

**USE OF TOBACCO SETTLEMENT REVENUES**

2000 GENERAL SESSION

STATE OF UTAH

**Sponsor: L. Steven Poulton**

AN ACT RELATING TO STATE AFFAIRS IN GENERAL; REQUIRING THAT TOBACCO SETTLEMENT FUNDS BE ALLOCATED IN THE FOLLOWING ORDER: \$5,500,000 FOR THE CHILDREN'S HEALTH INSURANCE PROGRAM, \$10,000,000 FOR TOBACCO PREVENTION, \$5,000,000 TO THE STATE BOARD OF REGENTS FOR THE ~~§ [HUNTSMAN CANCER INSTITUTE]~~ **UNIVERSITY OF UTAH HEALTH SCIENCES CENTER** § , AND THE REMAINDER TO THE PERMANENT STATE SCHOOL FUND; DIRECTING THE APPROPRIATION OF FUNDS FOR FISCAL YEAR 2000-01; REPEALING THE HOSPITAL PROVIDER ASSESSMENT; **§ IMPOSING AN ANNUAL REPORTING REQUIREMENT**; § AND PROVIDING AN EFFECTIVE DATE.

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

AMENDS:

**26-40-102**, as enacted by Chapter 360, Laws of Utah 1998

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

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

REPEALS:

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

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

**26-40-113**, as enacted by Chapter 360, Laws of Utah 1998

**26-40-114**, as enacted by Chapter 360, Laws of Utah 1998

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

Section 1. Section **26-40-102** is amended to read:

**26-40-102. Definitions.**

As used in this chapter:

~~[(1) "Assessment" means the hospital provider assessment established in Section~~

28 ~~26-40-111.]~~

29 ~~[(2)]~~ (1) "Child" means a person who is under 19 years of age.

30 ~~[(3)]~~ (2) "Eligible child" means a child who qualifies for enrollment in the program as  
31 provided in Section 26-40-105.

32 ~~[(4)]~~ (3) "Enrollee" means any child enrolled in the program.

33 ~~[(5)]~~ "Freestanding ambulatory surgical facility" means an urban or rural nonhospital-based  
34 or nonhospital-affiliated licensed facility, as defined in Section 26-21-2, as an ambulatory surgical  
35 facility, with an organized professional staff that provides surgical services to patients who do not  
36 require an inpatient bed.].

37 ~~[(6) (a)]~~ "Hospital" means any general acute hospital, as defined in Section 26-21-2,  
38 operating in this state.].

39 ~~[(b)]~~ "Hospital" does not include:].

40 ~~[(i)]~~ a residential care or treatment facility, as defined in Subsections 62A-2-101(16), (17),  
41 and (19);].

42 ~~[(ii)]~~ the Utah State Hospital;].

43 ~~[(iii)]~~ any rural hospital that operates outside of a metropolitan statistical area, a  
44 metropolitan area, or an urbanized area as designated by the U.S. Bureau of Census; or]

45 ~~[(iv)]~~ any specialty hospital operating in this state, as defined in Section 26-21-2, that is  
46 engaged exclusively in rendering psychiatric or other mental health treatment.].

47 ~~[(7)]~~ "Hospital-based ambulatory surgical facility" means an urban or rural on-hospital  
48 campus or hospital-affiliated licensed facility with an organized professional staff that provides  
49 surgical services to patients who do not require an inpatient bed.].

50 ~~[(8)]~~ (4) "Plan" means the department's plan submitted to the United States Department  
51 of Health and Human Services pursuant to 42 U.S.C. Sec. 1397ff.

52 ~~[(9)]~~ (5) "Program" means the Utah Children's Health Insurance Program created by this  
53 chapter.

54 Section 2. Section **26-40-103** is amended to read:

55 **26-40-103. Creation and administration of the Utah Children's Health Insurance**  
56 **Program.**

