

ENDOWMENT FUND FOR TOBACCO

SETTLEMENT MONIES

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Richard L. Walsh

AN ACT RELATING TO THE TOBACCO SETTLEMENT ACCOUNT; AUTHORIZING THE TOBACCO SETTLEMENT ACCOUNT TO BE INVESTED IN CERTAIN COMMON AND PREFERRED STOCK AND BONDS; AMENDING THE NAME OF THE ACCOUNT; PERMITTING ONLY THE INTEREST AND DIVIDENDS EARNED ON THE ACCOUNT TO BE APPROPRIATED; ~~h~~ **AND** ~~h~~ PROVIDING AN EFFECTIVE DATE ~~h~~ ; **AND PROVIDING A COORDINATING CLAUSE h** .

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

AMENDS:

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

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

ENACTS:

51-7-12.1, Utah Code Annotated 1953

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

Section 1. Section **51-7-12.1** is enacted to read:

51-7-12.1. Deposit or investment of Tobacco Settlement Endowment -- Authorized deposits and investment -- Asset manager.

(1) Notwithstanding the requirements of Section 51-7-11, monies in the Tobacco Settlement Endowment established by Section 63-97-102 shall be deposited or invested only in the following:

(a) any deposit or investment authorized by Section 51-7-11;

(b) equity securities, including common and preferred stock issued by corporations listed on a major securities exchange, in accordance with the following criteria applied at the time of investment:

28 (i) the treasurer may not invest more than 5%, determined on a cost basis, of the total
29 endowment assets in the securities of any one issuer;

30 (ii) the treasurer may not invest more than 25%, determined on a cost basis, of the total
31 endowment assets in a particular industry;

32 (iii) the treasurer may not invest more than 5%, determined on a cost basis, of the total
33 endowment assets in securities of corporations that have been in continuous operation for less than
34 three years;

35 (iv) the endowment may not hold in excess of 5% of the outstanding voting securities of
36 any one corporation; and

37 (v) at least 75% of the corporations in which investments are made under Subsection (1)(b)
38 must appear on the Standard and Poor's 500 Composite Stock Price Index;

39 (c) fixed-income securities, including bonds, notes mortgage securities, zero coupon
40 securities, and convertible securities issued by domestic corporations rated A or higher by Moody's
41 Investor's Service, Inc. or by Standard and Poor's Corporation in accordance with the following
42 criteria applied at the time of investment:

43 (i) the treasurer may not invest more than 5%, determined on a cost basis, of the total
44 endowment assets in the securities of any one issuer;

45 (ii) the treasurer may not invest more than 25%, determined on a cost basis, of the total
46 endowment assets in a particular industry;

47 (iii) the treasurer may not invest more than 5%, determined on a cost basis, of the total
48 fund assets in the securities of corporations that have been in continuous operation for less than
49 three years; and

50 (iv) the dollar-weighted average maturity of fixed-income securities acquired under
51 Subsection (1)(c), may not exceed ten years;

52 (d) fixed-income securities issued by agencies of the United States and
53 government-sponsored organizations, including mortgage-backed pass-through certificates and
54 mortgage-backed bonds;

55 (e) shares of an open-end diversified management investment company established under
56 the Investment Companies Act of 1940; and

57 (f) shares of or deposits in a pooled-investment program.

58 (2) (a) No more than ~~h~~ [65%] 80% ~~h~~ of the total fund assets of any of this endowment, on a
58a cost

59 basis, may be invested in common or preferred stocks at any one time.

60 (b) At least ~~h [35%]~~ 20% h of the total assets of this endowment shall be invested in
60a fixed-income

61 securities authorized by Subsections (1)(a), (c), and (d).

62 (3) The treasurer shall use appropriate investment strategies to protect the principal of the
63 endowment administered under this section during periods of financial market volatility.

64 (4) (a) The treasurer may employ professional asset managers to assist in the investment
65 of assets of the endowment.

66 (b) The treasurer may provide compensation to asset managers from earnings generated
67 by the funds' investments.

68 (5) The council shall give suggestions, advice, and opinions to the treasurer in regard to
69 this section.

