

57 the Individual, Small Employer, and Group Health Insurance Act;

- 58 ▶ addresses the surcharge for groups changing carriers;
- 59 ▶ addresses eligibility for the small employer and individual market;
- 60 ▶ modifies the provisions related to appointment of insurance producers and the
- 61 Health Insurance Exchange;
- 62 ▶ modifies Health Insurance Exchange disclosure requirements;
- 63 ▶ requires a captive insurance company, rather than an association captive insurance
- 64 company or industrial insured group, to file a specified report;
- 65 ▶ corrects a reference to a covered employee;
- 66 ▶ changes reference to a multiple coordinated policy to a master policy;
- 67 ▶ includes reference to the defined contribution arrangement market into the Defined

68 Contribution Risk Adjuster Act;

- 69 ▶ modifies definitions in the Small Employer Stop-Loss Insurance Act;
- 70 ▶ addresses stop-loss insurance coverage standards, stop-loss restrictions, filing
- 71 requirements, and stop-loss insurance disclosure;
- 72 ▶ modifies commissioner's rulemaking authority under the Small Employer Stop-Loss
- 73 Insurance Act; and
- 74 ▶ makes technical and conforming amendments.

75 **Money Appropriated in this Bill:**

76 **⚡→ [—None] This bill reduces appropriations beginning in fiscal year 2015 from the Insurance**  
 76a **Department Restricted Account by \$403,500. ←⚡**

77 **Other Special Clauses:**

- 78 This bill provides an effective date.
- 79 This bill provides revisor instructions.

80 **Utah Code Sections Affected:**

81 AMENDS:

- 82 **31A-1-301**, as last amended by Laws of Utah 2013, Chapter 319
- 83 **31A-2-104**, as last amended by Laws of Utah 1999, Chapter 21
- 84 **31A-3-103**, as last amended by Laws of Utah 2011, Chapter 284
- 85 **31A-3-304 (Superseded 07/01/15)**, as last amended by Laws of Utah 2011, Chapter
- 86 284
- 87 **31A-3-304 (Effective 07/01/15)**, as last amended by Laws of Utah 2013, Chapter 319

1328 (a) the commissioner may set and collect a fee for services provided by the  
1329 commissioner;

1330 (b) a fee related to the renewal of a license may be imposed no more frequently than  
1331 once each year; and

1332 (c) a fee charged by the commissioner shall be set in accordance with Section  
1333 63J-1-504.

1334 (3) (a) The commissioner shall publish a schedule of fees established pursuant to this  
1335 section.

1336 (b) The commissioner shall, by rule, establish the deadlines for payment of a fee  
1337 established pursuant to this section.

1338 (4) (a) [~~Beginning July 1, 2011, there~~] There is created in the General Fund a restricted  
1339 account known as the "Insurance Department Restricted Account."

1340 (b) Except as provided in Subsection (4)(c), the Insurance Department Restricted  
1341 Account shall consist of:

1342 (i) fees authorized by this section; and

1343 (ii) other money received by the department, including:

1344 (A) reimbursements for examination costs incurred by the department; and

1345 (B) forfeitures collected under this title.

1346 (c) The department shall deposit money it receives that is subject to a restricted account  
1347 or enterprise fund created by this title into the restricted account or enterprise fund in  
1348 accordance with the statute creating the restricted account or enterprise fund, and the  
1349 department may not deposit the money into the Insurance Department Restricted Account.

1350 (d) Subject to appropriation by the Legislature, the department may expend money in  
1351 the Insurance Department Restricted Account to fund the operations of the department.

1352 (e) (i) At the end of each fiscal year until June 30, 2015, the director of the Division of  
1353 Finance shall transfer into the General Fund any money deposited into the Insurance  
1354 Department Restricted Account under Subsection (4)(b) that exceeds the legislative  
1355 appropriations from the Insurance Department Restricted Account for that year.

1356 (ii) Beginning with fiscal year 2015-2016, an appropriation of the Insurance  
1357 Department Restricted Account is nonlapsing, except that at the end of each fiscal year, money  
1358 received by the commissioner in excess of \$→ [\$8,500,000] \$8,146,500 ←\$ shall be treated as free  
1358a revenue in the

2289 services or benefits, which the covered person claims are immaterial to the claims for which  
 2290 uninsured motorist benefits are sought, for a period of five years preceding the date of the event  
 2291 giving rise to the claim for uninsured motorist benefits up to the time the election for  
 2292 arbitration or litigation have not been disclosed;

