

1 **DISTRIBUTION OF TOBACCO SETTLEMENT**

2 **FUNDS**

3 2001 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Carl R. Saunders**

6 **This act amends the distribution of funds from the Tobacco Settlement Restricted Account**
7 **and appropriates additional General Fund money for tobacco-related programs. The act**
8 **amends the distribution of money from the Tobacco Settlement Restricted Account by:**
9 **increasing the money going to the Department of Health for prevention programs to a total**
10 **of \$5 million; increasing money going to the Department of Health for investigation of sales**
11 **of tobacco to minors by \$1 million; and removing the drug court program and the drug**
12 **board pilot program as recipients of money from the restricted account. In addition to the**
13 **money from the restricted account, the act appropriates on an ongoing basis 50% of the**
14 **interest from the permanent state trust fund to the Department of Health to fund prevention**
15 **efforts. The act amends the permanent state trust fund statute to comply with Utah**
16 **Constitution Article XXII, Section 4. The act appropriates an additional amount of \$1**
17 **million on an ongoing basis for fiscal year 2001-02 from the General Fund to the Department**
18 **of Health for prevention efforts. The act eliminates the limit on the amount of tobacco**
19 **settlement funds that may be used for litigation to enforce provisions governing sales of**
20 **tobacco products to underage persons. The act provides an ongoing appropriation from the**
21 **General Fund for 2001-02 as follows: \$193,700 to the Administrative Office of the Courts**
22 **and \$1,296,300 to the Department of Human Services for the statewide expansion of the drug**
23 **court program; \$77,400 to the Board of Pardons; \$81,700 to the Department of Corrections;**
24 **and \$350,900 to the Department of Human Services for the drug board pilot program. This**
25 **act provides an effective date.**

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

27 AMENDS:



28 **63-97-201**, renumbered and amended by Chapter 351, Laws of Utah 2000

29 **63-97-301**, as enacted by Chapter 351, Laws of Utah 2000

30 **63-97-401**, as enacted by Chapter 284, Laws of Utah 2000

31 ENACTS:

32 **63-97-201.2**, Utah Code Annotated 1953

33 **78-3-32**, Utah Code Annotated 1953

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

35 Section 1. Section **63-97-201** is amended to read:

36 **63-97-201. Creation of Tobacco Settlement Restricted Account.**

37 (1) There is created within the General Fund a restricted account known as the Tobacco
38 Settlement Restricted Account.

39 (2) The account shall earn interest.

40 (3) The account shall consist of:

41 (a) until July 1, 2003, 50% of all funds of every kind that are received by the state that are
42 related to the settlement agreement that the state entered into with leading tobacco manufacturers
43 on November 23, 1998;

44 (b) on and after July 1, 2003, 40% of all funds of every kind that are received by the state
45 that are related to the settlement agreement that the state entered into with leading tobacco
46 manufacturers on November 23, 1998; and

47 (c) interest earned on the account.

48 (4) To the extent that funds will be available for appropriation in a given fiscal year, those
49 funds shall be appropriated from the account in the following order:

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

52 (b) [~~\$4,000,000~~] \$5,000,000 to the Department of Health for alcohol, tobacco, and other
53 drug prevention, reduction, cessation, and control programs that promote unified messages and
54 make use of media outlets, including radio, newspaper, billboards, and television, and with a
55 preference in funding given to tobacco-related programs;

56 [~~(c) \$193,700 to the Administrative Office of the Courts and \$1,296,300 to the Department~~
57 ~~of Human Services for the statewide expansion of the drug court program;~~]

58 [~~(d) \$77,400 to the Board of Pardons, \$81,700 to the Department of Corrections, and~~

59 ~~§350,900 to the Department of Human Services for a drug board pilot program;]~~

60 (c) \$1,000,000 to the Department of Health for investigations of sales of tobacco to under
61 age persons conducted under Title 77, Chapter 39, Sale of Tobacco and Alcohol to Under Age
62 Persons;

63 ~~[(e)]~~ (d) \$4,000,000 to the State Board of Regents for the University of Utah Health
64 Sciences Center to benefit the health and well-being of Utah citizens through in-state research,
65 treatment, and educational activities; and

66 ~~[(f)]~~ (e) any remaining funds as directed by the Legislature through appropriation.

67 (5) (a) If tobacco funds in dispute for attorneys fees are received by the state, those funds
68 shall be divided and deposited in accordance with Subsection (3) and Section 63-97-301.

