BUSINESS AND LABOR INTERIM COMMITTEE
2012 REQUIRED REPORTS FROM EXECUTIVE BRANCH AGENCIES

REPORTS FROM THE EXECUTIVE BRANCH	AUTHORITY	DUE DATE	PAGE
Uniform Building Code Commission: • recommend whether the Legislature should amend or repeal one or more provisions of a State Construction Code; and • in a year of a regularly scheduled update of a nationally recognized code, adopt a construction code with any modifications	§15A-1-204(3)	No later than November 30 of each year.	Distributed at September committee meeting.
Uniform Building Code Commission: An emergency amendment to the State Construction Code made by the commission because certain conditions are met	§15A-1-204(5)	Whenever the commission adopts an amendment.	Not applicable because no emergency amendments were adopted.
Utah Fire Prevention Board: • recommend whether the Legislature should amend or repeal one or more provisions of the State Fire Code; and • in a year of a regularly scheduled update of a nationally recognized code, adopt a construction code with any modifications	§15A-1-403(3)	No later than November 30 of each year.	Distributed at September committee meeting.
Utah Fire Prevention Board: an emergency amendment to the State Fire Code made by the board because certain conditions are met	§15A-1-403(5)	Whenever the board adopts an amendment.	Not applicable because no emergency amendments were adopted.
Insurance Commissioner: Title insurance complaints report	§31A-2-404(4)	Annually	3
Insurance Department: Agreements related to non-admitted insurance taxes	§31A-3-305	Whenever the commissioner enters into an agreement.	No report submitted.
Worker Classification Coordinated Enforcement Council	§34-47-202	Before November 30.	13
Division of Real Estate: Issues regarding the implementation of the Nationwide Mortgage Licensing System and Registry	§61-2c-103	Annually	19
Governor's Office of Economic Development: Measured performance of economic development programs offered by or through established business resource centers	§63M-1-2704	Before November 1 of each year.	Included in GOED Report. [1]

Reports from the Executive Branch	Authority	Due Date	Page
Department of Public Safety - Alcohol Abuse Tracking Committee	§53-1-119	Prior to the October 2012 meeting.	25

Reports Related to Labor and Workers' Compensation	Authority	Due Date	Page
Department of Insurance: Workers' compensation insurance report	§31A-22-1013	No later than the October meeting.	29
Rocky Mountain Center for Occupational and Environmental Health Advisory Board: Annual report with recommendations	§53B-17-804	No later than July 1 of each year.	53

Reports Related to Health Reform	Authority	Due Date	Page
A department or agency of the state: Implementation of federal health care reform	§63M-1-2505.5	As required.	No reports submitted.
Office of Consumer Health Services, Governor's Office of Economic Development: Health Insurance Exchange	§63M-1-2504	Prior to November meeting.	Included in GOED Report. [2]
Health System Reform Task Force	Section 17, 2012 General Session H.B. 144	Before November 30, 2012.	To be submitted at November meeting.

1. *2012 Annual Report and Business Resource Guide.* Governor's Office of Economic Development.

2. *2012 Annual Report and Business Resource Guide.* Governor's Office of Economic Development.

State of Utah

GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

NEAL T. GOOCH
Commissioner

Insurance Department

October 12, 2012

Senator John L. Valentine
Co-Chair Business and Labor Interim Committee

Representative James A. Dunnigan
Co-Chair Business and Labor Interim Committee

Re: Title Report required by 31A-2-404(4)(a) and (b)

Dear Sirs:

Attached you will find the report required by the Utah Insurance Department (Department) under 31A-2-404(a) and (b). For the fiscal year 2012 report I removed columns of infractions that were not discovered during this time period.

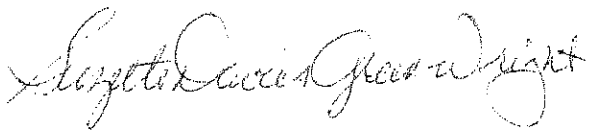
Please note that the Department went forward with twenty-six enforcement actions against title entities. We receive monthly reports on lapsed licenses which constitute a great amount of our open investigations in title. The ninety-four cases that had lapsed their licenses, resulted in sixty-two cases where no business was conducted while their license was down. Twenty-two cases received Private Letters of Admonition for handling a handful of cases while their license was not active. Only eight cases went to enforcement for doing the business of title insurance without an active license. In total for all types of infractions, twenty-six cases went to the AAG for enforcement.

The title insurance business constitutes somewhere less than 2% of total premium we regulate in the insurance industry. All title renewals are done through an email to the licensee and it is their responsibility to keep their information current to receive the notices. The Department provided a two year lead in to the electronic process to prepare all our licensees.

Assessments are done annually and we are in the process of doing the mechanics of that assessment. We plan on mailing the assessment this next week.

If you should have any further questions on the report or in general, please feel free to contact the Insurance Department.

Sincerely,



Suzette Green-Wright
Director, Market Conduct Division
Utah Insurance Department
sgreenwright@utah.gov

Case #	Date Opened	Date Closed	Elapsed Time	Reason Closed	31A-23a-103 Req of Lic.	31A-23a-111; license term.	31A-23a-402 Unfair M	31A-23a-406; Title Esc.	31A-23a-413 annual rept	31A-31-103; fraud. ins. Act	R590-99; unfair title prac.	R592-6; unfair marketing	R592-15 Fees	R592-9 Title Assessment	Alleged Violation
59752	7/12/2011	8/1/2011	20	No Business		x									Alleged Unlicensed Activity
59753	7/12/2011	8/1/2011	20	PriLOA		x									Alleged Unlicensed Activity
59754	7/12/2011	8/1/2011	20	PriLOA		x									Alleged Unlicensed Activity
59756	7/12/2011	8/18/2011	37	No Business		x									Alleged Unlicensed Activity
59757	7/12/2011	7/14/2011	2	NewLicense											opened in error
59863	8/16/2011	9/13/2011	28	PriLOA		x									Alleged Unlicensed Activity
59864	8/16/2011	10/5/2011	50	No Business		x									Alleged Unlicensed Activity
59866	8/16/2011	9/13/2011	28	No Business		x									Alleged Unlicensed Activity
59867	8/16/2011	8/22/2011	6	No Business		x									Alleged Unlicensed Activity
59868	8/16/2011	9/13/2011	28	No Business		x									Alleged Unlicensed Activity
59869	8/16/2011	9/13/2011	28	No Business		x									Alleged Unlicensed Activity
59870	8/16/2011	9/19/2011	34	No Business		x									Alleged Unlicensed Activity
59871	8/16/2011	8/22/2011	6	New license Req											License lapse over one year
59872	8/16/2011	9/13/2011	28	PriLOA		x									Alleged Unlicensed Activity
59903	8/23/2011	12/8/2011	107	No jurisdiction											Alleged forged signature
59977	9/12/2011	9/23/2011	11	C&D	x										Unlicensed Title Ins activity
59978	9/13/2011	10/4/2011	21	Info removed from website								x			Unfair Marketing Practices
59980	9/13/2011	10/4/2011	21	PriLOA		x									Alleged Unlicensed Activity
59981	9/13/2011	11/12/2011	60	No Business		x									Alleged Unlicensed Activity
59982	9/13/2011	10/5/2011	22	No Business		x									Alleged Unlicensed Activity
59983	9/13/2011	10/4/2011	21	No Business		x									Alleged Unlicensed Activity
59984	9/13/2011	12/6/2011	84	No Business		x									Alleged Unlicensed Activity
59985	9/13/2011	9/19/2011	6	No Business		x									Alleged Unlicensed Activity
60031	9/24/2011	11/29/2011	66	Unjustified						x					Alleged Fraudulent Activity
60038	9/26/2011	9/27/2011	1	Unjustified							x				Alleged Improper Recording

