

HEALTH INSURANCE PROVISIONS - INTERIM REVIEW

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Rebecca D. Lockhart

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AN ACT RELATING TO THE LEGISLATURE; REQUIRING THE BUSINESS, LABOR, AND ECONOMIC DEVELOPMENT INTERIM COMMITTEE AND THE HEALTH AND HUMAN SERVICES INTERIM COMMITTEE TO IDENTIFY AND REVIEW CERTAIN HEALTH INSURANCE PROVISIONS TO DETERMINE WHETHER THE PROVISIONS SHOULD BE CONTINUED, MODIFIED, OR REPEALED; AND PERMITTING THE COMMITTEES TO REQUEST THE ASSISTANCE OF THE LEGISLATIVE AUDITOR GENERAL.

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

AMENDS:

36-12-5, as last amended by Chapter 226, Laws of Utah 1998

36-12-15, as last amended by Chapter 228, Laws of Utah 1992

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

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

36-12-5. Duties of interim committees.

(1) [~~It is the duty of each~~] Each interim committee shall:

(a) [~~to~~] receive study assignments by resolution from the appropriate house of the Legislature;

(b) [~~to~~] receive study assignments from [~~its corresponding Senate or House~~] the Legislative Management Committee, created under Section 36-12-6;

(c) [~~to~~] place matters on its study agenda upon notification to [~~its Senate or House~~] the Legislative Management Committee [~~-. If a study request has~~], which request, if not [been] disapproved by the [~~appropriate~~] Legislative Management Committee within 30 days of receipt of the request, the interim committee may proceed with the requested study;

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

(e) ~~[to]~~ investigate and study possibilities for improvement in government services within its subject area;

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

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

(2) (a) In addition to the duties established pursuant to Subsection (1), the Business, Labor, and Economic Development Interim Committee and the Health and Human Services Interim Committee shall:

(i) identify provisions in Title 31A that impose a mandatory obligation on health insurers with respect to coverage, benefits, or providers that have been in effect for five or more years and have not been reviewed during the previous ten years; and

(ii) subject to the direction of the Legislative Management Committee which may divide the provisions between the committees, review the provisions to determine whether the provisions should be continued, modified, or repealed, provided that:

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

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

(b) The review shall include:

(i) the estimated fiscal impact of the provision on state and private health insurance; and

(ii) the purpose and effectiveness of the provision.

(c) The committee may request through, and with the approval of, the audit subcommittee that the legislative auditor general perform, or otherwise assist in the performance of, the review described in Subsection (2)(b).

~~[(2)]~~ (3) Reports and recommendations of the interim committees shall be completed and made public prior to any legislative session at which the reports and recommendations are submitted. A copy of the reports and recommendations shall be mailed to each member or member-elect of the

Legislature, to each elective state officer, and to the state library.

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

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

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

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

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

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

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

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

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

(5) The audit, examination, or review of any entity that receives public funds may include a determination of any or all of the following:

(a) the honesty and integrity of all its fiscal affairs;

(b) the accuracy and reliability of its financial statements and reports;

(c) whether or not its financial controls are adequate and effective to properly record and safeguard its acquisition, custody, use, and accounting of public funds;

(d) whether or not its administrators have faithfully adhered to legislative intent;

(e) whether or not its operations have been conducted in an efficient, effective, and cost efficient manner;

(f) whether or not its programs have been effective in accomplishing intended objectives; and
(g) whether or not its management control and information systems are adequate and effective.

(6) The Office of Legislative Auditor General may:

(a) obtain access to all records, documents, and reports of any entity that receives public funds necessary to the scope of its duties, according to the procedures contained in Title 36, Chapter 14;

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

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

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

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

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

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

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

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

(b) Records and audit workpapers to the extent they would disclose the identity of a person who during the course of a legislative audit, communicated the existence of any waste of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United

States, if the information was disclosed on the condition that the identity of the person be protected.

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

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

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

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

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

(9) The legislative auditor general shall:

(a) be available to the Legislature and to its committees for consultation on matters relevant to areas of his professional competence and shall perform, or otherwise assist in the performance of, a health insurance provision review as provided in Section 36-12-5;

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

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

(d) report immediately in writing to the Legislative Management Committee through its audit subcommittee any apparent instances of malfeasance or nonfeasance by a state officer or employee disclosed by the audit of a state agency; and

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

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

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

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

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

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

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

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