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

59 (a) this chapter; and  
60 (b) the State Children's Health Insurance Program, 42 U.S.C. Sec. 1397aa et seq.  
61 (2) The department shall:  
62 (a) prepare and submit the state's children's health insurance plan before May 1, 1998, and  
63 any amendments to the federal Department of Health and Human Services in accordance with 42  
64 U.S.C. Sec. 1397ff; and  
65 (b) make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking  
66 Act regarding:  
67 (i) eligibility requirements consistent with Subsection 26-18-3(6);  
68 (ii) program benefits;  
69 (iii) the level of coverage for each program benefit;  
70 (iv) cost-sharing requirements for enrollees, which may not:  
71 (A) exceed the guidelines set forth in 42 U.S.C. Sec. 1397ee; or  
72 (B) impose deductible, copayment, or coinsurance requirements on an enrollee for  
73 well-child, well-baby, and immunizations; and  
74 (v) the administration of the program[; ~~and~~].  
75 [~~(vi) the provider assessment, including:~~  
76 [~~(A) the factor for the assessment;~~  
77 [~~(B) the administration, collection, and enforcement of the assessment, including:~~  
78 [~~(F) auditing a provider's records; and~~  
79 [~~(H) imposing penalties for failure to pay the assessment as required; and~~  
80 [~~(C) reducing the amount of the assessment to the extent funds are deposited into the~~  
81 ~~Hospital Provider Assessment Account created in Section 26-40-112 as a result of private~~  
82 ~~contributions to the program.~~]  
83 (3) Before July 1, 2001, the Governor's Office of Planning and Budget shall study the  
84 effectiveness of the department's administration of the program and report any findings to:  
85 (a) the Health and Human Services Interim Committee of the Legislature;  
86 (b) the Health Policy Commission; and  
87 (c) the department.  
88 Section 3. Section **63-97-102** is amended to read:  
89 **63-97-102. Creation of restricted account.**

90 (1) There is created within the General Fund a restricted account known as the Tobacco  
91 Settlement Account.

92 (2) The account shall earn interest.

93 [~~2~~] (3) The account shall consist of:

94 (a) all funds received by the state that are related to the settlement agreement that the state  
95 entered into with leading tobacco manufacturers on November 23, 1998[. (3) Funds in the  
96 account may only be used as directed by the Legislature through appropriation.]; and

97 (b) interest earned on the account.

98 (4) To the extent that funds § [are] WILL BE § available for appropriation in a given fiscal  
98a year, those  
99 funds shall be appropriated from the account in the following order:

100 (a) \$5,500,000 to the Department of Health for the Children's Health Insurance Program  
101 created in Section 26-40-103;

102 (b) \$10,000,000 to the Department of Health for tobacco prevention, reduction, and control  
103 programs that promote a unified message and make use of media outlets;

104 (c) \$5,000,000 to the State Board of Regents § [to be appropriated to] FOR § the § [Huntsman  
104a Cancer  
105 Institute] UNIVERSITY OF UTAH HEALTH SCIENCES CENTER § to benefit the health and well-being  
105a of Utah citizens through in-state research, treatment,  
106 and educational activities; and

107 (d) any amount remaining after Subsection (4)(a) and (b) to the permanent State School  
108 Fund created by and operated under Utah Constitution Article X, Section 5.

108a **§ (5) EACH STATE AGENCY IDENTIFIED IN SUBSECTION (4) SHALL PROVIDE AN ANNUAL REPORT**  
108b **ON THE PROGRAM AND ACTIVITIES FUNDED UNDER SUBSECTION (4) TO:**

108c **(a)the HEALTH AND HUMAN SERVICES INTERIM COMMITTEE NO LATER THAN SEPTEMBER**  
108d **1; AND**

108e **(b)the HEALTH AND HUMAN SERVICES JOINT APPROPRIATIONS SUBCOMMITTEE. §**  
109 **Section 4. Repealer.**

110 This act repeals:

111 Section **26-40-111, Provider assessment.**

112 Section **26-40-112, Hospital Provider Assessment Account.**

113 Section **26-40-113, Intergovernmental transfers.**

114 Section **26-40-114, Repeal of assessment.**

115 Section 5. **Appropriation.**

116 (1) All tobacco settlement funds § [that are available for appropriation in] RECEIVED ON  
116a **OR BEFORE THE LAST DAY OF § fiscal year 2000-01,**

117 § ~~[regardless of the specific date on which they are received, shall be]~~ ARE § appropriated § FOR

117a FISCAL YEAR 2000-01 § in the following

118 order:

119 (a) \$5,500,000 to the Department of Health for the Children's Health Insurance Program;

120 (b) \$10,000,000 to the Department of Health for tobacco prevention, reduction, and control

121 programs as described in Section 63-97-102;

122 (c) \$5,000,000 to the State Board of Regents § ~~[to be appropriated to]~~ FOR § the § ~~[Huntsman~~

122a Cancer

123 ~~Institute]~~ UNIVERSITY OF UTAH HEALTH SCIENCES CENTER § as provided in Section 63-97-102; and

124 (d) all remaining amounts to the permanent State School Fund created by and operated  
125 under Utah Constitution Article X, Section 5.

126 (2) Any funds remaining in the Hospital Providers Assessment Account as of June 30,  
127 2000, shall lapse into the General Fund.

128 Section 6. **Effective date.**

129 This act takes effect on July 1, 2000.

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**Legislative Review Note**  
**as of 12-13-99 3:28 PM**

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

**Office of Legislative Research and General Counsel**