

1                                   **LEGISLATIVE REVIEW OF HEALTH**

2   **INSURANCE MANDATES**

3   2008 GENERAL SESSION

4   STATE OF UTAH

5   **Chief Sponsor: James A. Dunnigan**

6   Senate Sponsor: Kevin T. VanTassell

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8   **LONG TITLE**

9   **General Description:**

10           This bill modifies provisions related to the Legislature to clarify review of health  
11 insurance mandates by an interim committee.

12   **Highlighted Provisions:**

13           This bill:

- 14           ▶ modifies the process by which the Business and Labor Interim Committee and
- 15 Health and Human Services Interim Committee review health insurance mandates;
- 16           ▶ requires the Insurance Department to take certain actions in relationship to a review;
- 17           ▶ removes provisions related to the legislative auditor general assisting with a review;
- 18 and
- 19           ▶ makes technical and conforming amendments.

20   **Monies Appropriated in this Bill:**

21           None

22   **Other Special Clauses:**

23           None

24   **Utah Code Sections Affected:**

25   AMENDS:

26           **36-12-5**, as last amended by Laws of Utah 2002, Chapter 65

27           **36-12-15**, as last amended by Laws of Utah 2005, Chapter 84

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

30 Section 1. Section **36-12-5** is amended to read:

31 **36-12-5. Duties of interim committees.**

32 (1) Except as otherwise provided by law, each interim committee shall:

33 (a) receive study assignments by resolution from the Legislature;

34 (b) receive study assignments from the Legislative Management Committee, created  
35 under Section 36-12-6;

36 (c) place matters on its study agenda after requesting approval of the study from the  
37 Legislative Management Committee, which request, if not disapproved by the Legislative  
38 Management Committee within 30 days of receipt of the request, the interim committee shall  
39 consider it approved and may proceed with the requested study;

40 (d) request research reports from the professional legislative staff pertaining to the  
41 committee's agenda of study;

42 (e) investigate and study possibilities for improvement in government services within its  
43 subject area;

44 (f) accept reports from the professional legislative staff and make recommendations for  
45 legislative action with respect to such reports; and

46 (g) prepare and recommend to the Legislature a legislative program in response to the  
47 committee's study agenda.

48 (2) (a) As used in this Subsection (2):

49 (i) "Health insurance" is as defined in Section 31A-1-301.

50 (ii) "Health insurance mandate" means a mandatory obligation with respect to a  
51 coverage, benefit, or provider that, but for Title 31A, Insurance Code, would not be required  
52 for a policy of health insurance.

53 (iii) "Review committee" means:

54 (A) the Business and Labor Interim Committee; and

55 (B) the Health and Human Services Interim Committee.

56 (b) In addition to the duties established pursuant to Subsection (1), [the Business and  
57 Labor Interim Committee and the Health and Human Services Interim Committee] annually

58 each review committee shall:

59 (i) identify [~~provisions in Title 31A, Insurance Code, that impose a mandatory~~  
 60 ~~obligation on health insurers with respect to coverage, benefits, or providers that have been]~~ the  
 61 one or more health insurance mandates listed under Subsection (2)(d) that:

62 (A) are in effect for five or more years as of May 1; and [have]

63 (B) have not been reviewed during the previous ten years as of May 1; [and]

64 (ii) select which of the one or more health insurance mandates identified under  
 65 Subsection (2)(b)(i) that the review committee elects to review, subject to the direction of the  
 66 Legislative Management Committee [~~which may divide the provisions between the~~  
 67 ~~committees;]~~; and

68 (iii) review [the provisions] a health insurance mandate selected under Subsection  
 69 (2)(b)(ii) to determine whether the [provisions] health insurance mandate should be continued,  
 70 modified, or repealed[; provided that:].

71 [~~(A) any provision in effect for five or more years as of July 1, 2000, shall be reviewed~~  
 72 ~~before November 30, 2005; and]~~

73 [~~(B) any provision enacted after July 1, 2000, shall be reviewed on the fifth year after~~  
 74 ~~enactment.]~~

75 [~~(b)~~] (c) The review under this Subsection (2) shall include:

76 (i) the estimated fiscal impact of the [provision] health insurance mandate on state and  
 77 private health insurance; and

78 (ii) the purpose and effectiveness of the [provision] health insurance mandate.

