
SELECTED HIGHLIGHTS -- ESTATE PLANNING LEGISLATION INTRODUCED DURING THE 2011 GENERAL SESSION

This document provides selected highlights of estate planning related legislation that was introduced during the 2011 General Session. This document is not a comprehensive summary. For additional information on bills passed during the 2011 General Session, see <http://le.utah.gov>.

H.B. 14 ***Catastrophic Mental Health Coverage - Sunset Act (Rep. J. Dunnigan)***

This bill modifies the Insurance Code and the Legislative Oversight and Sunset Act to address catastrophic mental health coverage.

This bill:

- ▶ removes a catastrophic mental health coverage provision from the Legislative Oversight and Sunset Act; and
- ▶ makes technical and conforming amendments.

H.B. 19 ***Insurance Law Related Amendments (Rep. J. Dunnigan)***

This bill modifies the Insurance Code and other provisions related to the regulation of insurance and insurance products.

This bill:

- ▶ amends definitions;
- ▶ creates the Insurance Department Restricted Account;
- ▶ addresses fees for captive insurance companies and the cap on the Captive Insurance Restricted Account;
- ▶ modifies restrictions on foreign title insurers;
- ▶ removes outdated language;
- ▶ addresses grace periods for accident and health insurance policies;
- ▶ modifies provisions related to individuals, group, or blanket accident and health insurance coverage;
- ▶ addresses health benefit plan offerings;
- ▶ addresses producer lines of authority;
- ▶ addresses a written agreement related to a voluntary surrender of a license;
- ▶ amends provisions related to continuing education;
- ▶ provides for training related to long-term care insurance;
- ▶ modifies title insurance agency and producer licensing requirements;
- ▶ addresses when a title insurance producer may do an escrow involving a real property transaction;
- ▶ modifies provisions related to disbursements from escrow accounts;
- ▶ modifies title insurance related assessments;
- ▶ addresses licensee compensation;
- ▶ addresses when a person may represent that the person acts in behalf of an insurer;
- ▶ modifies provisions related to providing the commissioner address, telephone, and

- ▶ email address information;
- ▶ addresses verification under a nonresident jurisdictional agreement;
- ▶ addresses per diem and travel expenses of public representatives on the board of directors of the Utah Life and Health Insurance Guaranty Association;
- ▶ addresses the establishment of classes of business;
- ▶ modifies rating restrictions;
- ▶ addresses the renewal of a bail bond surety company license;
- ▶ permits the commissioner to assign a department employee to engage in certain activities related to the regulation of captive insurance companies;
- ▶ requires a professional employer organization to notify the commissioner of material changes;
- ▶ removes the title insurance assessment from the sunset act;
- ▶ converts certain dedicated credits into several restricted accounts and provides that related appropriations are nonlapsing; and
- ▶ makes technical and conforming amendments.

H.B. 43 *Errors and Omissions Coverage for Insurance Producers (Rep. J. Bird)*

This bill modifies the Insurance Code to address errors and omission coverage of certain producers.

This bill:

- ▶ requires errors and omissions coverage during the license term of a resident individual producer;
- ▶ requires related information to be included in an application;
- ▶ authorizes the commissioner to make related rules;
- ▶ provides an exemption; and
- ▶ makes technical and conforming amendments.

H.B. 66 *Health Professional Authority - Death Certificates (Rep. B. Last)*

This bill amends definitions in the Vital Statistics Act to allow a nurse practitioner to sign a death certificate if employed by a health care facility.

H.B. 94 *Income Tax Credit for Combat Related Death (Rep. M. Newbold)*

This bill provides a nonrefundable individual income tax credit for a combat related death.

H.B. 128 *Health Reform Amendments (Rep. J. Dunnigan)*

This bill amends provisions related to state health system reform in the Health Code, the Insurance Code, and the Governor's Programs.