Case #	Date Opened	Date Closed	Elapsed Time	Reason Closed	31A-23a-103; req. of lic.	31A-23a-111; license term.	31A-23a-402 Unfair M.	31A-23a-406; title escr.	31A-23a-413 ann. report Act	31A-31-103; fraud. ins.	R590-99 unfair title prac.	R592-6; unfair marketing	R592-15 Fees	R592-9 Title Assessment	Alleged Violation
60092	10/4/2011	12/6/2011	63	No Business		x									Alleged Unlicensed Activity
60093	10/4/2011	10/25/2011	21	New License											Opened in Error
60094	10/4/2011	11/22/2011	49	PriLOA		x									Alleged Unlicensed Activity
60095	10/4/2011	10/25/2011	21	New License											Opened in Error
60096	10/4/2011	10/25/2011	21	New License											Opened in Error
60097	10/4/2011	11/12/2011	39	No Business		x									Alleged Unlicensed Activity
60098	10/4/2011	11/12/2011	39	No Business		x									Alleged Unlicensed Activity
60099	10/4/2011	12/6/2011	63	No Business		x									Alleged Unlicensed Activity
60100	10/4/2011	11/12/2011	39	No Business		x									Alleged Unlicensed Activity
60101	10/4/2011	12/6/2011	63	No Business		x									Alleged Unlicensed Activity
60102	10/4/2011	11/12/2011	39	No Business		x									Alleged Unlicensed Activity
60103	10/4/2011	11/12/2011	39	renewal date chg											Opened in Error
60104	10/4/2011	12/6/2011	63	No Business		x									Alleged Unlicensed Activity
60105	10/4/2011	10/18/2011	14	PriLOA		x									Alleged Unlicensed Activity
60106	10/4/2011	12/6/2011	63	No Business		x									Alleged Unlicensed Activity
60129	10/11/2011	11/15/2011	35	E-case		x									Alleged Unlicensed Activity

Case #	Date Opened	Date Closed	Elapsed Time	Reason Closed	31A-23a-103; req. of lic.	31A-23a-111; license term.	31A-23a-402; unfair marktg	31A-23a-406; title escrow	31A-23a-413 annual report	31A-31-103; fraud. ins. Act	R590-99; unfair title prac.	R592-6; unfair marketing	R592-15 Fees	R592-9 Title Assessment	Alleged Violation
60135	10/11/2011	10/18/2011	7	E-case	x			x			x	x			Unlicensed Prod, non-appt producers, unfiled rates, advertising not matching license
60142	10/12/2011	3/27/2012	167	E-case					x						Annnual Report Discrepancies
60152	10/17/2011	10/18/2011	1	PriLOA		x									Alleged Unlicensed Activity
60215	11/2/2011	1/11/2012	70	Corr. Docs			x								Illegal Advertisement
60216	11/2/2011	1/11/2012	70	Corr. Docs			x								Illegal Advertisement
60254	11/14/2011	12/6/2011	22	New License											Opened in Error
60255	11/14/2011	12/6/2011	22	No Business		x									Alleged Unlicensed Activity
60277	11/17/2011	6/26/2012	222	Unjustified							x				Early Release of Funds
60329	12/6/2011	12/6/2011	0	Unjustified											Alleged No Physical Office
60334	12/6/2011	2/6/2012	62	PriLOA		x									Alleged Unlicensed Activity
60335	12/6/2011	2/14/2012	70	No Business		x									Alleged Unlicensed Activity
60336	12/6/2011	1/11/2012	36	No Business		x									Alleged Unlicensed Activity
60337	12/6/2011	2/6/2012	62	PriLOA		x									Alleged Unlicensed Activity
60338	12/6/2011	1/11/2012	36	No Business		x									Alleged Unlicensed Activity
60339	12/6/2011	1/11/2012	36	No Business		x									Alleged Unlicensed Activity
60340	12/6/2011	1/11/2012	36	No Business		x									Alleged Unlicensed Activity

I Case #	Date Opened	Date Closed	Elapsed Time	Reason Closed	31A-23a-103; req. of lic.	31A-23a-111; license term.	31A-23a-402; unfair marktg	31A-23a-406; title escrow	31A-23a-413 annual report	31A-31-103; fraud. ins. Act	R590-99; unfair title prac.	R592-6; unfair marketing	R592-15 Fees	R592-9 Title Assessment	Alleged Violation
60341	12/6/2011	4/9/2012	125	E-case 3118		x									Alleged Unlicensed Activity
60407	1/5/2012	1/9/2012	4	Unjustified		x						x			Unfair Marketing Practices
60419	1/10/2012	2/6/2012	27	New License											Opened in Error
60420	1/10/2012	2/14/2012	35	No Business		x									Alleged Unlicensed Activity
60421	1/10/2012	2/14/2012	35	No Business		x									Alleged Unlicensed Activity
60422	1/10/2012	2/14/2012	35	No Business		x									Alleged Unlicensed Activity
60423	1/10/2012	2/14/2012	35	No Business		x									Alleged Unlicensed Activity
60424	1/10/2012	2/6/2012	27	New License											Opened in Error
60425	1/10/2012	2/14/2012	35	No Business		x									Alleged Unlicensed Activity
60426	1/10/2012	1/30/2012	20	PriLOA		x									Alleged Unlicensed Activity
60427	1/10/2012	2/14/2012	35	No Business		x									Alleged Unlicensed Activity
60429	1/10/2012	3/1/2012	51	Agency out of Business											Winding Down Business
60430	1/11/2012	4/9/2012	89	E-case 3119		x									Alleged Unlicensed Activity
60453	1/19/2012	2/1/2012	13	E-case 2849	x										Unlicensed Entity
60454	1/20/2012	2/28/2012	39	E-case 2849	x										Unlicensed Entity
60479	1/30/2012	4/2/2012	63	E-case		x									Alleged Unlicensed Activity
60484	2/1/2012	2/6/2012	5	E-case Rev						x					Felony Wire Fraud/Money Laundering

Case #	Date Opened	Date Closed	Elapsed Time	Reason Closed	31A-23a-103; req. of lic.	31A-23a-111; license term.	31A-23a-402; unfair markg	31A-23a-406; title escrow	31A-23a-413 annual report	31A-31-103; fraud. ins. Act	R590-99; unfair title prac.	R592-6; unfair marketing	R592-15 Fees	R592-9 Title Assessment	Alleged Violation
60486	2/1/2012	3/22/2012	50	No Business		x									Alleged Unlicensed Activity
60487	2/1/2012	3/22/2012	50	No Business		x									Alleged Unlicensed Activity
60488	2/1/2012	3/22/2012	50	No Business		x									Alleged Unlicensed Activity
60489	2/1/2012	3/22/2012	50	New License											Opened In Error
60490	2/1/2012	3/22/2012	50	In Error											Opened In Error
60491	2/1/2012	3/22/2012	50	No Business		x									Alleged Unlicensed Activity
60492	2/1/2012	5/8/2012	97	E-case		x									Alleged Unlicensed Activity
60509	2/7/2012	3/22/2012	44	Corrected Distribution of Promotional items			x					x			Unfair Marketing
60510	2/7/2012	3/22/2012	44	Corrected Distribution of Promotional items			x					x			Unfair Marketing
60511	2/7/2012	3/22/2012	44	Corrected Distribution of Promotional items			x					x			Unfair Marketing