2293 ~~§→ [(C) the changes made by this bill to Subsections (10)(a)(ii)(A)(H) and (B)(H) apply to~~  
 2294 ~~any claim submitted to binding arbitration or through litigation on or after May 13, 2014;]~~ ←§

2295 ~~§→ [f] (C) [†(D)] ←§~~ if lost wages, diminished earning capacity, or similar damages are  
 2295a claimed,

2296 all employers of the covered person for a period of five years preceding the date of the event  
 2297 giving rise to the claim for uninsured motorist benefits up to the time the election for  
 2298 arbitration or litigation has been exercised;

2299 ~~§→ [f] (D) [†(E)] ←§~~ other documents to reasonably support the claims being asserted; and

2300 ~~§→ [f] (E) [†(F)] ←§~~ all state and federal statutory lienholders including a statement as to  
 2300a whether

2301 the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health  
 2302 Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act,  
 2303 or if the claim is subject to any other state or federal statutory liens; and

2304 (iii) signed authorizations to allow the uninsured motorist carrier to only obtain records  
 2305 and billings from the individuals or entities disclosed under Subsections (10)(a)(ii)(A)(I),  
 2306 (B)(I), and ~~§→ [†(D)] (C) ←§~~ .

2307 (b) (i) If the uninsured motorist carrier determines that the disclosure of undisclosed  
 2308 health care providers or health care insurers under Subsection (10)(a)(ii) is reasonably  
 2309 necessary, the uninsured motorist carrier may:

2310 (A) make a request for the disclosure of the identity of the health care providers or  
 2311 health care insurers; and

2312 (B) make a request for authorizations to allow the uninsured motorist carrier to only  
 2313 obtain records and billings from the individuals or entities not disclosed.

2314 (ii) If the covered person does not provide the requested information within 10 days:

2315 (A) the covered person shall disclose, in writing, the legal or factual basis for the  
 2316 failure to disclose the health care providers or health care insurers; and

2317 (B) either the covered person or the uninsured motorist carrier may request the  
 2318 arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be  
 2319 provided if the covered person has elected arbitration.

2382 evidence, within 30 days after a covered person elects to submit a claim for uninsured motorist  
 2383 coverage benefits to binding arbitration or files litigation as specified in Subsection (10)(a).

2384 (ii) If the information under Subsection (10)(i)(i) is not disclosed, the covered person  
 2385 may not recover costs or any amounts in excess of the policy under Subsection (10)(g).

2386 (j) This Subsection (10) does not limit any other cause of action that arose or may arise  
 2387 against the uninsured motorist carrier from the same dispute.

2388 (k) The provisions of this Subsection (10) only apply to motor vehicle accidents that  
 2389 occur on or after March 30, 2010.

2390 (l) ~~§~~ **(i)** ~~←§~~ The written demand requirement in Subsection (10)(a)(i)(A) does not affect  
 2390a the  
 2391 covered person's requirement to provide a computation of any other economic damages  
 2392 claimed ~~§~~ , ~~←§~~ and the one or more respondents shall have a reasonable time after the receipt of  
 2392a the  
 2393 computation of any other economic damages claimed to conduct fact and expert discovery as  
 2394 to any additional damages claimed. The changes made by this bill to this Subsection (10)(l)  
 2395 and Subsection (10)(a)(i)(A) apply to a claim submitted to binding arbitration or through  
 2396 litigation on or after May 13, 2014.

2396a **§ **(ii) The changes made by this bill to Subsections (10)(a)(ii)(A)(II) and (B)(II) apply to****  
 2396b **any claim submitted to binding arbitration or through litigation on or after May 13, 2014. ←§**

2397 Section 12. Section **31A-22-305.3** is amended to read:

2398 **31A-22-305.3. Underinsured motorist coverage.**

2399 (1) As used in this section:

2400 (a) "Covered person" has the same meaning as defined in Section 31A-22-305.

2401 (b) (i) "Underinsured motor vehicle" includes a motor vehicle, the operation,  
 2402 maintenance, or use of which is covered under a liability policy at the time of an injury-causing  
 2403 occurrence, but which has insufficient liability coverage to compensate fully the injured party  
 2404 for all special and general damages.

2405 (ii) The term "underinsured motor vehicle" does not include:

2406 (A) a motor vehicle that is covered under the liability coverage of the same policy that  
 2407 also contains the underinsured motorist coverage;

2408 (B) an uninsured motor vehicle as defined in Subsection 31A-22-305(2); or

2409 (C) a motor vehicle owned or leased by:

2410 (I) a named insured;

2411 (II) a named insured's spouse; or

2412 (III) a dependent of a named insured.