This bill:

- ▶ amends the definition of third party payor in the Utah Health Data Authority Act;
- ▶ requires the Health Data Authority to publish comparative data about physician and clinic quality by October 1, 2011;
- ▶ amends the membership of the Health Data Authority;

- ▶ clarifies duties between the Department of Health, the Department of Insurance, and the Office of Consumer Health Services related to:
 - convening and supervising the health delivery and payment reform demonstration projects; and
 - regulation of insurers in the Health Insurance Exchange;
- ▶ clarifies the dental coverage for the Children's Health Insurance Program;
- ▶ amends the definition of qualified health plan that a state contractor shall offer to employees;
- ▶ establishes state authority to regulate certain practices of health insurers;
- ▶ requires group health benefit plans to have reasonable plan premium rates and to comply with standards established by the Insurance Department;
- ▶ amends small group mental health offering;
- ▶ amends provisions related to Utah NetCare;
- ▶ amends provisions related to the basic health care plan;
- ▶ prohibits an insurance customer representative from practicing independent of a producer or consultant employer, and limits a customer service representative's authority to bind coverage;
- ▶ amends small group case characteristics and allows premiums to vary based on gender;
- ▶ gives the Insurance Department the responsibility to conduct an actuarial review of rates established for the health benefit plan market;
- ▶ authorizes the department to establish a fee for the actuarial review;
- ▶ amends provisions related to the appointment of brokers to the Health Insurance Exchange;
- ▶ removes language from the Risk Adjuster Board chapter of the Insurance Code related to the actuarial review of rates;
- ▶ establishes the money in the Health Insurance Actuarial Review Restricted Account as non-lapsing;
- ▶ removes the large group market from the Health Insurance Exchange;
- ▶ clarifies the authority of the Office of Consumer Health Services to:
 - contract with private entities for the purpose of administering functions of the Health Insurance Exchange;
 - establish a call center for customer service in the exchange; and
 - charge a fee for certain functions of the exchange;
- ▶ moves language regarding insurance regulation from the Office of Consumer Health Services to the Insurance Code;
- ▶ reauthorizes the Health System Reform Task Force, including:
 - membership of the task force; and
 - duties of the task force;
- ▶ creates the Health Insurance Actuarial Review Restricted Account;
- ▶ provides intent language that fees received by the Insurance Department in 2010, for the department's actuarial review as dedicated credits, shall lapse to the Health Insurance Actuarial Review Restricted Account;

- ▶ repeals the statewide risk adjuster mechanism that was effective January 1, 2013; and
- ▶ makes technical and conforming amendments.

H.B. 174 Contracting for Medicaid Eligibility Determination Services (Rep. W. Harper)

This bill requires the Department of Health and the Department of Workforce Services to study the state's Medicaid eligibility determination system.

This bill:

- ▶ requires the study of the state's eligibility determination system for Medicaid to determine whether consolidation of the system or privatization would create greater efficiencies; and
- ▶ requires a report of the study to the Legislature's Health and Human Services Interim Committee and the Social Services Appropriations Subcommittee prior to October 20, 2011.

H.B. 212 Charges by Health Providers for Medical Records (Rep. F. Gibson)

This bill modifies provisions of the Judicial Code relating to patient access to medical records.

This bill:

- ▶ establishes a time limitation for a health care provider to provide medical records to a patient, a patient's personal representative, or a third party;
- ▶ establishes charges that a health care provider may charge when copying a patient's medical records; and
- ▶ provides a repeal date.

H.B. 230 Disability Amendments (Rep. P. Ray)

To the extent possible, this bill replaces outdated terms relating to persons with a disability with updated terms.

This bill:

- ▶ defines terms;
- ▶ except where impracticable due to language used in federal law, uniform law, interstate compacts, or case law, replaces terms as follows:
 - replaces the term "mental retardation," and its variations, with "intellectual disability";
 - replaces the term "crippled," with "disability";
 - replaces the term "disabled person," and similar references, with the term "person with a disability" or similar variations;
 - replaces the term "mentally ill person" and similar references, with the term "person with a mental illness" or similar variations;
 - replaces the term "paraplegic" and similar references, with the term "person with paraplegia" or similar variations;
 - replaces the term "guilty and mentally ill," with the term "guilty with a mental illness";

- replaces the term "guilty of a lesser offense and mentally ill," with the term "guilty of a lesser offense with a mental illness"; and
- ▶ makes technical changes.

