

1 **UTAH COMPREHENSIVE HEALTH INSURANCE**

2 **POOL FUNDING**

3 2008 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Gene Davis**

6 House Sponsor: James A. Dunnigan

7

LONG TITLE

8 **General Description:**

9
10 This bill amends the Comprehensive Health Insurance Pool Act and the taxation of
11 admitted insurers.

12 **Highlighted Provisions:**

13 This bill:

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

17 **Monies Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **31A-29-120**, as last amended by Laws of Utah 2003, Chapter 168

24 **59-9-101**, as last amended by Laws of Utah 2006, Chapter 44

25

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

26 Section 1. Section **31A-29-120** is amended to read:
27



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

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) All money received by the pool fund shall be deposited in compliance with Section
37 51-4-1 and shall be held by the state treasurer and invested in accordance with Title 51,
38 Chapter 7, State Money Management Act.

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

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

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

43 **59-9-101. Tax basis -- Rates -- Exemptions -- Rate reductions.**

44 (1) (a) Except as provided in Subsection (1)(b), (1)(d), or (5), every admitted insurer
45 shall pay to the commission on or before March 31 in each year, a tax of 2-1/4% of the total
46 premiums received by it during the preceding calendar year from insurance covering property
47 or risks located in this state.

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

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

50 (ii) title insurance premiums taxed under Subsection (3);

51 (iii) annuity considerations;

52 (iv) insurance premiums paid by an institution within the state system of higher
53 education as specified in Section 53B-1-102; and

54 (v) ocean marine insurance.

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

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

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

59 (iii) the dividends, including premium reduction benefits maturing within the year:
60 (A) paid or credited to policyholders in this state; or
61 (B) applied in abatement or reduction of premiums due during the preceding calendar
62 year.

63 (d) (i) For purposes of this Subsection (1)(d):

64 (A) "Utah variable life insurance premium" means an insurance premium paid:

65 (I) by:

66 (Aa) a corporation; or

67 (Bb) a trust established or funded by a corporation; and

68 (II) for variable life insurance covering risks located within the state.

69 (B) "Variable life insurance" means an insurance policy that provides for life
70 insurance, the amount or duration of which varies according to the investment experience of
71 one or more separate accounts that are established and maintained by the insurer pursuant to
72 Title 31A, Insurance Code.

73 (ii) Notwithstanding Subsection (1)(a), beginning on January 1, 2006, the tax on that
74 portion of the total premiums subject to a tax under Subsection (1)(a) that is a Utah variable
75 life insurance premium shall be calculated as follows:

76 (A) 2-1/4% of the first \$100,000 of Utah variable life insurance premiums:

77 (I) paid for each variable life insurance policy; and

78 (II) received by the admitted insurer in the preceding calendar year; and

79 (B) 0.08% of the Utah variable life insurance premiums that exceed \$100,000:

80 (I) paid for the policy described in Subsection (1)(d)(ii)(A); and

81 (II) received by the admitted insurer in the preceding calendar year.

82 (iii) (A) On or before October 1, 2009, and every three years after October 1, 2009, the
83 Revenue and Taxation Interim Committee shall study the rate reduction contained in this
84 Subsection (1)(d).

85 (B) As part of the study required by Subsection (1)(d)(iii)(A) the Revenue and
86 Taxation Interim Committee shall:

87 (I) hear testimony from the commission and industry representatives;

88 (II) make recommendations concerning whether the rate reduction should be continued,
89 modified, or repealed; and

90 (III) make findings regarding:

91 (Aa) the cost of the rate reduction;

92 (Bb) the purpose and effectiveness of the rate reduction; and

93 (Cc) any benefits of the rate reduction to the state.

94 (e) (i) For each fiscal year beginning on or after July 1, ~~§~~ → [2007] 2008 ← ~~§~~ , the amount of
94a the tax

95 collected under Subsection (1)(a) necessary to maintain the actuarial soundness of the
96 Comprehensive Health Insurance Pool Enterprise Fund, as provided in Subsection (1)(e)(ii),
97 shall be transferred to the Comprehensive Health Insurance Pool Enterprise Fund created under
98 Section 31A-29-120.

99 (ii) The amount transferred under Subsection (1)(e)(i) is limited to the amount of
100 premium tax revenue:

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

103 (B) certified by the Commissioner of Insurance to the Division of Finance at the
104 beginning of each fiscal year as necessary to maintain the actuarial soundness of the fund,
105 based on actuarial data and projections prepared for the board of the Utah Comprehensive
106 Health Insurance Pool.

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

113 (b) Total workers' compensation premium income means the net written premium as
114 calculated before any premium reduction for any insured employer's deductible, retention, or
115 reimbursement amounts and also those amounts equivalent to premiums as provided in Section
116 34A-2-202.

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

121 premium assessment collected under this Subsection (2):

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

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

126 (iii) an amount of up to 0.50% and any remaining assessed percentage of the premium
127 income to the state treasurer for credit to the Uninsured Employers' Fund created under Section
128 34A-2-704.

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

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

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

139 (iv) At the end of each fiscal year the minimum approximate assets in the Employers'
140 Reinsurance Fund shall be \$5,000,000 which amount shall be adjusted each year beginning in
141 1990 by multiplying by the ratio that the total workers' compensation premium income for the
142 preceding calendar year bears to the total workers' compensation premium income for the
143 calendar year 1988.

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

149 (vi) At the end of each fiscal year the minimum approximate assets in the Uninsured
150 Employers' Fund shall be \$2,000,000, which amount shall be adjusted each year beginning in
151 1990 by multiplying by the ratio that the total workers' compensation premium income for the

152 preceding calendar year bears to the total workers' compensation premium income for the
153 calendar year 1988.

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

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

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

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

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

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

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

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

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

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

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

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

182 and

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

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

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

Legislative Review Note
as of 12-10-07 10:08 AM

Office of Legislative Research and General Counsel

S.B. 101 - Utah Comprehensive Health Insurance Pool Funding

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill would divert current General Fund revenue to the Comprehensive Health Insurance Pool Enterprise Fund (HIPUtah) when required to maintain the actuarial soundness of HIPUtah. Given base budget appropriations of \$10.8 million from the General Fund, HIPUtah is actuarially sound for Fiscal Year 2008 and Fiscal Year 2009. The amount of any future diversion would be determined by the Commissioner of Insurance up to \$82.7 million - the total projected premium tax collections for FY 2009.

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.