Case #	Date Opened	Date Closed	Elapsed Time	Reason Closed	31A-23a-103; req. of lic.	31A-23a-111; license term.	31A-23a-402; unfair marktg	31A-23a-406; title escrow	31A-23a-413 annual report	31A-31-103; fraud. ins. Act	R590-99; unfair title prac.	R592-6; unfair marketing	R592-15 Fees	R592-9 Title Assessment	Alleged Violation
60512	2/7/2012	3/22/2012	44	Corrected Distribution of Promotional items			x					x			Unfair Marketing
60513	2/7/2012	5/8/2012	91	Unjustified			x					x			Co-advertising
60514	2/7/2012	3/22/2012	44	Corr. Docs			x					x			Raffle Issue
60515	2/7/2012	3/22/2012	44	Corr. Docs			x					x			Raffle Issue
60552	2/14/2012	6/6/2012	113	E-case 3116									x		Chgd Unfiled Rates
60561	2/16/2012	4/18/2012	62	Unjustified									x		Alleged Excessive Fees
60565	2/16/2012	6/6/2012	111	Unjustified				x			x				Ins. Not Issued
60679	3/27/2012	5/8/2012	42	PriLOA		x									Alleged Unlicensed Activity
60680	3/27/2012	5/8/2012	42	PriLOA		x									Alleged Unlicensed Activity
60681	3/27/2012	5/8/2012	42	No Business		x									Alleged Unlicensed Activity
60682	3/27/2012	5/8/2012	42	No Business		x									Alleged Unlicensed Activity
60683	3/27/2012	5/8/2012	42	No Business		x									Alleged Unlicensed Activity
60684	3/27/2012	5/8/2012	42	Dup/PriLOA		x									Alleged Unlicensed Activity
60685	3/27/2012	5/8/2012	42	New License											Alleged Unlicensed Activity
60686	3/27/2012	5/8/2012	42	New License											Opened in Error
60687	3/27/2012	5/8/2012	42	PriLOA		x									Alleged Unlicensed Activity
60688	3/27/2012	5/8/2012	42	No Business		x									Alleged Unlicensed Activity

Case #	Date Opened	Date Closed	Elapsed Time	Reason Closed	31A-23a-103; req. of lic.	31A-23a-111; license term.	31A-23a-402 Unfair M	31A-23a-406	31A-23a-413 annual report	31A-31-103; fraud. ins. Act	R590-99; unfair title prac.	R592-6; unfair marketing	R592-15 Fees	R592-9 Title Assessment	Alleged Violation
60689	3/27/2012	6/18/2012	83	E-case	x										Alleged Unlicensed Activity
60690	3/27/2012	5/8/2012	42	No Business	x										Alleged Unlicensed Activity
60716	4/3/2012	6/5/2012	63	Unjustified			x								Alleged Improper Handling of Closing
60795	4/26/2012	5/2/2012	6	E-case										x	Failure to Pay Assessment
60796	4/26/2012	5/2/2012	6	E-case										x	Failure to Pay Assessment
60798	4/26/2012	5/2/2012	6	E-case										x	Failure to Pay Assessment
60799	4/26/2012	5/2/2012	6	E-case										x	Failure to Pay Assessment
60802	4/26/2012	5/2/2012	6	E-case										x	Failure to Pay Assessment
60804	4/26/2012	5/2/2012	6	E-case										x	Failure to Pay Assessment
60805	4/26/2012	5/2/2012	6	E-case										x	Failure to Pay Assessment
60806	4/26/2012	5/2/2012	6	E-case										x	Failure to Pay Assessment
60825	5/8/2012	7/30/2012	83	E-case	x										Alleged Unlicensed Activity
60826	5/8/2012	6/12/2012	35	PriLOA	x										Alleged Unlicensed Activity
60827	5/8/2012	7/18/2012	71	E-case	x										Alleged Unlicensed Activity
60828	5/8/2012	6/7/2012	30	renewal online issues	x										Alleged Unlicensed Activity
60829	5/8/2012	6/12/2012	35	PriLOA	x										Alleged Unlicensed Activity
60830	5/8/2012	6/12/2012	35	No Business	x										Alleged Unlicensed Activity
60831	5/8/2012	6/12/2012	35	No Business	x										Alleged Unlicensed Activity
60832	5/8/2012	6/7/2012	30	No Business	x										Alleged Unlicensed Activity
60833	5/8/2012	6/12/2012	35	PriLOA	x										Alleged Unlicensed Activity

Case #	Date Opened	Date Closed	Elapsed Time	Reason Closed	31A-23a-103; req. of lic.	31A-23a-111; license term.	31A-23a-402; unfair marktg	31A-23a-406; title escrow	31A-23a-413 annual report	31A-31-103; fraud. ins. Act	R590-99; unfair title prac.	R592-6; unfair marketing	R592-15 Fees	R592-9 Title Assessment	Alleged Violation
60835	5/8/2012	6/7/2012	30	No Business		x									Alleged Unlicensed Activity
60836	5/8/2012	6/12/2012	35	No Business		x									Alleged Unlicensed Activity
60837	5/8/2012	7/3/2012	56	No Business		x									Alleged Unlicensed Activity
60838	5/8/2012	7/3/2012	56	No Business		x									Alleged Unlicensed Activity
60839	5/8/2012	10/2/2012	147	PriLOA		x									Alleged Unlicensed Activity
60840	5/8/2012	6/7/2012	30	No Business		x									Alleged Unlicensed Activity
60841	5/8/2012	6/12/2012	35	PriLOA		x									Alleged Unlicensed Activity
60842	5/8/2012	6/12/2012	35	No Business		x									Alleged Unlicensed Activity
60845	5/9/2012	9/12/2012	126	E-case						x					Allgd. Defalc. of Trust Funds
60849	5/9/2012	6/29/2012	51	Unjustified							x				Cloud on Title
60893	5/21/2012	6/18/2012	28	E-case		x									Alleged Unlicensed Activity
60955	6/12/2012	7/3/2012	21	No Business		x									Alleged Unlicensed Activity
60956	6/12/2012	7/3/2012	21	No Business		x									Alleged Unlicensed Activity
60957	6/12/2012	7/11/2012	29	No Business		x									Alleged Unlicensed Activity
60958	6/12/2012	7/11/2012	29	No Business		x									Alleged Unlicensed Activity
60959	6/12/2012	7/3/2012	21	No Business		x									Alleged Unlicensed Activity
60960	6/12/2012	8/13/2012	62	No Business		x									Alleged Unlicensed Activity
60961	6/12/2012	7/3/2012	21	No Business		x									Alleged Unlicensed Activity
60962	6/12/2012	7/3/2012	21	No Business		x									Alleged Unlicensed Activity
60963	6/12/2012	7/3/2012	21	No Business		x									Alleged Unlicensed Activity
60964	6/12/2012	7/3/2012	21	PriLOA		x									Alleged Unlicensed Activity
60965	6/12/2012	7/3/2012	21	PriLOA		x									Alleged Unlicensed Activity
60973	6/13/2012	10/5/2012	114	Unjustified							x				Unmarketable Title
60974	6/13/2012	7/30/2012	47	E-case Lic. Surr	x										No Insurer Appt, No Physical Adddress
Average days open:			42.3												
No. of Actions per type:					5	94	9	3	1	3	6	10	2	8	

