

## Part 2 Tobacco Settlement Funds and Endowment

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

- (1) There is created within the General Fund a restricted account known as the "Tobacco Settlement Restricted Account."
- (2) The account shall earn interest.
- (3) The account shall consist of:
  - (a) on and after July 1, 2007, 60% of all funds of every kind that are received by the state that are related to the settlement agreement that the state entered into with leading tobacco manufacturers on November 23, 1998; and
  - (b) interest earned on the account.
- (4) To the extent that funds will be available for appropriation in a given fiscal year, those funds shall be appropriated from the account in the following order:
  - (a) \$66,600 to the Office of the Attorney General for ongoing enforcement and defense of the Tobacco Settlement Agreement;
  - (b) \$18,500 to the State Tax Commission for ongoing enforcement of business compliance with the Tobacco Tax Settlement Agreement;
  - (c) \$11,022,900 to the Department of Health and Human Services for:
    - (i) children in the Medicaid program created in Title 26B, Chapter 3, Health Care - Administration and Assistance, and the Children's Health Insurance Program created in Section 26B-3-902; and
    - (ii) for restoration of dental benefits in the Children's Health Insurance Program;
  - (d) \$3,277,100 to the Department of Health and Human Services for alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs that promote unified messages and make use of media outlets, including radio, newspaper, billboards, and television, and with a preference in funding given to tobacco-related programs;
  - (e) \$193,700 to the Administrative Office of the Courts and \$2,325,400 to the Department of Health and Human Services for the statewide expansion of the drug court program;
  - (f) \$4,000,000 to the Utah Board of Higher Education for the University of Utah Health Sciences Center to benefit the health and well-being of Utah citizens through in-state research, treatment, and educational activities; and
  - (g) any remaining funds as directed by the Legislature through appropriation.

Amended by Chapter 328, 2023 General Session

### **51-9-202 Permanent state trust fund.**

- (1) Until July 1, 2003, 50% of all funds of every kind that are received by the state that are related to the settlement agreement that the state entered into with leading tobacco manufacturers on November 23, 1998, shall be deposited into the permanent state trust fund created by and operated under Utah Constitution Article XXII, Section 4.
- (2) On and after July 1, 2003 and until July 1, 2004 20% of the funds of any kind received by the state that are related to the settlement agreement that the state entered into with leading tobacco manufacturers shall be deposited into the permanent state trust fund created by and operated under Utah Constitution Article XXII, Section 4.
- (3) On and after July 1, 2004 and until July 1, 2005, 30% of all funds of any kind received by the state that are related to the settlement agreement that the state entered into with leading

tobacco manufacturers shall be deposited into the General Fund Budget Reserve Account created in Section 63J-1-312.

- (4) On and after July 1, 2005 and until July 1, 2007, 25% of all funds of any kind received by the state that are related to the settlement agreement that the state entered into with leading tobacco manufacturers shall be deposited into the permanent state trust fund created by and operated under Utah Constitution Article XXII, Section 4.
- (5) On and after July 1, 2007, 40% of all funds of every kind that are received by the state that are related to the settlement agreement that the state entered into with leading tobacco manufacturers on November 23, 1998, shall be deposited into the General Fund and the remaining funds deposited as directed.
- (6) Funds in the permanent state trust fund shall be deposited or invested pursuant to Chapter 7b, Investment of Permanent State Trust Fund Money.
- (7)
  - (a) In accordance with Utah Constitution Article XXII, Section 4, the interest and dividends earned annually from the permanent state trust fund shall be deposited in the General Fund. There shall be transferred on an ongoing basis from the General Fund to the permanent state trust fund created under Utah Constitution Article XXII, Section 4, an amount equal to 50% of the interest and dividends earned annually from the permanent state trust fund. The amount transferred into the fund under this Subsection (7)(a) shall be treated as principal.
  - (b) Any annual interest or dividends earned from the permanent state trust fund that remain in the General Fund after Subsection (7)(a) may be appropriated by the Legislature.
  - (c) Any realized or unrealized gains or losses on investments in the permanent state trust fund shall remain in the permanent state trust fund.
- (8) This section does not apply to funds deposited under Chapter 9, Part 3, Infrastructure and Economic Diversification Investment Account and Deposit or Credit of Certain Severance Taxes Act, into the permanent state trust fund.

