

LEGISLATIVE REVIEW OF HEALTH

INSURANCE MANDATES

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: James A. Dunnigan

Senate Sponsor: Kevin T. VanTassell

LONG TITLE

Committee Note:

The Business and Labor Interim Committee recommended this bill.

General Description:

This bill modifies provisions related to the Legislature to clarify review of health insurance mandates by an interim committee.

Highlighted Provisions:

This bill:

- ▶ modifies the process by which the Business and Labor Interim Committee reviews health insurance mandates;
- ▶ removes provisions related to the legislative auditor general assisting with a review;
- ▶ requires the Department of Insurance to take certain actions in relationship to a review; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



28 36-12-5, as last amended by Laws of Utah 2002, Chapter 65

29 36-12-15, as last amended by Laws of Utah 2005, Chapter 84



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

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

33 **36-12-5. Duties of interim committees.**

34 (1) Except as otherwise provided by law, each interim committee shall:

35 (a) receive study assignments by resolution from the Legislature;

36 (b) receive study assignments from the Legislative Management Committee, created
37 under Section 36-12-6;

38 (c) place matters on its study agenda after requesting approval of the study from the
39 Legislative Management Committee, which request, if not disapproved by the Legislative
40 Management Committee within 30 days of receipt of the request, the interim committee shall
41 consider it approved and may proceed with the requested study;

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

44 (e) investigate and study possibilities for improvement in government services within
45 its subject area;

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

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

50 (2) (a) As used in this Subsection (2):

51 (i) "Health insurance" is as defined in Section 31A-1-301.

52 (ii) "Health insurance mandate" means a mandatory obligation with respect to a
53 coverage, benefit, or provider that, but for Title 31A, Insurance Code, would not be required
54 for a policy of health insurance.

55 (b) In addition to the duties established pursuant to Subsection (1), [~~the Business and~~
56 ~~Labor Interim Committee and the Health and Human Services Interim Committee~~] annually the
57 Business and Labor Interim Committee shall:

58 (i) identify [~~provisions in Title 31A, Insurance Code, that impose a mandatory~~

59 ~~obligation on health insurers with respect to coverage, benefits, or providers that have been] the~~
 60 one or more health insurance mandates listed under Subsection (2)(d) that:

61 (A) are in effect for five or more years as of May 1; and [have]

62 (B) have not been reviewed during the previous ten years as of May 1; [and]

63 (ii) select which of the one or more health insurance mandates identified under
 64 Subsection (2)(b)(i) that the Business and Labor Interim Committee elects to review, subject to
 65 the direction of the Legislative Management Committee [which may divide the provisions
 66 between the committees,]; and

67 (iii) review [the provisions] a health insurance mandate selected under Subsection
 68 (2)(b)(ii) to determine whether the [provisions] health insurance mandate should be continued,
 69 modified, or repealed[, provided that:].

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

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

74 ~~[(b)] (c) The review under this Subsection (2) shall include:~~

75 ~~(i) the estimated fiscal impact of the [provision] health insurance mandate on state and~~
 76 ~~private health insurance; and~~

77 ~~(ii) the purpose and effectiveness of the [provision] health insurance mandate.~~

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

81 (d) The Department of Insurance shall:

82 (i) provide a list of the health insurance mandates in this state in its annual report; and

83 (ii) assist in a review ~~H→ [;] ; and ←H~~

84 (A) if requested by the Business and Labor Interim Committee ~~H→ [; and] .~~

85 ~~[(B) to the extent that personnel and budget resources permit.] ←H~~

86 (3) Except as otherwise provided by law, reports and recommendations of the interim
 87 committees shall be completed and made public prior to any legislative session at which the
 88 reports and recommendations are submitted. A copy of the reports and recommendations shall
 89 be mailed to each member or member-elect of the Legislature, to each elective state officer, and

90 to the state library.

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

92 **36-12-15. Office of Legislative Auditor General established -- Qualifications --**
93 **Powers, functions, and duties.**

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

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

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

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

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

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

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

109 (iii) as provided in Section 36-24-101:

110 (A) monitor all new programs and agencies created during each Annual General
111 Session or Special Session of the Legislature;

112 (B) provide each new program and agency created with a list of best practices in setting
113 up their program or agency, including:

114 (I) policies;

115 (II) performance measures; and

116 (III) data collection;

117 (C) send each new program and agency:

118 (I) within one year after its creation, a survey instrument requesting a self evaluation
119 that includes policies, performance measures, and data collection; and

120 (II) within two years after its creation, a survey instrument requesting a self evaluation

121 that includes policies, performance measures, and data collection; and

122 (D) (I) using the new program or agency's response to the self evaluation survey
123 instruments, recommend to the legislative audit subcommittee that the office conduct an audit
124 of those new programs and agencies created on which questions have arisen as a result of the
125 response to the survey instrument and provide a limited scope audit report on those new
126 programs or agencies on which it receives direction to audit to the legislative interim
127 committee and to the legislative appropriations subcommittee with oversight responsibility for
128 that program or agency on or before the November interim meeting; and

129 (II) include within this limited scope audit report a recommendation as to whether the
130 program or agency is fulfilling its statutory guidelines and directives.

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

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

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

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

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

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

140 (f) whether or not its programs have been effective in accomplishing intended
141 objectives; and

142 (g) whether or not its management control and information systems are adequate and
143 effective.

144 (6) The Office of Legislative Auditor General may:

145 (a) (i) notwithstanding any other provision of law, obtain access to all records,
146 documents, and reports of any entity that receives public funds that are necessary to the scope
147 of its duties; and

148 (ii) if necessary, issue a subpoena to obtain access as provided in Subsection (6)(a)(i)
149 using the procedures contained in Title 36, Chapter 14, Legislative Subpoena Powers;

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

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

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

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

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

158 and

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

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

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

170 (b) Records and audit workpapers to the extent they would disclose the identity of a
171 person who during the course of a legislative audit, communicated the existence of any waste
172 of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or
173 regulation adopted under the laws of this state, a political subdivision of the state, or any
174 recognized entity of the United States, if the information was disclosed on the condition that
175 the identity of the person be protected.

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

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

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

182 (f) The provisions of Subsections (8)(a), (b), and (c) do not prohibit the disclosure of

183 records or information that relate to a violation of the law by a governmental entity or
184 employee to a government prosecutor or peace officer.

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

188 (9) The legislative auditor general shall:

189 (a) be available to the Legislature and to its committees for consultation on matters
190 relevant to areas of [~~his~~] the legislative auditor general's professional competence [~~and shall~~
191 ~~perform, or otherwise assist in the performance of, a health insurance provision review as~~
192 ~~provided in Section 36-12-5~~];

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

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

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

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

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

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

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

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

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

214 the office; or

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

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

Legislative Review Note
as of **11-15-07 9:16 AM**

Office of Legislative Research and General Counsel

H.B. 60 - Legislative Review of Health Insurance Mandates

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