No Bus. Conducted	62
Private Letters:	22
E-Cases:	26
No Jurisdiction:	1
New License Error:	14
Unjustified:	11
Closed in FY13:	13

State of Utah
GARY R HERBERT
Governor
GREG BELL
Lieutenant Governor

Labor Commission
SHERRIE HAYASHI
Commissioner

October 12, 2012

Governor Gary R. Herbert
Senator John L. Valentine
Representative James A. Dunnigan

To Governor Herbert, Senator Valentine, Representative Dunnigan, and the members of the Business and Labor Interim Committee.

This is the second annual report from the Worker Classification Enforcement Council ("Council"), submitted pursuant to U.C.A. § 34-47-202. In the year since the Council's October 2011 report, the Council has continued to meet on an every other month schedule. Agendas and Minutes for all Council meetings are available on Utah's Public Notice Website.

The Nature and Extent of Misclassification in Utah

Misclassification of workers continues to be a significant problem in Utah. Whether the misclassification consists of an employer improperly treating an employee as an "independent contractor" or a limited liability company improperly classifying its employees as "members" or "owners" the negative impacts are the same. Law-abiding Utah employers face unfair competition from unscrupulous employers who do not follow the law. Misclassified employees do not receive appropriate wages and the protections afforded by workers' compensation and unemployment insurance. And, Utah citizens lose tax revenue and suffer the impact of "cost shifting"—costs that should be paid by an employer end up being shifted to the government, insurance companies, and, ultimately, the general public.

Regulatory and Law Enforcement Efforts, and the Status of Sharing Information by Member Agencies

The Labor Commission

In the last year the Labor Commission has established a web page focused specifically on worker misclassification. (Available at: http://laborcommission.utah.gov/divisions/IndustrialAccidents/WorkersComp/employee%20misclassification.html.) This web page explains what misclassification is, describes its broad negative impacts, and provides information how to submit a misclassification

complaint. In conjunction with this web page a dedicated hotline has been established to receive complaints. This resource has led to numerous complaints being submitted to and investigated by the Commission for compliance with workers' compensation insurance coverage. The Commission has also shared information gathered through this resource with other Council members and coordinated enforcement efforts have been the result.

The Commission is also consulting with stakeholders to develop rules to clarify the correct method to report wages and compute workers' compensation premiums for "members" of unincorporated entities such as limited liability companies. This rule-making is one part of a variety of state agencies' efforts to implement the Legislature's policy against employee misclassification.

The Department of Commerce

The Department of Commerce continues its enforcement emphasis related to construction companies engaged in a worker-owner model. At one point in late 2011 all entities doing business under that model had discontinued. However, a new business using the worker-owner model formed during 2012. The Department of Commerce is currently in administrative litigation with that business regarding the scope of the Department's auditing and enforcement authority under S.B. 35 (2011) and clarifying amendments made in 2012. Additionally, in September 2012 the business filed a federal lawsuit against the Department of Commerce alleging that some provisions of S.B. 35 are unconstitutional.

The current administrative case involves a set of business entities in the construction industry that provided the Department with information about its worker owners. From that information, Department auditors discovered:

- 132 worker-owner names with judgments (443 total judgments in Utah of $1,451,157);
- 232 worker-owner names with criminal history;
- 35 worker-owner names with Social Security Numbers indicating a bankruptcy, some of which corresponded to a different name on bankruptcy records;
- 153 worker-owner names with the same Social Security Number that had been submitted to the Department of Workforce Services in connection with a different name; and
- 24 worker-owner names with Social Security Numbers that appeared to be inaccurate for various other reasons.

Because of the ongoing litigation and because most of the construction companies engaged in a worker-owner model have gone out of business, the Department of Commerce has not received the kind of detailed reporting contemplated in S.B. 35. The

Department is hopeful the reporting requirements will be clarified through the current litigation.

The Department of Commerce continues to benefit from the information-sharing that occurs through the Enforcement Council. The Department of Workforce Services regularly provides a referral when its audits uncover construction companies violating unemployment insurance laws. This is particularly useful in the construction industry because of a bright line rule: workers must be either employees or hold their own construction trades license.

All construction trades referrals from Workforce Services are assigned to a financial responsibility auditor. Often auditors have found that a contractor who is delinquent in unemployment insurance also has third-party judgments that can impact the licensee's financial responsibility. Many of these referrals have resulted in a license revocation or probation.

Commerce investigators continue to receive regular complaints from the public about unlicensed construction activity involving worker misclassification. Many of these complaints come in anonymously. The Enforcement Council has enabled better inter-agency coordination of site visits, but as reported last year, those site visits rarely discover apparent violations.

The Department of Workforce Services

The Unemployment Insurance Division of the Department of Workforce Services ("DWS") completes both "random" and "targeted" audits of Utah employers. In the four and one half year period between January 1, 2008 and June 30, 2012, the division completed 5,233 "random" employer audits, covering $1.4 billion in total reported wages. The random audits identified $42 million in total unreported wages to 6,949 workers who were misclassified as "independent contractors." The random audits revealed a variance of only 2.9% (.029).

During the same time period the division completed 913 "targeted" audits of Utah employers, covering $970 million in total reported wages. Targeted audits, which primarily use IRS form 1099 information to identify potential unreported workers, yield different results. The targeted audits identified $138 million in total unreported wages to 18,114 workers who were misclassified as "independent contractors." The targeted audits revealed a variance of almost 14% (.14).

The results of the random and targeted audits continue to demonstrate that while the majority of registered Utah employers are reporting workers properly, a significant number of Utah employers are misclassifying their workers. In recent years, DWS has focused more of its audit resources on targeted audits to increase employer compliance.

Over the last year Department of Commerce and Labor Commission employees have worked with DWS employees to expand access to the DWS Unemployment Insurance database. Commerce employees are now able to more effectively coordinate investigations when contractors are violating unemployment insurance laws. The DWS Unemployment Insurance Division was able to collect over $306,000 in past-due contributions on 72 Utah contractors in calendar year 2011 as a direct result of coordinated enforcement. DWS employees have referred dozens of unemployment insurance audits to Commerce, the Utah Tax Commission, and the IRS, identifying 1,300 workers who were determined to be employees, not independent contractors. And, the Utah Tax Commission identified and referred over 50 instances where employers have issued Internal Revenue Service W-2 forms to employees that were not actively registered with Workforce Services.