H.B. 316 *Taxation of Surplus Lines of Insurance (Rep. T. Kiser)*

This bill modifies the Insurance Code to address the taxation of surplus lines of insurance including prohibiting local taxation and authorizing the commissioner to enter into certain agreements.

This bill:

- ▶ prohibits local taxation of surplus lines insurance transactions;
- ▶ defines terms;
- ▶ authorizes the commissioner to enter into an agreement related to surplus lines insurance;
- ▶ addresses the collection of taxes and fees, if an agreement is entered into, for coverage of property, risks, or exposures located or to be performed in and out of this state; and
- ▶ makes technical and conforming amendments.

H.B. 333 *Unfair Inducements Related to Insurance Products (Rep. J. Dunnigan)*

This bill modifies the Insurance Code to address what constitutes unfair inducements related to insurance.

This bill:

- ▶ defines terms;
- ▶ prohibits inducements by a licensee or an officer or employee of a licensee;
- ▶ lists activities that constitute or do not constitute a prohibited inducement; and
- ▶ makes technical and conforming amendments.

S.B. 95 *Shareholder Action Without Meeting (Sen. B. McAdams)*

This bill modifies the Utah Revised Business Corporation Act to address actions taken without a shareholder meeting.

This bill:

- ▶ revises requirements related to when action may be taken without holding a shareholder meeting, including timing, consent, and the type of actions that may be taken; and
- ▶ makes technical and conforming amendments.

S.B. 98 *Securities Related Amendments (Sen. B. McAdams)*

This bill modifies the Utah Uniform Securities Act to address licensing and filing requirements.

This bill:

- ▶ addresses the licensing of investment advisers and investment adviser representatives;

- ▶ clarifies definitions;
- ▶ addresses the timeliness of filings; and
- ▶ makes technical and conforming amendments.

S.B. 100 *Securities Fraud Reporting Program Act (Sen. B. McAdams)*

This bill modifies the Utah Uniform Securities Act to address reporting of securities violations.

This bill:

- ▶ enacts the Securities Fraud Reporting Program Act, including:
 - defining terms;
 - establishing a procedure for disclosing information as a reporter;
 - providing protections against adverse employment action;
 - establishing remedies if adverse action is taken;
 - creating an award process for reporters;
 - imposing notice requirements;
 - prohibiting waiver of rights; and
 - establishing the scope of the program; and
- ▶ makes technical and conforming amendments.

S.B. 101 *Utah Uniform Securities Act Enforcement (Sen. B. McAdams)*

This bill modifies the Utah Uniform Securities Act to address enforcement.

This bill:

- ▶ amends definitions;
- ▶ requires consideration of certain factors in specific enforcement actions;
- ▶ provides for criminal penalty enhancements under certain circumstances;
- ▶ addresses an affirmative defense; and
- ▶ makes technical and conforming amendments.

S.B. 104 *Probate Law Amendments (Sen. J. Valentine)*

This bill clarifies definitions used for governing instruments in probate.

This bill:

- ▶ clarifies definitions by providing specific cross references to existing definitions for governing instruments;
- ▶ adds the terms "share and share alike" and "to the survivor of them" to the definitions of terms used in governing instruments; and
- ▶ provides how specific terms used in a governing instrument control how property is divided.

S.B. 127 *Post Retirement Employment Amendments (Sen. D. Liljenquist)*

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending provisions related to a retiree who returns to work for a participating employer.

This bill:

- ▶ allows a retiree who begins reemployment with a participating employer on or

after July 1, 2010, to be reemployed within one year if:

- the retiree does not receive any employer paid benefits; and
- the retiree does not earn more than a certain amount for any calendar year;
- ▶ recalculates the one-year separation requirement if a retiree is reemployed within one year; and
- ▶ makes technical changes.

S.B. 131 ***Unincorporated Business Entity Uniform Acts (Sen. L. Hillyard)***

This bill repeals the existing Partnership Act, Utah Revised Uniform Limited Partnership Act, and Utah Revised Limited Liability Company Act, and enacts with modifications the Utah Uniform Partnership Act, Utah Uniform Limited Partnership Act, and Utah Revised Uniform Limited Liability Company Act.