79 [~~(c) The committee may request through, and with the approval of, the audit~~  
 80 ~~subcommittee that the legislative auditor general perform, or otherwise assist in the~~  
 81 ~~performance of, the review described in Subsection (2)(b):]~~

82 (d) The Insurance Department shall:

83 (i) provide a list of the health insurance mandates in this state in its annual report; and

84 (ii) assist in a review if requested by a review committee.

85 (3) Except as otherwise provided by law, reports and recommendations of the interim

86 committees shall be completed and made public prior to any legislative session at which the  
87 reports and recommendations are submitted. A copy of the reports and recommendations shall  
88 be mailed to each member or member-elect of the Legislature, to each elective state officer, and  
89 to the state library.

90 Section 2. Section **36-12-15** is amended to read:

91 **36-12-15. Office of Legislative Auditor General established -- Qualifications --**  
92 **Powers, functions, and duties.**

93 (1) There is created an Office of Legislative Auditor General as a permanent staff office  
94 for the Legislature.

95 (2) The legislative auditor general shall be a licensed certified public accountant or  
96 certified internal auditor with at least five years experience in the auditing or public accounting  
97 profession, or the equivalent, prior to appointment.

98 (3) The legislative auditor general shall appoint and develop a professional staff within  
99 budget limitations.

100 (4) (a) The Office of the Legislative Auditor General shall exercise the constitutional  
101 authority provided in Article VI, Sec. 33, Utah Constitution.

102 (b) Under the direction of the legislative auditor general, the office shall:

103 (i) conduct comprehensive and special purpose audits, examinations, and reviews of any  
104 entity that receives public funds;

105 (ii) prepare and submit a written report on each audit, examination, or review to the  
106 Legislative Management Committee, the audit subcommittee, and to all members of the  
107 Legislature within 75 days after the audit or examination is completed; and

108 (iii) as provided in Section 36-24-101:

109 (A) monitor all new programs and agencies created during each Annual General Session  
110 or Special Session of the Legislature;

111 (B) provide each new program and agency created with a list of best practices in setting  
112 up their program or agency, including:

113 (I) policies;

- 114 (II) performance measures; and
- 115 (III) data collection;
- 116 (C) send each new program and agency:
  - 117 (I) within one year after its creation, a survey instrument requesting a self evaluation
  - 118 that includes policies, performance measures, and data collection; and
  - 119 (II) within two years after its creation, a survey instrument requesting a self evaluation
  - 120 that includes policies, performance measures, and data collection; and
  - 121 (D) (I) using the new program or agency's response to the self evaluation survey
  - 122 instruments, recommend to the legislative audit subcommittee that the office conduct an audit of
  - 123 those new programs and agencies created on which questions have arisen as a result of the
  - 124 response to the survey instrument and provide a limited scope audit report on those new
  - 125 programs or agencies on which it receives direction to audit to the legislative interim committee
  - 126 and to the legislative appropriations subcommittee with oversight responsibility for that
  - 127 program or agency on or before the November interim meeting; and
  - 128 (II) include within this limited scope audit report a recommendation as to whether the
  - 129 program or agency is fulfilling its statutory guidelines and directives.
- 130 (5) The audit, examination, or review of any entity that receives public funds may
- 131 include a determination of any or all of the following:
  - 132 (a) the honesty and integrity of all its fiscal affairs;
  - 133 (b) the accuracy and reliability of its financial statements and reports;
  - 134 (c) whether or not its financial controls are adequate and effective to properly record
  - 135 and safeguard its acquisition, custody, use, and accounting of public funds;
  - 136 (d) whether or not its administrators have faithfully adhered to legislative intent;
  - 137 (e) whether or not its operations have been conducted in an efficient, effective, and cost
  - 138 efficient manner;
  - 139 (f) whether or not its programs have been effective in accomplishing intended
  - 140 objectives; and
  - 141 (g) whether or not its management control and information systems are adequate and

142 effective.