Commerce investigators are also coordinating investigations of selected companies with the Labor Commission and DWS. The Department of Workforce Services expanded their information sharing agreement with the Utah Labor Commission this year to further leverage resources and ensure compliance with applicable unemployment insurance and workers' compensation laws.

The Tax Commission

Even though the State Tax Commission is prohibited from sharing taxpayer-specific information within the Council, the Commission has benefitted from the information shared from other Council members.

Recently the Tax Commission reviewed the returns of 17 limited liability companies that utilize the worker-owner model. Of those 17 companies, the Commission found that a total of 720 K-1's were issued, reporting a total of $20,545,345 as income paid to these individuals for tax year 2011. The Commission's research indicated, however, that only $4,172,814 was reported on the income tax filings of these individuals, leaving $16,372,531 as not having been reported as of September 1, 2012. This is a preliminary assessment of this information with the final due date for the 2011 income tax filing being October 15, 2012. Once the final numbers are available, the details of this information will be shared with the Internal Revenue Service as a joint compliance effort for reporting income.

Recommended Legislative Changes

The Council appreciates the attention the Legislature has given to worker classification issues in 2011 and 2012. The Council has no specific recommendations for the 2013 legislative session.

We look forward to continuing to report annual progress, and are glad to provide any other requested information or answer any questions.

Sincerely,

ALAN HENNEBOLD
CHAIR, WORKER CLASSIFICATION ENFORCEMENT COUNCIL
DEPUTY COMMISSIONER, UTAH LABOR COMMISSION

DOLORES FURNISS
DISCLOSURE OFFICER, UTAH STATE TAX COMMISSION

THAD LEVAR
DEPUTY DIRECTOR, UTAH DEPARTMENT OF COMMERCE

BILL STARKS
UNEMPLOYMENT INSURANCE DIRECTOR, DEPARTMENT OF WORKFORCE SERVICES

PHILIP S. LOTT
ASSISTANT UTAH ATTORNEY GENERAL

cc: Senator Karen Mayne

GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

State of Utah
Department of Commerce
Division of Real Estate

FRANCINE A. GIANI
Executive Director

THAD LEVAR
Deputy Director

JONATHAN C. STEWART
Real Estate Division Director

October 10, 2012

Senator John L. Valentine, Senate Chair
Representative James A. Dunnigan, House Chair
Utah Business & Labor Interim Committee

RE: Implementation of Nationwide Mortgage Licensing System and Registry ("NMLS"), Utah Code Ann. §61-2c-103.

Dear Senator Valentine, Representative Dunnigan, and Committee Members:

Pursuant to your request of August 22, 2012 and as required by Utah law, I am reporting on issues regarding the implementation of the NMLS on the Division and licensees.

Background

In 2008, the federal Secure and Fair Enforcement for Mortgage Licensing Act ("SAFE Act") was enacted. The SAFE Act provides minimum state licensure requirements for mortgage loan originators and requires them to use the NMLS for state license application and renewal requirements. The Utah Legislature revised its statutes in 2009 to comply with the SAFE Act and made further refinements during the 2010, 2011, and 2012 Legislative Sessions. As a result, the Division significantly revised its administrative rules to implement statutory provisions.

In Utah, mortgage loan originators are supervised by principal lending managers and branch lending managers and both must work under a mortgage entity. Rather than have two licensing databases (a Division-maintained system to account for mortgage entities and track sponsorships and affiliations, and the NMLS as required under the SAFE Act for licensure of mortgage loan originators), the Division requires all mortgage licensees and registrants to go through the NMLS.

Mortgage licensees, under Utah law previous to the SAFE Act revisions, were required to renew licensure every 2 years on the anniversary of initial licensure. The SAFE Act

160 East 300 South, 2nd Floor, PO Box 146711, Salt Lake City, UT 84114-6711
Telephone (801) 530-6747 • Facsimile (801) 530-6749
Email: realestate@utah.gov • Internet: www.realestate.utah.gov

UTAH
LIFE ELEVATED

requires renewal on an annual basis. To maintain an orderly process for licensees to transition onto the NMLS and complete renewal by the 12/31/10 deadline for state compliance with the SAFE Act, the Division extended mortgage license expiration dates to correspond with a unified license expiration date of 12/31/10. Since that date, the Division has administered two license renewal periods. The third license renewal period will open on November 1, 2012.

Most recently, in the 2012 Legislative Session, the Division made three statutory changes that were required by HUD rules implementing the SAFE Act:

1. Require processors who operate as independent contractors to be licensed;
2. Require the Division to report all violations to NMLS; and,
3. Require all licensees to include all closed loans in call reports, and require licensed entities to submit call reports to NMLS at least quarterly.

Current Issues

1. Criminal History Evaluation. Despite the fact that all mortgage licensees had criminal history evaluations performed at the time they were initially licensed in Utah, the HUD Rules implementing the SAFE Act specify that, at the time of renewal, licensees must demonstrate that they "continue to meet the minimum standards for license issuance," which standards require a determination that the applicant has not had a criminal conviction or plea agreement that would disqualify him or her for licensure under applicable regulations. The NMLS recommends a subsequent criminal history every three years as an aid to making this determination. Currently, there are no statutory or rule provisions to require repeated background checks. In order to conform to the nationwide standard that NMLS would prefer, the DRE is recommending a statutory change in its 2013 bill that would grant authority to the Division to specify through rule how often additional criminal background checks would be performed.

2. Financial Responsibility Determination. In conjunction with the 2010 license renewal, the NMLS required licensees to authorize a credit report every three years for evaluation by state licensing agencies to determine financial responsibility. Financial responsibility is a standard for licensure required by the SAFE Act and Utah law. The HUD Rules implementing the SAFE Act specify that, at the time of renewal, licensees must demonstrate that they "continue to meet the minimum standards for license issuance," which standards require a determination that the applicant continues to demonstrate financial responsibility. The NMLS recommends credit checks every three years as an aid to making this determination. Currently, there are no statutory or rule provisions to require repeated credit checks. In order to conform to the nationwide standard that NMLS would prefer, the DRE is recommending a statutory change in its 2013 bill that would grant authority to the Division to specify through rule how often additional credit checks would be performed.

3. License Renewal Period. The license renewal period extends between November 1 - December 31, 2012. During this renewal period, all licensed mortgage loan originators, lending managers, independent loan processors, mortgage entities, and branches are required to renew their licenses. During this year's license renewal period, Utah licensees will be allowed to request renewal only if they have completed 8 hours of NMLS continuing education. Completion of a social security verification form is the only document our licensees are required to complete "outside" of the NMLS online license renewal system.

4. Call Reports. HUD Rules have confirmed that states are required to require licensed entities to provide call report information through the NMLS. In the 2012 Legislative Session, the DRE made a statutory change that now requires all licensees to include all closed loans in call reports, and requires licensed entities to submit call reports to NMLS at least quarterly. This change was made effective on May 8, 2012. Due to the timing of the statutory change, the DRE determined that licensees would not be required to submit call reports until the third quarter of 2012. NMLS requires these call reports to be submitted within 45 days of the end of the quarter. Utah licensees are now required to submit the third quarter call report by November 14, 2012. The DRE has been contacted by licensees who have attempted to submit their call reports, but have been required to submit their first and second quarter call reports before the NMLS system would allow the third quarter to be submitted. We have worked with NMLS and have resolved this issue, and licensees are now able to submit their third quarter call reports without submitting reports for earlier periods.