69 (b) The amount appropriated to the Department of Health for alcohol, tobacco, and other
70 drug programs described in Subsection (4)(b), including the funding preference for tobacco-related
71 programs, shall be increased by up to \$2,000,000 in a given fiscal year to the extent that funds in
72 dispute for attorneys fees are available to the state for appropriation from the account.

73 (6) Each state agency identified in Subsection (4) shall provide an annual report on the
74 program and activities funded under Subsection (4) to:

75 (a) the Health and Human Services Interim Committee no later than September 1; and

76 (b) the Health and Human Services Joint Appropriations Subcommittee.

77 Section 2. Section **63-97-201.2** is enacted to read:

78 **63-97-201.2. Appropriation.**

79 In addition to the appropriations in Section 63-97-201, and subject to future budget
80 constraints, there is appropriated, as an ongoing appropriation, \$1,000,000 for fiscal year 2001-02
81 from the General Fund to the Department of Health for the purposes set forth in Subsection
82 63-97-201(4)(b).

83 Section 3. Section **63-97-301** is amended to read:

84 **63-97-301. Permanent state trust fund.**

85 (1) Until July 1, 2003, 50% of all funds of every kind that are received by the state that are
86 related to the settlement agreement that the state entered into with leading tobacco manufacturers
87 on November 23, 1998, shall be deposited into the permanent state trust fund created by and
88 operated under Utah Constitution Article XXII, Section 4.

89 (2) On and after July 1, 2003, 60% of all funds of every kind that are received by the state

90 that are related to the settlement agreement that the state entered into with leading tobacco
91 manufacturers on November 23, 1998, shall be deposited into the permanent state trust fund
92 created by and operated under Utah Constitution Article XXII, Section 4.

93 (3) Funds in the permanent state trust fund shall be deposited or invested pursuant to
94 Section 51-7-12.1.

95 (4) (a) ~~[Fifty percent of]~~ In accordance with Utah Constitution Article XXII, Section 4, the
96 interest and dividends earned annually from the permanent state trust fund shall ~~[remain in the~~
97 ~~fund to]~~ be deposited in the General Fund. Beginning fiscal year 2000-01 there shall be transferred
98 on an ongoing basis from the General Fund to the permanent state trust fund created under Utah
99 Constitution Article XXII, Section 4, an amount equal to 50% of the interest and dividends earned
100 annually from the permanent state trust fund. The amount transferred into the fund under this
101 Subsection (4)(a) shall be treated as principal.

102 (b) ~~[Any]~~ Beginning fiscal year 2001-02, any annual interest or dividends earned from the
103 permanent state trust fund that remain after Subsection (4)(a) [may] shall be appropriated [by the
104 Legislature] from the fund to the Department of Health for the purposes set forth in Subsection
105 63-97-201(4)(b).

106 Section 4. Section **63-97-401** is amended to read:

107 **63-97-401. Requirements for tobacco programs.**

108 (1) To be eligible to receive funding under this chapter for a tobacco prevention, reduction,
109 cessation, or control program, an organization, whether private, governmental, or
110 quasi-governmental, shall:

111 (a) submit a request to the Department of Health containing the following information:

112 (i) for media campaigns to prevent or reduce smoking, the request shall demonstrate sound
113 management and periodic evaluation of the campaign's relevance to the intended audience,
114 particularly in campaigns directed toward youth, including audience awareness of the campaign
115 and recollection of the main message;

116 (ii) for school-based education programs to prevent and reduce youth smoking, the request
117 shall describe how the program will be effective in preventing and reducing youth smoking;

118 (iii) for community-based programs to prevent and reduce smoking, the request shall
119 demonstrate that the proposed program:

120 (A) has a comprehensive strategy with a clear mission and goals;

