENT
13 FUNDS TO A CONSTITUTIONALLY CREATED TRUST FUND.

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

15 AMENDS:

16 **26-40-102**, as enacted by Chapter 360, Laws of Utah 1998

17 **26-40-103**, as last amended by Chapters 21 and 61, Laws of Utah 1999

18 **63-97-101**, as enacted by Chapter 78, Laws of Utah 1999

19 ENACTS:

20 **63-97-301**, Utah Code Annotated 1953

21 RENUMBERS AND AMENDS:
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26 **63-97-201**, (Renumbered from 63-97-102, as enacted by Chapter 78, Laws of Utah 1999)

27 REPEALS:

28 **26-40-111**, as enacted by Chapter 360, Laws of Utah 1998

29 **26-40-112**, as last amended by Chapter 78, Laws of Utah 1999

30 **26-40-113**, as enacted by Chapter 360, Laws of Utah 1998

31 **26-40-114**, as enacted by Chapter 360, Laws of Utah 1998

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

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

34 **26-40-102. Definitions.**

35 As used in this chapter:

36 [~~(1)~~ "Assessment" means the hospital provider assessment established in Section
37 ~~26-40-111.~~]

38 [~~(2)~~ (1) "Child" means a person who is under 19 years of age.

39 [~~(3)~~ (2) "Eligible child" means a child who qualifies for enrollment in the program as
40 provided in Section 26-40-105.

41 [~~(4)~~ (3) "Enrollee" means any child enrolled in the program.

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

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

48 [(b) "Hospital" does not include:]

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

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

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

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

56 [~~(7)~~ "Hospital-based ambulatory surgical facility" means an urban or rural on-hospital

57 ~~campus or hospital-affiliated licensed facility with an organized professional staff that provides~~
58 ~~surgical services to patients who do not require an inpatient bed.]~~

59 ~~[(8)]~~ (4) "Plan" means the department's plan submitted to the United States Department
60 of Health and Human Services pursuant to 42 U.S.C. Sec. 1397ff.

61 ~~[(9)]~~ (5) "Program" means the Utah Children's Health Insurance Program created by this
62 chapter.

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

64 **26-40-103. Creation and administration of the Utah Children's Health Insurance**

65 **Program.**

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

68 (a) this chapter; and

69 (b) the State Children's Health Insurance Program, 42 U.S.C. Sec. 1397aa et seq.

70 (2) The department shall:

71 (a) prepare and submit the state's children's health insurance plan before May 1, 1998, and
72 any amendments to the federal Department of Health and Human Services in accordance with 42
73 U.S.C. Sec. 1397ff; and

74 (b) make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
75 Act regarding:

76 (i) eligibility requirements consistent with Subsection 26-18-3(6);

77 (ii) program benefits;

78 (iii) the level of coverage for each program benefit;

79 (iv) cost-sharing requirements for enrollees, which may not:

80 (A) exceed the guidelines set forth in 42 U.S.C. Sec. 1397ee; or

81 (B) impose deductible, copayment, or coinsurance requirements on an enrollee for
82 well-child, well-baby, and immunizations; and

83 (v) the administration of the program~~;~~ and.

84 ~~[(vi) the provider assessment, including:]~~

85 ~~[(A) the factor for the assessment;]~~

86 ~~[(B) the administration, collection, and enforcement of the assessment, including:]~~

87 ~~[(F) auditing a provider's records; and]~~

119 funds shall be appropriated from the account in the following order:

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

122 (b) \$4,000,000 to the Department of Health for tobacco prevention, reduction, cessation,
123 and control programs that promote a unified message and make use of media outlets;

124 (c) \$300,000 to the Administrative Office of the Courts and \$1,700,000 to the Department
125 of Human Services for the statewide expansion of the drug court program;

126 (d) \$4,000,000 to the State Board of Regents for the University of Utah Health Sciences
127 Center to benefit the health and well-being of Utah citizens through in-state research, treatment,
128 and educational activities; and

129 (e) any remaining funds as directed by the Legislature through appropriation.

