

Representative James A. Dunnigan proposes the following substitute bill:

INSURANCE DEPARTMENT FUNDING

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: James A. Dunnigan

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Insurance Code and tax provisions to address funding of the Insurance Department.

Highlighted Provisions:

This bill:

- ▶ creates a restricted account within the General Fund known as the Insurance Department Restricted Account from which the Legislature would appropriate for operations of the department;
- ▶ addresses how revenues received by the department relate to the Insurance Department Restricted Account;
- ▶ diverts premium taxes to the Insurance Department Restricted Account; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2007.

This bill coordinates with S.B. 82, Amendments to Utah Comprehensive Health Insurance Pool, to address the order in which transfers of premium taxes are made.



Utah Code Sections Affected:

AMENDS:

31A-3-103, as last amended by Chapter 117, Laws of Utah 2006

ENACTS:

59-9-107, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **31A-3-103** is amended to read:**31A-3-103. Fees -- Insurance Department Restricted Account.**

(1) For purposes of this section:

(a) "Regulatory fee" is as defined in Section 63-38-3.2.

(b) "Services" means functions that are reasonable and necessary to enable the commissioner to perform the duties imposed by this title including:

(i) issuing and renewing licenses and certificates of authority;

(ii) filing policy forms;

(iii) reporting agent appointments and terminations; and

(iv) filing annual statements.

(c) Fees related to the renewal of licenses may be imposed no more frequently than once each year.

(2) (a) A regulatory fee charged by the department shall be set in accordance with Section 63-38-3.2.

(b) Fees shall be set and collected for services provided by the department.

(3) (a) For a fee authorized by this chapter that is not a regulatory fee, the department may adopt a schedule of fees provided that each fee in the schedule of fees is:

(i) reasonable and fair; and

(ii) submitted to the Legislature as part of the department's annual appropriations request.

(b) If a fee schedule described in Subsection (3)(a) is submitted as part of the department's annual appropriations request, the Legislature may, in a manner substantially similar to Section 63-38-3.2:

(i) approve any fee in the fee schedule;

- (ii) (A) increase or decrease any fee in the fee schedule; and
- (B) approve any fee in the fee schedule as changed by the Legislature; or
- (iii) reject any fee in the fee schedule.

~~[(c) (i) Except as provided in Subsection (3)(c)(ii), a fee approved by the Legislature pursuant to this Subsection (3) shall be deposited into the General Fund for appropriation by the Legislature.]~~

~~[(ii)]~~ (c) A fee approved by the Legislature pursuant to this Subsection (3) that relates to the use of electronic or other similar technology to provide the services of the department shall be deposited into the General Fund as a dedicated credit to be used by the department to provide services through use of electronic commerce or other similar technology.

(4) The commissioner shall separately publish the schedule of fees approved by the Legislature and make it available upon request for \$1 per copy. This fee schedule shall also be included in any compilation of rules promulgated by the commissioner.

(5) The commissioner shall, by rule, establish the deadlines for payment of any fee established by the department in accordance with this section.

(6) (a) There is created a restricted account within the General Fund known as the "Insurance Department Restricted Account."

(b) (i) Except as provided in ~~H→~~ [Subsection] Subsections ~~←H~~ (6)(b)(ii) ~~H→~~ and (iii) ~~←H~~ , the Insurance Department Restricted Account shall consist of:

(A) all fees authorized by this section;

(B) all other funds or money received by the department including reimbursements for examination costs incurred by the department; and

(C) premium taxes deposited into the Insurance Department Restricted Account under Section 59-9-107.

(ii) Monies received by the department pursuant to the following shall be deposited and held in accordance with the statute creating the revenue source or fund and may not be deposited into the Insurance Department Restricted Account:

(A) Subsection (3)(c);

(B) Section 31A-3-104;

(C) Section 31A-3-304;

(D) Section 31A-23a-415;

88 (E) Chapter 29, Comprehensive Health Insurance Pool Act;

89 (F) Chapter 31, Insurance Fraud Act;

90 (G) Chapter 35, Bail Bond Act;

91 (H) Section 59-9-105; and

92 (I) Subsection 63-38a-105(7).

92a **Ĥ→ (iii) Notwithstanding Subsection (6)(b)(i)(B), any fine, forfeiture, or penalty**
92b **collected by the department under this title shall be deposited into the General Fund as free**
92c **revenue unless its use is otherwise restricted. ←Ĥ**

93 (c) The Legislature shall appropriate funds from the Insurance Department Restricted
94 Account each fiscal year to the department when the Legislature considers the department's
95 annual budget.

96 (d) Monies in the Insurance Department Restricted Account:

97 (i) may only be used as appropriated by the Legislature to fund the department; and

98 (ii) may not be diverted, appropriated, or used for a purpose that is not related to the
99 department.

100 (e) At the end of each fiscal year:

101 (i) the difference between the amount appropriated from the Insurance Department
102 Restricted Account and the amount spent by the department shall lapse to the General Fund;
103 and

104 (ii) any balance in the Insurance Department Restricted Account shall be transferred to
105 the General Fund.

106 Section 2. Section **59-9-107** is enacted to read:

107 **59-9-107. Deposit of taxes.**

108 (1) As used in this section, "Insurance Department premium tax revenue" means 2.9%
109 of the taxes or assessments collected under this part:

110 (a) after subtracting the amounts transferred under:

111 (i) Section 49-16-301;

112 (ii) Section 53-7-204.2; and

113 (iii) Subsection 59-9-101(2); and

114 (b) before any other transfer or restriction on use provided for by statute.

115 (2) Beginning July 1, 2007, the commission shall promptly remit Insurance Department
116 premium tax revenue to the state treasurer for credit to the Insurance Department Restricted
117 Account.

118 Section 3. **Effective date.**

119 This bill takes effect on July 1, 2007.

120 Section 4. **Coordinating H.B. 386 with S.B. 82 -- Substantive changes.**

121 If this H.B. 386 and S.B. 82, Amendments to Utah Comprehensive Health Insurance

122 Pool, both pass, it is the intent of the Legislature that the Office of Legislative Research and

123 General Counsel in preparing the Utah Code database for publication modify Subsection

124 59-9-101(1)(e)(ii)(A) to read:

125 "(A) the amount of premium tax revenue available after the allocation of the premium

126 taxes required by Sections 49-16-301, 53-7-204.2, and 59-9-107; and".