5. Financial Condition of report. In addition to call reports, licensed entities are also required to submit a Financial Condition Component through NMLS on an annual basis, 90 days from the fiscal year end. The Financial Condition Component contains the mortgage entities' financial data. This is the first year licensed entities from the state of Utah will be required to submit this data.

Additional Issues

6. Uniform State Test (UST). Currently, every state in conjunction with the NMLS has developed a unique NMLS state exam component, which must be passed in addition to the NMLS national exam component. Recent NMLS discussions have explored the possibility of developing a uniform NMLS state exam for mortgage loan originators to take. The DRE recently learned from the NMLS that the proposed uniform state test could have questions that directly contradict some states' statutes, particularly in states where the legislature did not adopt the model legislation that was promulgated after passage of the SAFE Act. Utah is one such state. In addition, the NMLS has informed all states that there may be some additional financial expense charged to any state that chooses not to adopt the UST. This expense would be related to the ongoing maintenance costs the NMLS claims they will incur to keep the tests up-to-date and well performing. The DRE continues to oppose the UST because we strongly believe in testing our licensees on Utah specific law, which would not be possible with a UST. A recent survey from the

NMLS shows that 29 state regulatory agencies intend to adopt the UST, 22 agencies are undecided, six do not intend to adopt, and two did not respond.

7. Prelicensing Education. The Division has determined, and we have received industry feedback indicating, that the Utah-specific prelicensing education for Mortgage Loan Originators is somewhat duplicative and redundant of the national course. We reviewed the content of the national prelicensing course and compared it to our state prelicensing course and removed most of the duplicative content. The hours were reduced from 40 to 15: two hours to cover the Utah REPC and contract law, two hours to cover loan fraud and ethics, ten hours to cover Utah law, and one hour for testing and review. Our prelicensing requirement is still one of the highest in the country, but the reduction was greeted enthusiastically by the licensees who either were attempting to get a new license or were reinstating an expired license. Unlike the national prelicensing course, this course expires after one year and must be retaken if the licensee allows the license to lapse. Although this change significantly reduced the total number of prelicensing education hours, there was only a small impact on the content of the NMLS-approved Utah state exam component and, therefore, not a lot of changes were necessary to bring the exam current. The prelicensing education required for a Principal Lending Manager license remains at 40 hours, as mandated by statute.

8. Changes in Lending Manager Reporting in NMLS. The Division worked with the NMLS to eliminate the NMLS reporting status of Lending Manager categories (Principal Lending Manager, Branch Lending Manager, and Associate Lending Manager) although the Division's database continues to reflect these license types as defined by Utah State code. The reason for maintaining a single Lending Manager license type was to discontinue the unnecessary and costly NMLS licensing fees that were required any time a lending manager's license changed license type. The Division was successful in consolidating all Lending Managers into one NMLS licensing category to preclude the unnecessary and unjustified licensing fees the NMLS had previously been requiring. In addition, the Division was successful in negotiating with the NMLS to forego charging all Lending Managers a "transition fee" to consolidate lending manager license types. Ultimately no Utah Lending Managers were assessed fees to make these NMLS licensing category changes, and future Lending Manager status changes (which would have required new licensing fees under the previous system) have now been permanently eliminated.

9. Nationwide database functionality. The nationwide database does not currently have the functionality to serve any sort of record-keeping purpose. DRE staff can currently enter limited notes into the system, but the notes are automatically deleted after a period of time. To a limited extent, the NMLS anticipates that by early 2013 more long-term record-keeping functionality will be available for regulatory agencies. The DRE is uncertain as to how effective these new database note tracking functions will be. Therefore, the DRE faces an ongoing challenge of how to transfer information from the nationwide database into a more permanent storage format so

as to maintain a record of disclosures from and communications with licensees.

10. Transitional license status. Last year, the NMLS reported that loan originators who have worked for depository institutions (which are registered and regulated by the Utah Department of Financial Institutions or other state banking regulatory agencies), and now desire to be licensed by the Utah Division of Real Estate may seek legislative authority for a "transitional license," which would enable such prospective licensees to function in a legal, temporary status, until they meet licensing requirements. This spring, the Consumer Finance Protection Bureau (CFPB) announced that registered mortgage loan originators could not be granted a transition waiver of licensing requirements, not even temporarily under a transitional license. The CFPB did indicate that a mortgage loan originator who is licensed in another state could be granted a temporary transition waiver if a state allowed for such a transitional license waiver by state statute. The Division sees no reason to establish a temporary or provisional license type for licensees from other states desiring to become licensed in Utah. Residents of Utah should have the assurance that licensed mortgage loan originators meet all licensing requirements before they initiate mortgage lending

11. Nationwide Cooperative Agreement. The NMLS has recently been pushing for all states to sign a Nationwide Cooperative Agreement. According to the agreement, the purpose is to "assist state mortgage regulators by outlining a basic framework for the coordination and supervision of Multi-State Mortgage Entities (MMEs). Those states that sign onto the agreement would work together to investigate mortgage entities that have a presence in more than one state. States that do not sign onto the agreement will not have access to the information gathered by those that are part of the cooperative. According to the NMLS, forty-seven states have signed onto the agreement. The three states that have not signed onto the agreement are Colorado, Nevada, and Utah. According to representatives from the NMLS, by not signing the agreement, Utah is not a part of information sharing between states and would not be allowed to be a part of large, multi-state actions against mortgage companies. Our current Assistant Attorney General believes that the agreement may be in violation of the SAFE Act as well as Utah's GRAMA regulations. She is currently reviewing the agreement before giving us advice on whether we should sign on or not.

12. Licensing of independent Mortgage Underwriters. Mortgage loan underwriters who are employed by licensed mortgage entities are not required to be licensed. The CFPB has recently enacted rules requiring that loan underwriters who function as independent contractors be licensed. The Division will include language in an upcoming bill during the next legislative session to comply with this new requirement. The intent is to craft language that will allow a loan underwriter who holds a license to function as an independent contractor regardless of whether the license is sponsored by a mortgage entity. This year we implemented such language to comply with the HUD mandate to license independent contractor mortgage processors. Our statute reflects this change in licensing requirements.

Please let me know if you have any further questions you would like me to address. I would be happy to give you additional information.

Sincerely,

Jonathan Stewart

DIRECTOR
UTAH DIVISION OF REAL ESTATE

Cc: Utah Mortgage Commission
Cc: Francine Giani

Alcohol Abuse Tracking Committee Report

Commissioner D. Lance Davenport

October 17, 2012

In the 2012 Legislative Session the Alcohol Abuse Tracking Committee (AATC) was created in HB354 Alcohol Beverage Amendments. The committee's responsibilities are to determine if data is being collected and if not how it can be collected in the following 5 areas:

- Number of individuals who have been convicted of or plead guilty to underage drinking of alcohol.
- Number of individuals who have been convicted of or plead guilty to driving under the influence of alcohol.
- Violations statewide of Title 32B, Alcoholic Beverage Control Act related to over-serving or over-consumption of an alcoholic product.
- The social costs associated with abuse of alcohol.
- Where alcohol products are obtained that resulted in the previous violations or costs.