2692 underinsured motorist benefits are sought for a period of five years preceding the date of the  
 2693 event giving rise to the claim for underinsured motorist benefits up to the time the election for  
 2694 arbitration or litigation has been exercised; and

2695 (II) [~~whether the covered person has seen other~~] the names and last know addresses of  
 2696 the health care providers who have rendered health care services to the covered person, which  
 2697 the covered person claims are immaterial to the claims for which underinsured motorist  
 2698 benefits are sought, for a period of five years preceding the date of the event giving rise to the  
 2699 claim for underinsured motorist benefits up to the time the election for arbitration or litigation  
 2700 has been exercised that have not been disclosed under Subsection (9)(a)(ii)(A)(I);

2701 (B) (I) the names and last known addresses of all health insurers or other entities to  
 2702 whom the covered person has submitted claims for health care services or benefits material to  
 2703 the claims for which underinsured motorist benefits are sought, for a period of five years  
 2704 preceding the date of the event giving rise to the claim for underinsured motorist benefits up to  
 2705 the time the election for arbitration or litigation has been exercised; and

2706 (II) [~~whether the identity of any~~] the names and last known addresses of the health  
 2707 insurers or other entities to whom the covered person has submitted claims for health care  
 2708 services or benefits, which the covered person claims are immaterial to the claims for which  
 2709 underinsured motorist benefits are sought, for a period of five years preceding the date of the  
 2710 event giving rise to the claim for underinsured motorist benefits up to the time the election for  
 2711 arbitration or litigation have not been disclosed;

2712 **§→** [~~(C) the changes made by this bill under Subsections (9)(a)(ii)(A)(II) and (B)(II) apply~~  
 2713 ~~to a claim submitted to binding arbitration or through litigation on or after May 13, 2014;~~] **←§**

2714 **§→** [f] (C) [~~(D)~~] **←§** if lost wages, diminished earning capacity, or similar damages are  
 2714a claimed,

2715 all employers of the covered person for a period of five years preceding the date of the event  
 2716 giving rise to the claim for underinsured motorist benefits up to the time the election for  
 2717 arbitration or litigation has been exercised;

2718 **§→** [f] (D) [~~(E)~~] **←§** other documents to reasonably support the claims being asserted; and

2719 **§→** [f] (E) [~~(F)~~] **←§** all state and federal statutory lienholders including a statement as to  
 2719a whether

2720 the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health  
 2721 Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act,  
 2722 or if the claim is subject to any other state or federal statutory liens; and

2723 (iii) signed authorizations to allow the underinsured motorist carrier to only obtain  
 2724 records and billings from the individuals or entities disclosed under Subsections  
 2725 (9)(a)(ii)(A)(I), (B)(I), and ~~§~~ [(D)] (C) ~~←~~§ .

2726 (b) (i) If the underinsured motorist carrier determines that the disclosure of undisclosed  
 2727 health care providers or health care insurers under Subsection (9)(a)(ii) is reasonably necessary,  
 2728 the underinsured motorist carrier may:

2729 (A) make a request for the disclosure of the identity of the health care providers or  
 2730 health care insurers; and

2731 (B) make a request for authorizations to allow the underinsured motorist carrier to only  
 2732 obtain records and billings from the individuals or entities not disclosed.

2733 (ii) If the covered person does not provide the requested information within 10 days:

2734 (A) the covered person shall disclose, in writing, the legal or factual basis for the  
 2735 failure to disclose the health care providers or health care insurers; and

2736 (B) either the covered person or the underinsured motorist carrier may request the  
 2737 arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be  
 2738 provided if the covered person has elected arbitration.

2739 (iii) The time periods imposed by Subsection (9)(c)(i) are tolled pending resolution of  
 2740 the dispute concerning the disclosure and production of records of the health care providers or  
 2741 health care insurers.

2742 (c) (i) An underinsured motorist carrier that receives an election for arbitration or a  
 2743 notice of filing litigation and the demand for payment of underinsured motorist benefits under  
 2744 Subsection (9)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the  
 2745 demand and receipt of the items specified in Subsections (9)(a)(i) through (iii), to:

2746 (A) provide a written response to the written demand for payment provided for in  
 2747 Subsection (9)(a)(i);

2748 (B) except as provided in Subsection (9)(c)(i)(C), tender the amount, if any, of the  
 2749 underinsured motorist carrier's determination of the amount owed to the covered person; and

2750 (C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah  
 2751 Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's  
 2752 Health Insurance Act, or if the claim is subject to any other state or federal statutory liens,  
 2753 tender the amount, if any, of the underinsured motorist carrier's determination of the amount

2785 (i) the final award obtained through arbitration or litigation, except that if the award  
 2786 exceeds the policy limits of the subject underinsured motorist policy by more than \$15,000, the  
 2787 amount shall be reduced to an amount equal to the policy limits plus \$15,000; and

2788 (ii) any of the following applicable costs:

2789 (A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

2790 (B) the arbitrator or arbitration panel's fee; and

2791 (C) the reasonable costs of expert witnesses and depositions used in the presentation of  
 2792 evidence during arbitration or litigation.

