

**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; AND PROVIDING AN EFFECTIVE DATE.

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 investments -- 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:

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

(ii) the treasurer may not invest more than 25%, determined on a cost basis, of the total

endowment assets in a particular industry;

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

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

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

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

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

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

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

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

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

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

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

(2) (a) No more than 80% of the total fund assets of any of this endowment, on a cost basis,

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

(b) At least 20% of the total assets of this endowment shall be invested in fixed-income securities authorized by Subsections (1)(a), (c), and (d).

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

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

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

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

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

### **CHAPTER 97. TOBACCO SETTLEMENT ENDOWMENT**

#### **63-97-101. Title.**

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

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

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

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

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

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

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

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

(c) interest and dividends earned on investments.

(4) Tobacco settlement funds and capital gains in the account pursuant to Subsections (3)(a) and (b) shall be treated as principal and may not be appropriated for any purpose, but shall remain in the account for the purpose of earning interest and dividends to be appropriated in accordance with

Subsection (5).

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

**Section 4. Effective date.**

This act takes effect on July 1, 2000.