130 (5) Each state agency identified in Subsection (4) shall provide an annual report on the
131 program and activities funded under Subsection (4) to:

132 (a) the Health and Human Services Interim Committee no later than September 1; and

133 (b) the Health and Human Services Joint Appropriations Subcommittee.

134 Section 5. Section **63-97-301** is enacted to read:

135 **Part 3. Tobacco Settlement Endowment.**

136 **63-97-301. Tobacco Settlement Endowment.**

137 (1) There is created within the General Fund a restricted account known as the Tobacco
138 Settlement Endowment.

139 (2) The account shall earn interest.

140 (3) The account shall consist of:

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

144 (b) on and after July 1, 2003, 60% of all funds of every kind that are received by the state
145 that are related to the settlement agreement that the state entered into with leading tobacco
146 manufacturers on November 23, 1998; and

147 (c) interest earned on the account.

148 (4) Tobacco settlement funds deposited into the account pursuant to Subsection (3)(a) may
149 not be appropriated for any purpose, but shall remain in the account for the purpose of earning

150 interest to be appropriated in accordance with Subsection (5).

151 (5) Interest earned on the account may be appropriated by the Legislature.

152 **Section 6. Repealer.**

153 This act repeals:

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

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

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

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

158 **Section 7. Appropriation.**

159 (1) Fifty percent of the tobacco settlement funds in the Tobacco Settlement Account
160 created by Section 63-97-201 as of June 30, 2000, shall be deposited into the Tobacco Settlement
161 Endowment created by Section 63-97-301 on July 1, 2000.

162 (2) Funds remaining in the Tobacco Settlement Account after Subsection (1) are
163 appropriated for fiscal year 2000-01 in the following order:

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

165 (b) \$4,000,000 to the Department of Health for tobacco prevention, reduction, cessation,
166 and control programs as described in Section 63-97-201;

167 (c) \$300,000 to the Administrative Office of the Courts and \$1,700,000 to the Department
168 of Human Services for the drug court program as provided in Section 63-97-201; and

169 (d) \$4,000,000 to the State Board of Regents for the University of Utah Health Sciences
170 Center as provided in Section 63-97-201.

171 (3) It is the intent of the Legislature that funds deposited into the Tobacco Settlement
172 Account after July 1, 2000, and before July 1, 2001, may be used, as they become available, if
173 necessary for the appropriation in Subsection (2).

174 (4) The appropriation in this section is the only appropriation that may be made for
175 tobacco settlement funds for fiscal year 2000-01.

176 (5) Any funds remaining in the Hospital Providers Assessment Account as of June 30,
177 2000, shall lapse into the General Fund.

178 **Section 8. Effective date.**

179 This act takes effect on July 1, 2000.

180 **Section 9. Coordination clause.**

181 If this bill passes and if S.J.R.14, Resolution Creating Constitutional Trust Fund, passes
182 the Legislature and is approved by a majority of those voting at the next general election and thus
183 becomes effective on January 1, 2001, it is the intent of the Legislature that effective as of January
184 1, 2001:

185 (1) Section 63-97-301 be repealed and reenacted to read as follows:

186 "63-97-301. **Permanent state trust fund.**

187 (1) Until July 1, 2003, 50% of all funds of every kind that are received by the state that are
188 related to the settlement agreement that the state entered into with leading tobacco manufacturers
189 on November 23, 1998, shall be deposited into the permanent state trust fund created by and
190 operated under Utah Constitution Article XXII, Section 4.

191 (2) On and after July 1, 2003, 60% of all funds of every kind that are received by the state
192 that are related to the settlement agreement that the state entered into with leading tobacco
193 manufacturers on November 23, 1998, shall be deposited into the permanent state trust fund
194 created by and operated under Utah Constitution Article XXII, Section 4."

195 (2) Any and all funds in the Tobacco Settlement Endowment created in Section 5 of this
196 bill shall be deposited into the permanent state trust fund created by and operated under Utah
197 Constitution Article XXII, Section 4.

198 (3) The Office of Legislative Research and General Counsel shall prepare the database for
199 publication to reflect the statutory changes in Subsection (1).