The committee met for the first time May 10, 2012 with subsequent meetings being held June 21, 2012, August 23, 2012 and September 20, 2012.

It was evident early on that the information is already being gathered and the need is in coordinating it all together. After looking at available reports, the committee put in a request to add questions to the Behavioral Risk Factor Surveillance System. There is also a new mapping report prepared by DTS. With the next step of the committee being the compiling of the information together into a report, any input from the Business and Labor Interim Committee would be welcome.

The purpose of this report is outlined under Utah State Code 53-1-119 (8):
(8) Prior to the October 2012 Interim meeting of the Business and Labor Interim Committee, the committee shall report to the Business and Labor Interim Committee:
(a) a list of information to be collected;
(b) standards to be used in collecting the information;
(c) criteria to be used in determining the level and extent that alcohol is related or contributed to the activities for which data is to be collected; and
(d) how the collection of data will verify the presence of alcohol, blood alcohol levels, and differentiate between persons using other substances of impairment and persons consuming alcoholic beverages.

Surveys and Reports the Alcohol Abuse Tracking Committee (AATC) recommends:

Statewide Epidemiological Outcome Workgroup (SEOW)

The SEOW report will use an accepted model to estimate the cost of alcohol abuse in Utah. The model is titled "Economic Costs of Excessive Alcohol Consumption in the U.S., 2006" and is the most recent national model. The article was published in 2011 by the author, Henrick Harwood and his associates. The 2011 article builds on previous studies and attempts to provide a more current estimate of the costs of alcohol abuse. Several states have used the methodology in this report to build their own state estimate of the cost of alcohol abuse.

Behavioral Risk Factor Surveillance System (BRFSS)

BRFSS is a telephone (land line and cellular) survey of Utah adults outside of institutional settings. It is coordinated by CDC and done in all States. In Utah it is conducted by the Utah Department of Health. BRFSS collects information on a variety of health behaviors such as diet, physical activity, tobacco, and alcohol use. It includes questions that identify two patterns of high risk alcohol consumption, "chronic drinking" (more than 60 drinks per month) and "binge drinking" (more than 5 drinks on one occasion in past month). For CY 2013, the AATC proposed adding supplementary questions about the source and circumstances of drinking for those who report binge drinking.

Student Health and Risk Prevention (SHARP)

The Student Health and Risk Prevention (SHARP) Survey is a biennial survey administered to approximately 60,000 students in the 6th, 8th, 10th, and 12th grades. This survey has been tested and evaluated to safely collect data on youth substance use, perceptions of risk, and mental health issues. The SHARP Survey has been administered successfully in the State of Utah since 2003 (other versions were used prior to that year, but 2003 is the consistent survey year). This information is used in planning for programs and services throughout the State of Utah. The SHARP report is available online at http://www.dsamh.utah.gov/sharp.htm

Utah State Substance and Abuse Epidemiological Profile (Epi Profile)

The EPI Profile is Utah specific data related to substance use and the consequences. This information includes epidemiological data such as, but not limited to, adult and youth alcohol consumption, suicide rates, prescription drug overdoses (fatal and hospitalizations), and arrest rates. This data is used for planning purposes. The data itself is collected from multiple datasets - the Drug Abuse Warning Network (DAWN), FBI, Law Enforcement, Utah Department of Health (BRFSS, Vital Statistics from IBIS), and National Survey on Drug Use in Households (NSDUH) along with our Student Health and Risk Prevention (SHARP) Survey. An online version of the hard copy report is available at http://dsamh.utah.gov/docs/seow_final_epi_report_2010.pdf

Eliminating Alcohol Sales to Youth (EASY)

The EASY report is data gathered from off-premise Covert Underage Buyer (CUB) operations. The data is collected directly from the agencies conducting the checks. For FY2006 - FY2012, the information was put into the Utah Criminal Justice Information System (UCJIS) which then transferred the data to the www.easy.utah.gov website. The report includes the number of compliance checks completed by agency, the number of retailers that were compliant (did not sell), the compliance percentage and the amount reimbursed to agency.

Commission on Criminal and Juvenile Justice (CCJJ) Cost/Benefit

The report will be a product of CCJJs efforts to create a cost/benefit model for use in evaluating criminal justice programming as a statistical model that helps predict the cost to taxpayers for the investigation, arrest, prosecution, and incarceration of murder and non-negligent manslaughter, forcible rape, robbery, aggravated assault, and the property crimes of burglary, larceny-theft, and motor vehicle theft. They also have gathered and know the total number of arrests that occurred from 2005-2010 in each of these categories. The AATC will need to estimate the percent in each of the crime categories that can be attributed to alcohol abuse and then CCJJ will be able to generate an estimate of total cost.

Utah State Courts – Administrative Office of the Courts (AOC)

The AOC report will provide DUI/Drug (41-6a-502), Alcohol Related Offenses including those that pertain to underage drinking, and Title 32B Alcohol Beverage Control Act filing counts, disposition counts and conviction counts. The Courts do not have a solid way to differentiate the DUI/Drug 41-6a-502 statute to break out Alcohol Related DUI's vs. Drug Related DUI's. The current statute encapsulates both elements in a single offense violation code. This data can be provided for District Courts, Justice Courts and Juvenile Courts Statewide.

The statistics will be pulled from CORIS (Courts Information Management System) and CARE (Juvenile Case Management System).

Department of Alcoholic Beverage Control (DABC)

The DABC reports include the Violation Type Summary specific to sales to a minor and over-serving along with the Year End Complaint Log of all violations for DABC Licensees. The reports' information will include, but is not limited to, location name, violation, and if there is a previous violation history.

Department of Corrections (DOC)

DOC uses the Level of Services Inventory (LSI) to determine an offender's needs and risks. It is a validated and much used assessment instrument. One of the questions on the LSI indicates whether the offender has a current alcohol problem.

Department of Technology Services (DTS)

DTS mapping will pull address information for alcohol related offences that have been extracted from the electronic citation submission repository (available from approximately 50% of law enforcement agencies in Utah) and sent to the Automated Geographic Reference Center (AGRC) for geocoding. After geocoding is done, the information is added back into the repository and summary information is extracted that AGRC can use for mapping. The same process is being used for the alcohol related accident data, where we will also be looking at the driver's address as well as the registered owner's address. When the information is shown on the map, no personal information will be seen. We are looking around the first of November 2012 to have the mapping up and accessible.

Department of Workforce Services (DWS)

DWS has information for a limited number of individuals participating in public assistance programs or job training (approximately 20,000 individuals per year in case management). Among these, they inquire about indications of alcohol abuse; however, disclosure is voluntary and (generally) unsubstantiated.

They can provide a quick count of individuals in their systems (since year 2000) with CAGE indicators. CAGE is a 4 item, relatively non-confrontational questionnaire for detection of alcoholism. The 4 questions are:

1. Have you felt the need to **Cut down** on your drinking?
2. Do you feel **Annoyed** by people complaining about your drinking?
3. Do you ever feel **Guilty** about your drinking?
4. Do you ever drink an **Eye-opener** in the morning to relieve shakes?

The first letters in the bold statements make up the CAGE acronym by which the assessment is known.