2793 (h) (i) The covered person shall provide an affidavit of costs within five days of an  
 2794 arbitration award.

2795 (ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to  
 2796 which the underinsured motorist carrier objects.

2797 (B) The objection shall be resolved by the arbitrator or arbitration panel.

2798 (iii) The award of costs by the arbitrator or arbitration panel under Subsection (9)(g)(ii)  
 2799 may not exceed \$5,000.

2800 (i) (i) A covered person shall disclose all material information, other than rebuttal  
 2801 evidence, within 30 days after a covered person elects to submit a claim for underinsured  
 2802 motorist coverage benefits to binding arbitration or files litigation as specified in Subsection  
 2803 (9)(a).

2804 (ii) If the information under Subsection (9)(i)(i) is not disclosed, the covered person  
 2805 may not recover costs or any amounts in excess of the policy under Subsection (9)(g).

2806 (j) This Subsection (9) does not limit any other cause of action that arose or may arise  
 2807 against the underinsured motorist carrier from the same dispute.

2808 (k) The provisions of this Subsection (9) only apply to motor vehicle accidents that  
 2809 occur on or after March 30, 2010.

2810 (l) ~~§~~ → (i) ← ~~§~~ The written demand requirement in Subsection (9)(a)(i)(A) does not affect  
 2810a the  
 2811 covered person's requirement to provide a computation of any other economic damages  
 2812 claimed ~~§~~ → , ← ~~§~~ and the one or more respondents shall have a reasonable time after the receipt of  
 2812a the  
 2813 computation of any other economic damages claimed to conduct fact and expert discovery as  
 2814 to any additional damages claimed. The changes made by this bill to this Subsection (9)(l) and  
 2815 Subsection (9)(a)(i)(A) apply to a claim submitted to binding arbitration or through litigation

2816 on or after May 13, 2014.

2816a **§→ (ii) The changes made by this bill under Subsections (9)(a)(ii)(A)(II) and (B)(II) apply to a**  
 2816b **claim submitted to binding arbitration or through litigation on or after May 13, 2014. ←§**

2817 Section 13. Section 31A-22-428 is amended to read:

2818 **31A-22-428. Interest payable on life insurance proceeds.**

2819 (1) For a life insurance policy delivered or issued for delivery in this state on or after  
 2820 May 5, 2008, the insurer shall pay interest on the death proceeds payable upon the death of the  
 2821 insured.

2822 (2) (a) Except as provided in Subsection (4), for the period beginning on the date of  
 2823 death and ending the day before the day described in Subsection (3)(b), interest under  
 2824 Subsection (1) shall accrue at a rate no less than the greater of:

2825 (i) the rate applicable to policy funds left on deposit; ~~[or]~~ and

2826 (ii) ~~[if there is no rate described in Subsection (2)(a)(i), at]~~ the Two Year Treasury  
 2827 Constant Maturity Rate as published by the Federal Reserve.

2828 (b) If there is no rate applicable to policy funds on deposit as stated in Subsection  
 2829 (2)(a)(i), then the Two Year Treasury Constant Maturity Rates as published by the Federal  
 2830 Reserve applies.

2831 ~~[(b)]~~ (c) The rate described in Subsection (2)(a) or (b) is the rate in effect on the day on  
 2832 which the death occurs.

2833 ~~[(c)]~~ (d) Interest is payable until the day on which the claim is paid.

2834 (3) (a) Unless the claim is paid and except as provided in Subsection (4), beginning on  
 2835 the day described in Subsection (3)(b) and ending the day on which the claim is paid, interest  
 2836 shall accrue at the rate in Subsection (2) plus additional interest at the rate of 10% annually.

2837 (b) Interest accrues under Subsection (3)(a) beginning with the day that is 31 days from  
 2838 the latest of:

2839 (i) the day on which the insurer receives proof of death;

2840 (ii) the day on which the insurer receives sufficient information to determine:

2841 (A) liability;

2842 (B) the extent of the liability; and

2843 (C) the appropriate payee legally entitled to the proceeds; and

2844 (iii) the day on which:

2845 (A) legal impediments to payment of proceeds that depend on the action of parties

2846 other than the insurer are resolved; and



5978 (ii) gender;

5979 (iii) geographic area; and

5980 (iv) family composition.