143 (6) The Office of Legislative Auditor General may:

144 (a) (i) notwithstanding any other provision of law, obtain access to all records,  
145 documents, and reports of any entity that receives public funds that are necessary to the scope  
146 of its duties; and

147 (ii) if necessary, issue a subpoena to obtain access as provided in Subsection (6)(a)(i)  
148 using the procedures contained in Title 36, Chapter 14, Legislative Subpoena Powers;

149 (b) establish policies, procedures, methods, and standards of audit work for the office  
150 and staff;

151 (c) prepare and submit each audit report without interference from any source relative  
152 to the content of the report, the conclusions reached in the report, or the manner of disclosing  
153 the results of his findings; and

154 (d) prepare and submit the annual budget request for the office.

155 (7) To preserve the professional integrity and independence of the office:

156 (a) no legislator or public official may urge the appointment of any person to the office;

157 and

158 (b) the legislative auditor general may not be appointed to serve on any board,  
159 authority, commission, or other agency of the state during his term as legislative auditor  
160 general.

161 (8) The following records in the custody or control of the legislative auditor general  
162 shall be protected records under Title 63, Chapter 2, Government Records Access and  
163 Management Act:

164 (a) Records that would disclose information relating to allegations of personal  
165 misconduct, gross mismanagement, or illegal activity of a past or present governmental  
166 employee if the information or allegation cannot be corroborated by the legislative auditor  
167 general through other documents or evidence, and the records relating to the allegation are not  
168 relied upon by the legislative auditor general in preparing a final audit report.

169 (b) Records and audit workpapers to the extent they would disclose the identity of a

170 person who during the course of a legislative audit, communicated the existence of any waste of  
171 public funds, property, or manpower, or a violation or suspected violation of a law, rule, or  
172 regulation adopted under the laws of this state, a political subdivision of the state, or any  
173 recognized entity of the United States, if the information was disclosed on the condition that the  
174 identity of the person be protected.

175 (c) Prior to the time that an audit is completed and the final audit report is released,  
176 records or drafts circulated to a person who is not an employee or head of a governmental  
177 entity for their response or information.

178 (d) Records that would disclose an outline or part of any audit survey plans or audit  
179 program.

180 (e) Requests for audits, if disclosure would risk circumvention of an audit.

181 (f) The provisions of Subsections (8)(a), (b), and (c) do not prohibit the disclosure of  
182 records or information that relate to a violation of the law by a governmental entity or employee  
183 to a government prosecutor or peace officer.

184 (g) The provisions of this section do not limit the authority otherwise given to the  
185 legislative auditor general to classify a document as public, private, controlled, or protected  
186 under Title 63, Chapter 2, Government Records Access and Management Act.

187 (9) The legislative auditor general shall:

188 (a) be available to the Legislature and to its committees for consultation on matters  
189 relevant to areas of [~~his~~] the legislative auditor general's professional competence [~~and shall~~  
190 ~~perform, or otherwise assist in the performance of, a health insurance provision review as~~  
191 ~~provided in Section 36-12-5~~];

192 (b) conduct special audits as requested by the Legislative Management Committee;

193 (c) report immediately in writing to the Legislative Management Committee through its  
194 audit subcommittee any apparent violation of penal statutes disclosed by the audit of a state  
195 agency and furnish to the Legislative Management Committee all information relative to the  
196 apparent violation;

197 (d) report immediately in writing to the Legislative Management Committee through its

198 audit subcommittee any apparent instances of malfeasance or nonfeasance by a state officer or  
199 employee disclosed by the audit of a state agency; and

200 (e) make any recommendations to the Legislative Management Committee through its  
201 audit subcommittee with respect to the alteration or improvement of the accounting system used  
202 by any entity that receives public funds.

203 (10) (a) Prior to each annual general session, the legislative auditor general shall  
204 prepare a summary of the audits conducted and of actions taken based upon them during the  
205 preceding year.

206 (b) This report shall also set forth any items and recommendations that are important  
207 for consideration in the forthcoming session, together with a brief statement or rationale for  
208 each item or recommendation.

209 (c) The legislative auditor general shall deliver the report to the Legislature and to the  
210 appropriate committees of the Legislature.

211 (11) (a) No person or entity may:

212 (i) interfere with a legislative audit, examination, or review of any entity conducted by  
213 the office; or

214 (ii) interfere with the office relative to the content of the report, the conclusions reached  
215 in the report, or the manner of disclosing the results and findings of the office.

216 (b) Any person or entity that violates the provisions of this Subsection (11) is guilty of a  
217 class B misdemeanor.