

**AMENDMENTS TO THE UTAH
COMPREHENSIVE HEALTH INSURANCE POOL**

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Gene Davis

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ requires the premium tax paid by admitted insurers to be deposited each year in the Comprehensive Health Insurance Pool Enterprise Fund; and
- ▶ requires retained earnings in the pool fund at the end of a fiscal year to be deposited back into the General Fund.

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:



28 **31A-29-120. Enterprise fund -- Retained earnings.**

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

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

32 (a) appropriations from the General Fund;

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

34 (c) taxes deposited in the fund under Subsection 59-9-101(1); and

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

36 (3) (a) For fiscal years beginning on or after July 1, 2004, at the end of the fiscal year
37 any retained earnings in the pool fund shall be deposited back into the General Fund.

38 (b) For purposes of Subsection (3)(a), "retained earnings" does not include that part of
39 the fund balance necessary to:

40 (i) pay outstanding unpaid liabilities incurred during the fiscal year; and

41 (ii) maintain actuarial soundness of the fund.

42 [~~(3)~~] (4) All money received by the pool fund shall be deposited in compliance with
43 Section 51-4-1 and shall be held by the state treasurer and invested in accordance with Title 51,
44 Chapter 7, State Money Management Act.

45 [~~(4)~~] (5) The pool fund shall comply with the accounting policies, procedures, and
46 reporting requirements established by the Division of Finance.

47 [~~(5)~~] (6) The pool fund shall comply with Title 63A, Utah Administrative Services
48 Code.

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

50 **59-9-101. Tax basis -- Rates -- Exemptions -- Use.**

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

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

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

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

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

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

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

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

66 (d) For each fiscal year beginning on or after July 1, 2004, the tax collected under
67 Subsection (1)(a) shall be deposited in the Comprehensive Health Insurance Pool Enterprise
68 Fund created under Section 31A-29-120.

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

75 (b) Total workers' compensation premium income means the net written premium as
76 calculated before any premium reduction for any insured employer's deductible, retention, or
77 reimbursement amounts and also those amounts equivalent to premiums as provided in Section
78 34A-2-202.

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

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

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

88 (iii) an amount of up to 0.50% and any remaining assessed percentage of the premium
89 income to the state treasurer for credit to the Uninsured Employers' Fund created under Section

90 34A-2-704.

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

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

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

101 (iv) At the end of each fiscal year the minimum approximate assets in the Employers'
102 Reinsurance Fund shall be \$5,000,000 which amount shall be adjusted each year beginning in
103 1990 by multiplying by the ratio that the total workers' compensation premium income for the
104 preceding calendar year bears to the total workers' compensation premium income for the
105 calendar year 1988.

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

111 (vi) At the end of each fiscal year the minimum approximate assets in the Uninsured
112 Employers' Fund shall be \$2,000,000, which amount shall be adjusted each year beginning in
113 1990 by multiplying by the ratio that the total workers' compensation premium income for the
114 preceding calendar year bears to the total workers' compensation premium income for the
115 calendar year 1988.

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

118 (3) Every admitted insurer writing title insurance in this state shall pay to the
119 commission, on or before March 31 in each year, a tax of .45% of the total premium received
120 by either the insurer or by its agents during the preceding calendar year from title insurance

121 concerning property located in this state. In calculating this tax, "premium" includes the
122 charges made to an insured under or to an applicant for a policy or contract of title insurance
123 for:

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

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

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

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

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

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

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

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

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

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

144 and

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

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

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

Legislative Review Note

as of 2-3-04 8:57 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

State Impact

The bill would require the diversion of \$110,000,000 in insurance premium taxes to the HIPUtah Enterprise Fund. At the end of the year, funds not needed for unpaid liabilities or to maintain actuarial soundness of the fund will be paid to the General Fund. First year costs are estimated at \$32,000,000. There would also be a loss of \$6,000,000 to the Firefighters Retirement and Fire Academy.

	<u>FY 2005</u> <u>Approp.</u>	<u>FY 2006</u> <u>Approp.</u>	<u>FY 2005</u> <u>Revenue</u>	<u>FY 2006</u> <u>Revenue</u>
General Fund	\$0	\$0	(\$32,000,000)	(\$32,000,000)
TOTAL	\$0	\$0	(\$32,000,000)	(\$32,000,000)

Individual and Business Impact

Persons that are not insurable will be able to get coverage in HIPUtah. The individual insurance market will remain stable.

Office of the Legislative Fiscal Analyst