Senator Gene Davis proposes the following substitute bill:

AMENDMENTS TO THE UTAH HEALTH INSURANCE RISK POOL

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Chad E. Bennion

LONG TITLE

General Description:

This bill amends the Comprehensive Health Insurance Pool Act and the taxation of admitted insurers.

Highlighted Provisions:

This bill:

- requires a portion of the premium tax paid by admitted insurers to be deposited each year in the Comprehensive Health Insurance Pool Enterprise Fund to maintain the fund's actuarial soundness.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-29-120, as last amended by Chapter 168, Laws of Utah 2003

59-9-101, as last amended by Chapter 298, Laws of Utah 2003

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

Section 1. Section **31A-29-120** is amended to read:

31A-29-120. Enterprise fund -- Retained earnings.

(1) There is created an enterprise fund known as the Comprehensive Health Insurance Pool Enterprise Fund.

(2) The following funds shall be credited to the pool fund:

(a) appropriations from the General Fund;

(b) pool policy premium payments; [~~and~~]

<u>(c) taxes deposited in the fund under Subsection 59-9-101(1); and</u>

[~~(c)~~] <u>(d)</u> all interest and dividends earned on the pool fund's assets.

(3) All money received by the pool fund shall be deposited in compliance with Section 51-4-1 and shall be held by the state treasurer and invested in accordance with Title 51, Chapter 7, State Money Management Act.

(4) The pool fund shall comply with the accounting policies, procedures, and reporting requirements established by the Division of Finance.

(5) The pool fund shall comply with Title 63A, Utah Administrative Services Code.

Section 2. Section **59-9-101** is amended to read:

59-9-101. Tax basis -- Rates -- Exemptions -- Use.

(1) (a) Except for annuity considerations, insurance premiums paid by institutions within the state system of higher education as specified in Section 53B-1-102, and ocean marine insurance, every admitted insurer shall pay to the commission on or before March 31 in each year, a tax of 2-1/4% of the total premiums received by it during the preceding calendar year from insurance covering property or risks located in this state.

(b) This Subsection (1) does not apply to:

(i) workers' compensation insurance, assessed under Subsection (2); and

(ii) title insurance premiums taxed under Subsection (3).

(c) The taxable premium under this Subsection (1) shall be reduced by:

(i) all premiums returned or credited to policyholders on direct business subject to tax in this state;

(ii) all premiums received for reinsurance of property or risks located in this state; and

(iii) the dividends, including premium reduction benefits maturing within the year, paid or credited to policyholders in this state or applied in abatement or reduction of premiums due during the preceding calendar year.

(d) (i) For each fiscal year beginning on or after July 1, 2005, the amount of the tax collected under Subsection (1)(a) necessary to maintain the actuarial soundness of the Comprehensive Health Insurance Pool Enterprise Fund, as provided in Subsection (1)(d)(ii), shall be transferred to the Comprehensive Health Insurance Pool Enterprise Fund created under Section 31A-29-120.

(ii) The amount transferred under Subsection (1)(d)(i) is limited to:

(A) the amount of premium tax revenue available after the allocation of the premium taxes required by Sections 49-16-301 and 53-7-204.2; and

(B) the amount designated by the Commissioner of Insurance, who shall certify, at the beginning of each fiscal year, to the Division of Finance, the amount necessary to maintain the actuarial soundness of the fund based on the actuarial data and projections prepared for the board of the Utah Comprehensive Health Insurance Pool.

(2) (a) Every admitted insurer writing workers' compensation insurance in this state, including the Workers' Compensation Fund created under Title 31A, Chapter 33, Workers' Compensation Fund, shall pay to the tax commission, on or before March 31 in each year, a premium assessment of between 1% and 8% of the total workers' compensation premium income received by the insurer from workers' compensation insurance in this state during the preceding calendar year.

(b) Total workers' compensation premium income means the net written premium as calculated before any premium reduction for any insured employer's deductible, retention, or reimbursement amounts and also those amounts equivalent to premiums as provided in Section 34A-2-202.