121 (B) provides for committed, caring, and professional leadership; and
122 (C) if directed toward youth:
123 (I) offers youth-centered activities in youth accessible facilities;
124 (II) is culturally sensitive, inclusive, and diverse;
125 (III) involves youth in the planning, delivery, and evaluation of services that affect them;
126 and
127 (IV) offers a positive focus that is inclusive of all youth; and
128 (iv) for enforcement, control, and compliance program, the request shall demonstrate that
129 the proposed program can reasonably be expected to reduce the extent to which tobacco products
130 are available to individuals under the age of 19;
131 (b) agree, by contract, to file an annual written report with the Department of Health. The
132 report shall contain the following:
133 (i) the amount funded;
134 (ii) the amount expended;
135 (iii) a description of the program or campaign and the number of adults and youth who
136 participated;
137 (iv) specific elements of the program or campaign meeting the applicable criteria set forth
138 in Subsection (1)(a); and
139 (v) a statement concerning the success and effectiveness of the program or campaign;
140 (c) agree, by contract, to not use any funds received under this chapter directly or
141 indirectly, to:
142 (i) engage in any lobbying or political activity, including the support of, or opposition to,
143 candidates, ballot questions, referenda, or similar activities; or
144 (ii) engage in litigation with any tobacco manufacturer, retailer, or distributor, except to
145 enforce:
146 (A) the provisions of the Master Settlement Agreement;
147 (B) Title 26, Chapter 38, Utah Indoor Clean Air Act;
148 (C) Title 26, Chapter 42, Civil Penalties for Tobacco Sales to [~~Underaged~~] Underage
149 Persons; and
150 (D) Title 77, Chapter 39, Sale of Tobacco and Alcohol to [~~Underaged~~] Under Age
151 Persons[, in an amount not to exceed the state level of funding in fiscal year 1999-2000 for

152 enforcement of Title 77, Chapter 39]; and

153 (d) agree, by contract, to repay the funds provided under this chapter if the organization:

154 (i) fails to file a timely report as required by Subsection (1)(b); or

155 (ii) uses any portion of the funds in violation of Subsection (1)(c).

156 (2) The Department of Health shall review and evaluate the success and effectiveness of
157 any program or campaign that receives funding pursuant to a request submitted under Subsection

158 (1). The review and evaluation:

159 (a) shall include a comparison of annual smoking trends;

160 (b) may be conducted by an independent evaluator; and

161 (c) may be paid for by funds appropriated from the account for that purpose.

162 (3) The Department of Health shall annually report to the Health and Human Services
163 Appropriations Subcommittee on the reviews conducted pursuant to Subsection (2).

164 (4) An organization that fails to comply with the contract requirements set forth in
165 Subsection (1) shall:

166 (a) repay the state as provided in Subsection (1)(d); and

167 (b) be disqualified from receiving funds under this chapter in any subsequent fiscal year.

168 (5) The attorney general shall be responsible for recovering funds that are required to be
169 repaid to the state under this section.

170 (6) Nothing in this section may be construed as applying to funds that are not appropriated
171 under this chapter.

172 Section 5. Section 78-3-32 is enacted to read:

173 **78-3-32. Drug Court and Drug Board Pilot Program funding.**

174 (1) (a) Subject to future budget constraints, there is appropriated, as an ongoing
175 appropriation for fiscal year 2001-02 from the General Fund:

176 (i) \$193,700 to the Administrative Office of the Courts; and

177 (ii) \$1,296,300 to the Department of Human Services.

178 (b) It is the intent of the Legislature that the appropriations in Subsection (1)(a) shall be
179 used for the statewide expansion of the drug court program.

180 (2) (a) Subject to future budget constraints, there is appropriated, as an ongoing
181 appropriation for fiscal year 2001-02 from the General Fund:

182 (i) \$77,400 to the Board of Pardons;

183 (ii) \$81,700 to the Department of Corrections; and
184 (iii) \$350,900 to the Department of Human Services.
185 (b) It is the intent of the Legislature that the appropriation in Subsection (2)(a) shall be
186 used for a drug board pilot program.

187 Section 6. **Effective date.**

188 This act takes effect on July 1, 2001, except that Section 63-97-301 takes effect on April
189 30, 2001 and shall have retrospective operation to January 1, 2001.

Legislative Review Note
as of 2-13-01 10:35 AM

The amendments in Subsection 63-97-301(4) of this bill address a constitutional conflict that happened when the permanent state trust fund was approved by the voters in November 2000 and became law on January 1, 2001. That new constitutional provision requires the income from the state trust fund to be deposited into the state's General Fund. The current statute does not deposit the interest income into the General Fund. The current statute retains fifty percent of the interest and dividends in the state trust fund to be treated as principal. The amendments to Subsection 63-97-301(4) in this bill maintain the intent of the 2000 Legislature to retain fifty percent of the interest as principal, but does so by transferring it on an ongoing basis from the General Fund to the permanent state trust fund.

Office of Legislative Research and General Counsel