Amended by Chapter 401, 2021 General Session

**51-9-203 Requirements for tobacco and electronic cigarette programs.**

- (1) To be eligible to receive funding under this part for a tobacco prevention, reduction, cessation, or control program, an organization, whether private, governmental, or quasi-governmental, shall:
  - (a) submit a request to the Department of Health and Human Services containing the following information:
    - (i) for media campaigns to prevent or reduce smoking, the request shall demonstrate sound management and periodic evaluation of the campaign's relevance to the intended audience, particularly in campaigns directed toward youth, including audience awareness of the campaign and recollection of the main message;
    - (ii) for school-based education programs to prevent and reduce youth smoking, the request shall describe how the program will be effective in preventing and reducing youth smoking;
    - (iii) for community-based programs to prevent and reduce smoking, the request shall demonstrate that the proposed program:
      - (A) has a comprehensive strategy with a clear mission and goals;
      - (B) provides for committed, caring, and professional leadership; and
      - (C) if directed toward youth:
        - (I) offers youth-centered activities in youth accessible facilities;
        - (II) is culturally sensitive, inclusive, and diverse;

- (III) involves youth in the planning, delivery, and evaluation of services that affect them; and
- (IV) offers a positive focus that is inclusive of all youth; and
- (iv) for enforcement, control, and compliance program, the request shall demonstrate that the proposed program can reasonably be expected to reduce the extent to which tobacco products and electronic cigarette products, as those terms are defined in Section 76-10-101, are available to individuals under 21 years old;
- (b) agree, by contract, to file an annual written report with the Department of Health and Human Services that contains the following:
  - (i) the amount funded;
  - (ii) the amount expended;
  - (iii) a description of the program or campaign and the number of adults and youth who participated;
  - (iv) specific elements of the program or campaign meeting the applicable criteria set forth in Subsection (1)(a); and
  - (v) a statement concerning the success and effectiveness of the program or campaign;
- (c) agree, by contract, to not use any funds received under this part directly or indirectly, to:
  - (i) engage in any lobbying or political activity, including the support of, or opposition to, candidates, ballot questions, referenda, or similar activities; or
  - (ii) engage in litigation with any tobacco manufacturer, retailer, or distributor, except to enforce:
    - (A) the provisions of the Master Settlement Agreement;
    - (B) Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products;
    - (C) Sections 26B-7-514 through 26B-7-520; and
    - (D) Title 77, Chapter 39, Sale of Tobacco or Alcohol to Under Age Persons; and
- (d) agree, by contract, to repay the funds provided under this part if the organization:
  - (i) fails to file a timely report as required by Subsection (1)(b); or
  - (ii) uses any portion of the funds in violation of Subsection (1)(c).
- (2) The Department of Health and Human Services shall review and evaluate the success and effectiveness of any program or campaign that receives funding pursuant to a request submitted under Subsection (1). The review and evaluation:
  - (a) shall include a comparison of annual smoking trends;
  - (b) may be conducted by an independent evaluator; and
  - (c) may be paid for by funds appropriated from the account for that purpose.
- (3) An organization that fails to comply with the contract requirements set forth in Subsection (1) shall:
  - (a) repay the state as provided in Subsection (1)(d); and
  - (b) be disqualified from receiving funds under this part in any subsequent fiscal year.
- (4) The attorney general shall be responsible for recovering funds that are required to be repaid to the state under this section.
- (5) Nothing in this section may be construed as applying to funds that are not appropriated under this part.

Amended by Chapter 328, 2023 General Session