(c) The percentage of premium assessment applicable for a calendar year shall be determined by the Labor Commission under Subsection (2)(d). The total premium income shall be reduced in the same manner as provided in Subsections (1)(c)(i) and (1)(c)(ii), but not as provided in Subsection (1)(c)(iii). The tax commission shall promptly remit from the premium assessment collected under Subsection (2):

(i) an amount of up to 7.25% of the premium income to the state treasurer for credit to the Employers' Reinsurance Fund created under Subsection 34A-2-702(1);

(ii) an amount equal to 0.25% of the premium income to the state treasurer for credit to the restricted account in the General Fund, created by Section 34A-2-701; and

(iii) an amount of up to 0.50% and any remaining assessed percentage of the premium income to the state treasurer for credit to the Uninsured Employers' Fund created under Section 34A-2-704.

(d) (i) The Labor Commission shall determine the amount of the premium assessment for each year on or before each October 15 of the preceding year. The Labor Commission shall make this determination following a public hearing. The determination shall be based upon the recommendations of a qualified actuary.

(ii) The actuary shall recommend a premium assessment rate sufficient to provide payments of benefits and expenses from the Employers' Reinsurance Fund and to project a funded condition with assets greater than liabilities by no later than June 30, 2025.

(iii) The actuary shall recommend a premium assessment rate sufficient to provide payments of benefits and expenses from the Uninsured Employers' Fund and to maintain it at a funded condition with assets equal to or greater than liabilities.

(iv) At the end of each fiscal year the minimum approximate assets in the Employers' Reinsurance Fund shall be $5,000,000 which amount shall be adjusted each year beginning in 1990 by multiplying by the ratio that the total workers' compensation premium income for the preceding calendar year bears to the total workers' compensation premium income for the calendar year 1988.

(v) The requirements of Subsection (2)(d)(iv) cease when the future annual disbursements from the Employers' Reinsurance Fund are projected to be less than the calculations of the corresponding future minimum required assets. The Labor Commission shall, after a public hearing, determine if the future annual disbursements are less than the corresponding future minimum required assets from projections provided by the actuary.

(vi) At the end of each fiscal year the minimum approximate assets in the Uninsured Employers' Fund shall be $2,000,000, which amount shall be adjusted each year beginning in 1990 by multiplying by the ratio that the total workers' compensation premium income for the preceding calendar year bears to the total workers' compensation premium income for the calendar year 1988.

(e) A premium assessment that is to be transferred into the General Fund may be collected on premiums received from Utah public agencies.

(3) Every admitted insurer writing title insurance in this state shall pay to the commission, on or before March 31 in each year, a tax of .45% of the total premium received by either the insurer or by its agents during the preceding calendar year from title insurance concerning property located in this state. In calculating this tax, "premium" includes the charges made to an insured under or to an applicant for a policy or contract of title insurance for:

(a) the assumption by the title insurer of the risks assumed by the issuance of the policy or contract of title insurance; and

(b) abstracting title, title searching, examining title, or determining the insurability of title, and every other activity, exclusive of escrow, settlement, or closing charges, whether denominated premium or otherwise, made by a title insurer, an agent of a title insurer, a title insurance producer, or any of them.

(4) Beginning July 1, 1986, former county mutuals and former mutual benefit associations shall pay the premium tax or assessment due under this chapter. All premiums received after July 1, 1986, shall be considered in determining the tax or assessment.

(5) The following insurers are not subject to the premium tax on health care insurance that would otherwise be applicable under Subsection (1):

(a) insurers licensed under Title 31A, Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(b) insurers licensed under Title 31A, Chapter 7, Nonprofit Health Service Insurance Corporations;

(c) insurers licensed under Title 31A, Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(d) insurers licensed under Title 31A, Chapter 9, Insurance Fraternals;

(e) insurers licensed under Title 31A, Chapter 11, Motor Clubs;

(f) insurers licensed under Title 31A, Chapter 13, Employee Welfare Funds and Plans; and

(g) insurers licensed under Title 31A, Chapter 14, Foreign Insurers.

(6) An insurer issuing multiple policies to an insured may not artificially allocate the premiums among the policies for purposes of reducing the aggregate premium tax or assessment applicable to the policies.

(7) The retaliatory provisions of Title 31A, Chapter 3, Department Funding, Fees, and Taxes, apply to the tax or assessment imposed under this chapter.