70 Section 2. Section **63-97-101** is amended to read:

71 **CHAPTER 97. TOBACCO SETTLEMENT ENDOWMENT**

72 **63-97-101. Title.**

73 This chapter is known as the "Tobacco Settlement [~~Account~~] Endowment."

74 Section 3. Section **63-97-102** is amended to read:

75 **63-97-102. Creation of restricted account.**

76 (1) There is created within the General Fund a restricted account known as the Tobacco
77 Settlement [~~Account~~] Endowment.

78 (2) Monies in the account shall be deposited or invested pursuant to Section 51-7-12.1.

79 [~~(2)~~] (3) The account shall consist of:

80 (a) all funds received by the state that are related to the settlement agreement that the state
81 entered into with leading tobacco manufacturers on November 23, 1998[-];

82 (b) capital gains on assets in the account; and

83 (c) interest and dividends earned on investments.

84 (4) Tobacco settlement funds and capital gains in the account pursuant to Subsections

85 (3)(a) and (b) shall be treated as principal and may not be appropriated for any purpose, but shall

86 remain in the account for the purpose of earning interest and dividends to be appropriated in

87 accordance with Subsection (5).

88 [~~(3) Funds in~~] (5) Interest and dividends earned on the account may only be used as
89 directed by the Legislature through appropriation.

90 Section 4. **Effective date.**
91 This act takes effect on July 1, 2000.

91a **h Section 5. Coordination clause.**

91b (1) IF THIS BILL PASSES AND IF S.J.R. 14, RESOLUTION CREATING CONSTITUTIONAL
91c TRUST FUND, PASSES THE LEGISLATURE AND IS APPROVED BY A MAJORITY OF THOSE VOTING
91d AT THE NEXT GENERAL ELECTION AND THUS BECOMES EFFECTIVE ON JANUARY 1, 2001, IT IS
91e THE INTENT OF THE LEGISLATURE THAT EFFECTIVE AS OF JANUARY 1, 2001 THAT:

91f (a) SECTION 63-97-102 BE REPEALED AND REENACTED TO READ AS FOLLOWS:

91g "63-97-102. Permanent state trust fund.

91h (1) ALL FUNDS OF EVERY KIND THAT ARE RECEIVED BY THE STATE THAT ARE RELATED
91i TO THE SETTLEMENT AGREEMENT THAT THE STATE ENTERED INTO WITH LEADING TOBACCO
91j MANUFACTURERS ON NOVEMBER 23, 1998, SHALL BE DEPOSITED INTO THE PERMANENT STATE
91k TRUST FUND CREATED BY AND OPERATED UNDER UTAH CONSTITUTION ARTICLE XXII, SECTION
91l 4.

91m (2) FUNDS IN THE PERMANENT STATE TRUST FUND SHALL BE DEPOSITED OR INVESTED
91n PURSUANT TO SECTION 51-7-12.1."

91o (b) THE REFERENCE TO "THE TOBACCO SETTLEMENT ENDOWMENT ESTABLISHED BY
91p SECTION 63-97-102" IN SUBSECTION 51-7-12.1(1) BE AMENDED TO READ "THE PERMANENT
91q STATE
91r TRUST FUND CREATED BY AND OPERATED UNDER UTAH CONSTITUTION ARTICLE XXII, SECTION
91s 4".

91t (c) ANY AND ALL FUNDS IN THE TOBACCO SETTLEMENT ENDOWMENT CREATED BY
91u SECTION 63-97-102 SHALL BE DEPOSITED INTO THE PERMANENT STATE TRUST FUND CREATED
91v BY AND OPERATED UNDER UTAH CONSTITUTION ARTICLE XXII, SECTION 4.

91w (d) THE OFFICE OF LEGISLATIVE RESEARCH AND GENERAL COUNSEL SHALL PREPARE
91x THE DATABASE FOR PUBLICATION TO REFLECT THE STATUTORY CHANGES IN SUBSECTION (1).

91y (2) THIS COORDINATION CLAUSE MAY ONLY TAKE EFFECT IF 2nd SUB. S.B. 15, USE OF
TOBACCO SETTLEMENT REVENUES, FAILS TO PASS. h

Legislative Review Note
as of 2-7-00 6:56 AM

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

Office of Legislative Research and General Counsel