

USE OF TOBACCO SETTLEMENT PROCEEDS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Neil A. Hansen

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10 AN ACT RELATING TO HEALTH; ESTABLISHING A PROGRAM TO MAKE SMOKING
11 CESSATION MEDICATIONS AVAILABLE; PERMITTING TOBACCO SETTLEMENT
12 MONIES DEPOSITED INTO THE HOSPITAL PROVIDER ASSESSMENT ACCOUNT TO BE
13 USED TO FUND THE PROGRAM AND REPAY ANY GENERAL FUND APPROPRIATION
14 FOR THE PROGRAM; APPROPRIATING \$200,000 FOR FISCAL YEAR 1999-2000 TO THE
15 HEALTH DEPARTMENT TO PURCHASE SMOKING CESSATION MEDICATIONS; AND
16 PROVIDING AN EFFECTIVE DATE.

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

18 AMENDS:

19 **26-1-30**, as last amended by Chapters 196 and 375, Laws of Utah 1997

20 **26-40-112**, as enacted by Chapter 360, Laws of Utah 1998

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

22 Section 1. Section **26-1-30** is amended to read:

23 **26-1-30. Powers and duties of department.**

24 (1) The department shall:

25 (a) enter into cooperative agreements with the Department of Environmental Quality to
26 delineate specific responsibilities to assure that assessment and management of risk to human
27 health from the environment are properly administered; and

28 (b) consult with the Department of Environmental Quality and enter into cooperative

29 agreements, as needed, to ensure efficient use of resources and effective response to potential
30 health and safety threats from the environment, and to prevent gaps in protection from potential
31 risks from the environment to specific individuals or population groups.

32 (2) In addition to all other powers and duties of the department, it shall have and exercise
33 the following powers and duties:

34 (a) promote and protect the health and wellness of the people within the state;

35 (b) establish, maintain, and enforce rules necessary or desirable to carry out the provisions
36 and purposes of this title to promote and protect the public health or to prevent disease and illness;

37 (c) investigate and control the causes of epidemic, infectious, communicable, and other
38 diseases affecting the public health;

39 (d) provide for the detection, reporting, prevention, and control of communicable,
40 infectious, acute, chronic, or any other disease or health hazard that the department considers to
41 be dangerous, important, or likely to affect the public health;

42 (e) collect and report information on causes of injury, sickness, death, and disability and
43 the risk factors that contribute to the causes of injury, sickness, death, and disability within the
44 state;

45 (f) collect, prepare, publish, and disseminate information to inform the public concerning
46 the health and wellness of the population, specific hazards, and risks that may affect the health and
47 wellness of the population and specific activities which may promote and protect the health and
48 wellness of the population;

49 (g) establish and operate programs necessary or desirable for the promotion or protection
50 of the public health and the control of disease or which may be necessary to ameliorate the major
51 causes of injury, sickness, death, and disability in the state, except that the programs shall not be
52 established if adequate programs exist in the private sector;

53 (h) establish, maintain, and enforce isolation and quarantine, and for this purpose only,
54 exercise physical control over property and individuals as the department finds necessary for the
55 protection of the public health;

56 (i) close theaters, schools, and other public places and forbid gatherings of people when
57 necessary to protect the public health;

58 (j) abate nuisances when necessary to eliminate sources of filth and infectious and
59 communicable diseases affecting the public health;

60 (k) make necessary sanitary and health investigations and inspections in cooperation with
61 local health departments as to any matters affecting the public health;

62 (l) establish laboratory services necessary to support public health programs and medical
63 services in the state;

64 (m) establish and enforce standards for laboratory services which are provided by any
65 laboratory in the state when the purpose of the services is to protect the public health;

66 (n) cooperate with the Labor Commission to conduct studies of occupational health
67 hazards and occupational diseases arising in and out of employment in industry, and make
68 recommendations for elimination or reduction of the hazards;

69 (o) cooperate with the local health departments, the Department of Corrections, the
70 Administrative Office of the Courts, the Division of Youth Corrections, and the Crime Victims
71 Reparations Board to conduct testing for HIV infection of convicted sexual offenders and any
72 victims of a sexual offense;

73 (p) investigate the cause of maternal and infant mortality;

74 (q) establish, maintain, and enforce a procedure requiring the blood of adult pedestrians
75 and drivers of motor vehicles killed in highway accidents be examined for the presence and
76 concentration of alcohol;

77 (r) provide the commissioner of public safety with monthly statistics reflecting the results
78 of the examinations provided for in Subsection (2)(q) and provide safeguards so that information
79 derived from the examinations is not used for a purpose other than the compilation of statistics
80 authorized in this subsection;