5981 (g) (i) The commissioner shall establish rules in accordance with Title 63G, Chapter 3,

5982 Utah Administrative Rulemaking Act, to:

5983 (A) implement this chapter; ~~[and]~~

5984 (B) assure that rating practices used by carriers who offer health benefit plans to  
5985 individuals are consistent with the purposes of this chapter~~[-]; and~~

5986 (C) promote transparency of rating practices of health benefit plans ~~§→~~ , **except that a**  
5986a **carrier may not be required to disclose proprietary information** ~~←§~~ .

5987 (ii) The rules described in Subsection (1)(g)(i) may include rules that:

5988 (A) assure that differences in rates charged for health benefit products by carriers who  
5989 offer health benefit plans to individuals are reasonable and reflect objective differences in plan  
5990 design, not including differences due to the nature of the individuals assumed to select  
5991 particular health benefit products; and

5992 (B) prescribe the manner in which case characteristics may be used by carriers who  
5993 offer health benefit plans to individuals~~[-]~~.

5994 ~~[(C) implement the individual enrollment cap under Section 31A-30-110, including~~  
5995 ~~specifying:]~~

5996 ~~[(I) the contents for certification;]~~

5997 ~~[(II) auditing standards;]~~

5998 ~~[(III) underwriting criteria for uninsurable classification; and]~~

5999 ~~[(IV) limitations on high risk enrollees under Section 31A-30-111; and]~~

6000 ~~[(D) establish the individual enrollment cap under Subsection 31A-30-110(1).]~~

6001 ~~[(h) Before implementing regulations for underwriting criteria for uninsurable~~  
6002 ~~classification, the commissioner shall contract with an independent consulting organization to~~  
6003 ~~develop industry-wide underwriting criteria for uninsurability based on an individual's expected~~  
6004 ~~claims under open enrollment coverage exceeding 325% of that expected for a standard~~  
6005 ~~insurable individual with the same case characteristics.]~~

6006 ~~[(i)]~~ (h) The commissioner shall revise rules issued for Sections 31A-22-602 and  
6007 31A-22-605 regarding individual accident and health policy rates to allow rating in accordance  
6008 with this section.

6691 created in Section 31A-31-108.

6692 ~~[(7)]~~ (8) Appropriations from the Underage Drinking Prevention Media and Education  
6693 Campaign Restricted Account created in Section 32B-2-306.

6694 ~~[(8)]~~ (9) The Youth Development Organization Restricted Account created in Section  
6695 35A-8-1903.

6696 ~~[(9)]~~ (10) The Youth Character Organization Restricted Account created in Section  
6697 35A-8-2003.

6698 ~~[(10)]~~ (11) Funding for a new program or agency that is designated as nonlapsing under  
6699 Section 36-24-101.

6700 ~~[(11)]~~ (12) Appropriations from the Oil and Gas Conservation Account created in  
6701 Section 40-6-14.5.

6702 ~~[(12)]~~ (13) Appropriations from the Electronic Payment Fee Restricted Account  
6703 created by Section 41-1a-121 to the Motor Vehicle Division.

6704 ~~[(13)]~~ (14) Funds available to the Tax Commission under Section 41-1a-1201 for the:

6705 (a) purchase and distribution of license plates and decals; and

6706 (b) administration and enforcement of motor vehicle registration requirements.

6707 Section 71. **Repealer.**

6708 This bill repeals:

6709 Section 31A-30-110, **Individual enrollment cap.**

6710 Section 31A-30-111, **Limitations on high risk enrollees.**

6710a **§→ Section 72. Appropriation**

6710b **Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the**  
6710c **fiscal year beginning July 1, 2014, and ending June 30, 2015, the Legislature appropriates the**  
6710d **following sums of money from the funds or accounts indicated for the use and support of the**  
6710e **government of the State of Utah. These are additions to amounts previously appropriated for**  
6710f **fiscal year 2015.**

6710g **To Insurance Department Administration**

6710h **From General Fund Restricted-Insurance Department Restricted Account     -\$403,500**

6710i **Schedule of Programs:**

6710j **Administration     -\$403,500**

6710k **←§**

6711 Section **§→** [72] **73** **←§** . **Effective date.**

6712 **This bill takes effect on May 13, 2014, except that the amendments to Section**

6713 **31A-3-304 (Effective 07/01/15) take effect on July 1, 2015.**