

1                                   **TOBACCO SETTLEMENT ACCOUNT**

2   **APPROPRIATION**

3   2000 GENERAL SESSION

4   STATE OF UTAH

5   **Sponsor: Robert F. Montgomery**

6 AN ACT RELATING TO STATE AFFAIRS IN GENERAL; REQUIRING THAT THE  
7 HOSPITAL PROVIDER ASSESSMENT BE REDUCED TO THE EXTENT TOBACCO  
8 SETTLEMENT MONIES ARE APPROPRIATED FOR THE CHILDREN'S HEALTH  
9 INSURANCE PROGRAM; APPROPRIATING FUNDS FROM THE TOBACCO  
10 SETTLEMENT ACCOUNT FOR FISCAL YEAR 2000-01; AND PROVIDING AN EFFECTIVE  
11 DATE.

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

13 AMENDS:

14                   **26-40-103**, as last amended by Chapters 21 and 61, Laws of Utah 1999

15                   **26-40-111**, as enacted by Chapter 360, Laws of Utah 1998

16                   **26-40-112**, as last amended by Chapter 78, Laws of Utah 1999

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

18                   Section 1. Section **26-40-103** is amended to read:

19                   **26-40-103. Creation and administration of the Utah Children's Health Insurance**  
20 **Program.**

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

23                   (a) this chapter; and

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

25                   (2) The department shall:

26                   (a) prepare and submit the state's children's health insurance plan before May 1, 1998, and  
27 any amendments to the federal Department of Health and Human Services in accordance with 42

28 U.S.C. Sec. 1397ff; and

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

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

32 (ii) program benefits;

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

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

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

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

38 (v) the administration of the program; and

39 (vi) the provider assessment, including:

40 (A) the factor for the assessment;

41 (B) the administration, collection, and enforcement of the assessment, including:

42 (I) auditing a provider's records; and

43 (II) imposing penalties for failure to pay the assessment as required; and

44 (C) reducing the amount of the assessment [~~to the extent funds are deposited into the~~  
45 ~~Hospital Provider Assessment Account created in Section 26-40-112 as a result of private~~  
46 ~~contributions to the program]~~ in accordance with Section 26-40-111.

47 (3) Before July 1, 2001, the Governor's Office of Planning and Budget shall study the  
48 effectiveness of the department's administration of the program and report any findings to:

49 (a) the Health and Human Services Interim Committee of the Legislature;

50 (b) the Health Policy Commission; and

51 (c) the department.

52 Section 2. Section **26-40-111** is amended to read:

53 **26-40-111. Provider assessment.**

54 (1) Other than for the imposition of the assessment described in and utilized for the  
55 purposes of the chapter, nothing in this chapter affects the nonprofit or tax exempt status of any  
56 nonprofit charitable, religious, or educational health care provider under 26 U.S.C. Sec. 501(c),  
57 as amended, or other applicable federal law, or under any state law, or any activities of or property  
58 owned by any such provider with respect to exemption from ad valorem property taxes, income

59 or franchise taxes, sales or use taxes, or any other taxes, fees, or assessments whatever, whether  
60 imposed or sought to be imposed by the state or any political subdivision, county, municipality,  
61 district, authority, or any agency or department thereof.

62 (2) For providers subject to the assessment imposed by this chapter, and also subject to  
63 the corporate franchise or income tax under Title 59, Chapter 7, Corporate Franchise and Income  
64 Taxes, all assessments paid under this chapter shall be allowed as a deductible expense under Title  
65 59, Chapter 7.

66 (3) Beginning on July 1, 1998, a uniform, broad-based, quarterly rate of assessment is  
67 imposed on each hospital, hospital-based ambulatory surgical facility, and freestanding ambulatory  
68 surgical facility in accordance with department rule, which assessment:

69 (a) may not exceed \$5,500,000 in the aggregate in any fiscal year; and

70 (b) shall be reduced [~~to the extent that funds are deposited into the Hospital Provider~~  
71 ~~Assessment Account created in Section 26-40-112 as a result of private contributions to the~~  
72 ~~program.~~ (4) ~~A reduction in assessment that occurs as a result of Subsection (3)(b) shall apply to~~  
73 ~~as many subsequent fiscal years as is possible based on the total amount of funds deposited into~~  
74 ~~the restricted account.] each fiscal year by the amount of funds that are:~~

75 (i) appropriated to the department to reduce the assessment for that fiscal year; and

76 (ii) available in the Hospital Provider Assessment Account at the start of the fiscal year  
77 to fund the program.

78 (4) The department may not impose the assessment in any fiscal year in which the amount  
79 of the assessment has been reduced to zero as a result of Subsection (3)(b).

80 (5) The department shall forward proceeds from the assessment imposed by this chapter  
81 to the state treasurer for deposit into the Hospital Provider Assessment Account created in Section  
82 26-40-112.

83 Section 3. Section **26-40-112** is amended to read:

84 **26-40-112. Hospital Provider Assessment Account.**

85 (1) There is created within the General Fund a restricted account known as the "Hospital  
86 Provider Assessment Account."

87 (2) The account shall be nonlapsing and consist of:

88 (a) proceeds from the assessment imposed in accordance with Section 26-40-111;

89 (b) funds transferred from the Medicaid Hospital Provider Temporary Assessment

90 Account;

91 (c) private contributions; [and]

92 (d) interest earned on monies in the account[-]; and

93 (e) funds that are appropriated to the account from the Tobacco Settlement Account

94 established in Section 63-97-102.

95 (3) Funds in the account shall be appropriated by the Legislature to fund:

96 (a) the program; and

97 (b) if funds remain after Subsection (3)(a), the Medicaid program.

98 (4) No more than \$5,500,000 may be appropriated from the account in any fiscal year.

99 (5) Any funds remaining in the account at the end of a fiscal year shall be used to reduce

100 the next fiscal year's provider assessment in the manner provided for in Section 26-40-111.

101 Section 4. **Appropriation.**

102 (1) There is appropriated for fiscal year 2000-01 from the Tobacco Settlement Account  
103 within the General Fund:

104 (a) \$5,500,000 to the Department of Health for the Children's Health Insurance Program  
105 and the reduction of the provider assessment established in Section 26-40-111 to zero for fiscal  
106 year 2000-01;

107 (b) \$4,100,000 to the Department of Health for tobacco prevention, reduction, and control  
108 programs;

109 (c) \$650,000 to the Administrative Office of the Courts and \$4,350,000 to the Department  
110 of Human Services for the statewide expansion of the drug court and tobacco court programs; and

111 (d) \$160,000 to the Department of Corrections, \$80,000 to the Board of Pardons and  
112 Parole, and \$560,000 to the Department of Human Services for the creation and operation of a  
113 Drug Board Pilot Program for substance abuse offenders in the Ogden and Farmington Regions  
114 of Adult Probation and Parole.

115 (2) Nothing in this section may be construed as restricting the ability of the Legislature to  
116 appropriate for fiscal year 2000-01:

117 (a) any amount remaining in the Tobacco Settlement Account following the appropriation  
118 required by Subsection (1); or

119 (b) any amount anticipated to be received in tobacco settlement monies during fiscal year  
120 2000-01.

121 Section 5. **Effective date.**  
122 This act takes effect on July 1, 2000.

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**Legislative Review Note**  
**as of 12-13-99 3:10 PM**

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

**Office of Legislative Research and General Counsel**