This bill:

- ▶ enacts provisions related to partnerships, including:
 - enacting general provisions related to partnerships such as defining terms, addressing what constitutes knowledge and notice, addressing the effect of a partnership agreement, designating supplemental principles of law, providing for execution, filing, and recording of statements, addressing what is the governing law, and the affects of amendments or repeals to the chapter;
 - addressing the nature of a partnership;
 - addressing the relations of partners to persons dealing with a partnership;
 - addressing relations of partners to each other and to the partnership;
 - addressing transferees and creditors of partners;
 - providing for a partner's dissociation including when business is not wound up;
 - providing for winding up partnership business;
 - providing for conversion, merger, and domestication; and
 - providing for a limited liability partnership, a limited liability partnership that provides a professional service, and foreign limited liability partnership;
- ▶ enacts provisions related to limited partnerships, including:
 - providing for general provisions related to limited partnerships;
 - addressing formation of limited partnerships and various filing requirements;
 - addressing limited partners;
 - addressing general partners;
 - providing for contributions and distributions;
 - providing for dissociation;
 - addressing transferable interests and rights of transferees and creditors;
 - providing for dissolution;
 - addressing foreign limited partnerships;
 - providing for actions by partners; and

- providing for conversions, mergers, and domestications;
- ▶ enacts provisions related to limited liability companies, including:
 - addressing various general provisions related to limited liability companies;
 - providing for the formation and filings of limited liability companies;
 - addressing relations of members and managers to a person dealing with a limited liability company;
 - addressing relations of members to each other and to the limited liability company;
 - addressing transferable interests and rights of transferees and creditors;
 - providing for dissociation;
 - providing for dissolution and winding up;
 - addressing foreign limited liability companies;
 - providing for actions by members;
 - providing for merger, conversion, and domestication;
 - providing for professional services companies;
 - providing for series; and
 - providing for low-profit limited liability companies;
- ▶ includes miscellaneous provisions such as providing for uniformity of application, severability, and savings;
- ▶ addresses application of uniform acts to existing and future entities; and
- ▶ makes technical and conforming amendments.

S.B. 174 Motor Vehicle Insurance Coverage Amendments (Sen. S. Urquhart)

This bill modifies the Insurance Code by amending provisions relating to arbitration for motor vehicle insurance coverage.

This bill:

- ▶ clarifies that certain caps on the amount of an arbitration award for certain uninsured and underinsured motorist claims apply only in certain circumstances;
- ▶ clarifies that the caps on the award of fees and costs for certain uninsured and underinsured motorist claims only apply in certain circumstances; and
- ▶ makes technical changes.

S.B. 180 Medicaid Reform (Sen. D. Liljenquist)

This bill amends the Medical Assistance Act and the Budgetary Procedures Act.

This bill:

- ▶ requires the Department of Health to develop a proposal to modify the Medicaid program in a way that maximizes replacement of the fee-for-service delivery model with one or more risk-based delivery models;
- ▶ specifies criteria for the proposal;
- ▶ requires the department, to the extent possible, to develop the proposal with the input of stakeholder groups representing those who will be affected by the proposal.

- ▶ requires the department to report to the Legislature on the development of the proposal;
- ▶ requires the department to submit a request to the Centers for Medicare and Medicaid Services for waivers from federal law to implement the proposal;
- ▶ directs the department to implement the proposal in the fiscal year following the fiscal year in which the waivers are approved;
- ▶ provides definitions;
- ▶ creates the Medicaid Growth Reduction and Budget Stabilization Account restricted account;
- ▶ specifies conditions under which Medicaid growth savings shall be transferred or appropriated to the account;
- ▶ provides that Medicaid growth savings not transferred into the account shall be included in the base budget for the second following fiscal year;
- ▶ specifies the priority of the account's claim on General Fund revenue surplus;
- ▶ specifies how money in the account may be used;
- ▶ makes conforming amendments; and
- ▶ makes technical corrections.