81 (s) establish qualifications for individuals permitted to draw blood pursuant to Section
82 41-6-44.10, and to issue permits to individuals it finds qualified, which permits may be terminated
83 or revoked by the department;

84 (t) establish a uniform public health program throughout the state which includes
85 continuous service, employment of qualified employees, and a basic program of disease control,
86 vital and health statistics, sanitation, public health nursing, and other preventive health programs
87 necessary or desirable for the protection of public health;

88 (u) adopt rules and enforce minimum sanitary standards for the operation and maintenance
89 of:

90 (i) orphanages;

- 91 (ii) boarding homes;
- 92 (iii) summer camps for children;
- 93 (iv) lodging houses;
- 94 (v) hotels;
- 95 (vi) restaurants and all other places where food is handled for commercial purposes, sold,
- 96 or served to the public;
- 97 (vii) tourist and trailer camps;
- 98 (viii) service stations;
- 99 (ix) public conveyances and stations;
- 100 (x) public and private schools;
- 101 (xi) factories;
- 102 (xii) private sanatoria;
- 103 (xiii) barber shops;
- 104 (xiv) beauty shops;
- 105 (xv) physicians' offices;
- 106 (xvi) dentists' offices;
- 107 (xvii) workshops;
- 108 (xviii) industrial, labor, or construction camps;
- 109 (xix) recreational resorts and camps;
- 110 (xx) swimming pools, public baths, and bathing beaches;
- 111 (xxi) state, county, or municipal institutions, including hospitals and other buildings,
- 112 centers, and places used for public gatherings; and
- 113 (xxii) of any other facilities in public buildings and on public grounds;
- 114 (v) conduct health planning for the state;
- 115 (w) monitor the costs of health care in the state and foster price competition in the health
- 116 care delivery system;
- 117 (x) adopt rules for the licensure of health facilities within the state pursuant to Title 26,
- 118 Chapter 21, Health Care Facility [~~Licensure~~] Licensing and Inspection Act;
- 119 (y) serve as the collecting agent, on behalf of the state, for the nursing facility assessment
- 120 fee imposed under Title 26, Chapter 35, Nursing Facility Assessment Act, and the temporary
- 121 provider assessment imposed under Chapter [36] 40, Utah [~~Medicaid Hospital Provider Temporary~~

122 Assessment] Children's Health Insurance Act, and adopt rules for the enforcement and
 123 administration of the assessments consistent with Chapters 35 and [36] 40;

124 (z) monitor and report to the Health Policy Commission created in Title 63C, Chapter 3,
 125 Health Policy Commission, on the development of managed health care plans in rural areas of the
 126 state, including the effect of the managed health care plans on costs, access, and availability of
 127 providers located in the rural communities of the state; [and]

128 (aa) license the provision of child care[-]; and

129 (bb) establish a program to make a reasonable quantity of smoking cessation medication
 130 available to any individual who:

131 (i) desires to stop using tobacco products; and

132 (ii) pays 5% of the department's cost of the medication.

133 Section 2. Section **26-40-112** is amended to read:

134 **26-40-112. Hospital Provider Assessment Account.**

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

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

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

139 (b) funds transferred from the Medicaid Hospital Provider Temporary Assessment
 140 Account;

141 (c) private contributions;

142 (d) interest earned on monies in the account; and

143 (e) any funds received by virtue of the state's action for reimbursement of medicaid funds
 144 from tobacco manufacturers that are not restricted by use or purpose by:

145 (i) the federal government;

146 (ii) state or federal law; or

147 (iii) the terms of any settlement agreement, order, law, or related contract.

148 (3) Funds in the account shall be appropriated by the Legislature as necessary to fund:

149 (a) the program; [and]

150 (b) the smoking cessation program established pursuant to Subsection 26-1-30(2)(bb) and
 151 to repay to the General Fund any monies appropriated to the program; and

152 [(b)] (c) if funds remain after [Subsection] Subsections (3)(a) and (b), the Medicaid

153 program.

154 Section 3. **Appropriation.**

155 Except as provided in H.B. 4, Appropriations Coordination Act, there is appropriated from
156 the General Fund for fiscal year 1999-2000, \$200,000 to the Department of Health to purchase
157 smoking cessation medications as part of the program established pursuant to Section
158 26-1-30(2)(bb).

159 Section 4. **Effective date.**

160 This act takes effect on July 1, 1999.

Legislative Review Note
as of 2-1-99 1:06 PM

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

Office of Legislative Research and General Counsel