Department of Public Safety/State Bureau of Investigations (SBI)

The SBI report will show on premise and off premise Covert Underage Buyer operations with how many restaurants, clubs/bars, and retail stores they visited and how many served to the underage buyers.

Participants in AATC include:

- Department of Public Safety
- Rep. Ryan Wilcox
- Sen. John Valentine
- Department of Workforce Services
- Department of Health
- Utah Substance Abuse Advisory Council
- Utah State Courts – Administrative Office of the Courts
- Department of Technology Services
- Department of Alcoholic Beverage Control
- Department of Human Services
- Department of Corrections
- Statewide Epidemiological Outcome Workgroup (SEOW)
- State Bureau of Investigations
- Utah Highway Patrol
- Driver License Division
- Highway Safety
- Mothers Against Drunk Driving (MADD)
- Cottonwood Police Department
- Commission on Criminal and Juvenile Justice (CCJJ)

State of Utah
GARY R. HERBERT
Governor
GREG BELL
Lieutenant Governor
NEAL T. GOOCH
Insurance Commissioner

Insurance Department

September 5, 2012

Senator John L. Valentine
Representative James A. Dunnigan
Business & Labor Interim Committee
Utah State Capitol Complex
Salt Lake City, UT 84114

Dear Chairman,

Utah Code Annotated §31A-22-1013 requires the Utah Insurance Department to report annually on the Utah workers compensation market. The information provided includes statistical data for the time period of January 1, 2011 through December 31, 2011 and includes data compiled by the Workers' Compensation Fund, the National Council on Compensation Insurance, Inc. and the National Association of Insurance Commissioners.

The report details information pertaining to the Utah workers' compensation market, the availability of workers' compensation coverage in Utah, data on the Utah residual market and the market share report for the top ten insurers in Utah.

If additional information is requested by the Committee, please direct those inquiries to Tracy L. Klausmeier, Director, Property and Casualty Division at tklausmeier@utah.gov or by phone at 801 538-3869.

Sincerely,

Neal T. Gooch
Insurance Commissioner

Attachments

BUSINESS & LABOR INTERIM COMMITTEE

AUGUST 29, 2012

INSURANCE DEPARTMENT – REPORT ON WORKERS' COMPENSATION (U.C.A. §31a-22-1013)

- **With the large number of insurers licensed to write workers' compensation coverage in Utah, and the Workers' Compensation Fund designated by Code, §31A-22-1001 as the carrier of last resort, coverage is readily available and the market is competitive.**

- **With regard to cost of workers' compensation insurance in Utah, on a comparative basis, the 2010 Oregon Workers' Compensation Premium Rate ranked Utah as 45th out of 50 states, with 50 being the lowest in premiums.**

- **Results of monitoring pursuant to §31A-22-1012:**
  - **See attached statistical and graphic information**
  - **Requirements for underwriting standards or guidelines are addressed in Rule 590-231. Underwriting Standards also include those addressed in §31A-22-1012**
  - **Some information filed by WCF and all other insurers is proprietary data.**

- **The size of residual market as a percentage of the overall workers' compensation market in Utah, as reported by WCF, was 3.2% in 2010. The size of the residual market as a percentage of WCF total market share was 9.3%.**

- **A list of the Top 10 insurers in Utah holding the largest market share for the past 4 years is attached.**

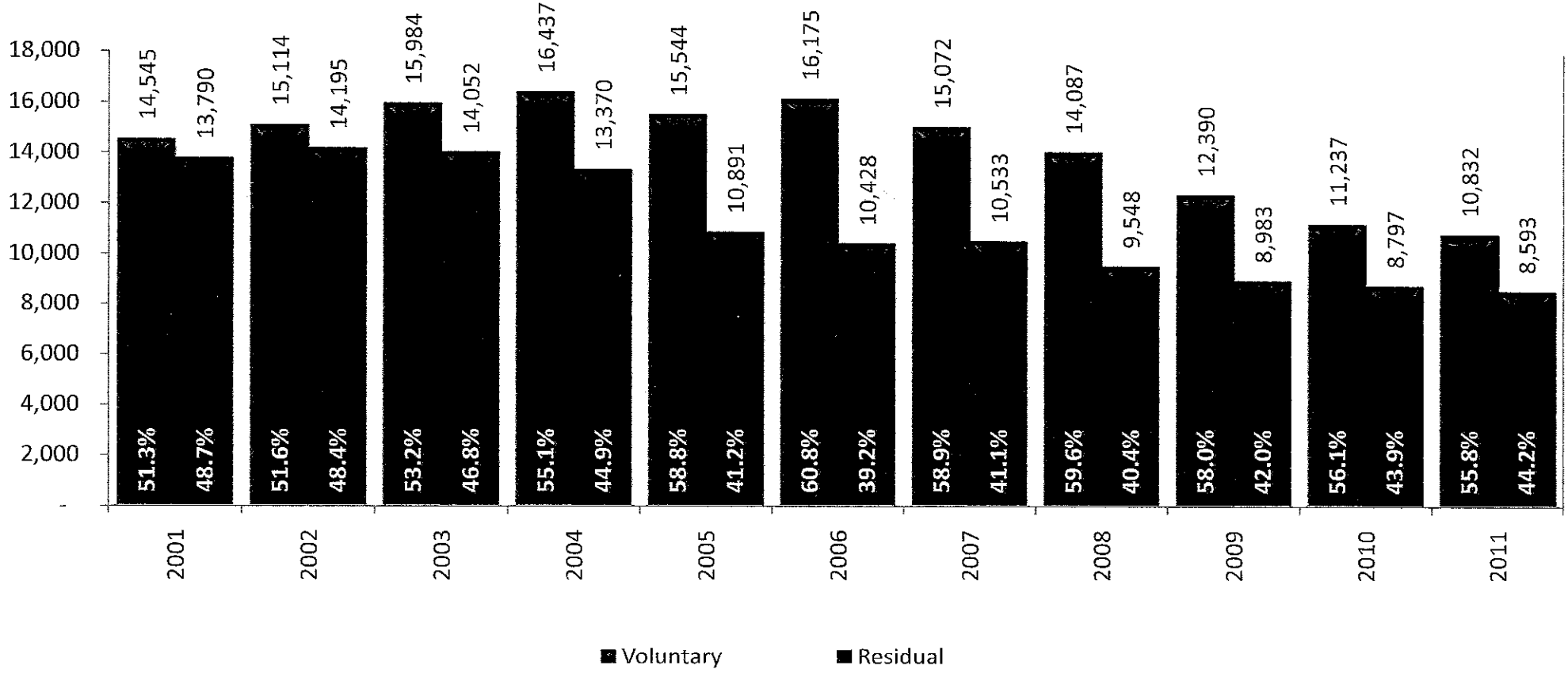
- **The Insurance Department does not have any recommendations at this time.**

- **Additional Facts – supplemental information provided by WCF:**
  - **There are 80,939 employers in Utah reported by DWS 4th Qtr 2010**
  - **3,696 Workers Compensation Coverage Waivers were issued by the Workers' Compensation Fund in 2010. (§31A-22-1011)**
  - **There are 52 self insured entities are regulated by the Labor Commission**
  - **860 insurers are licensed to write workers compensation insurance in Utah, of those companies, 193 actively place coverage**

Workers Compensation Fund

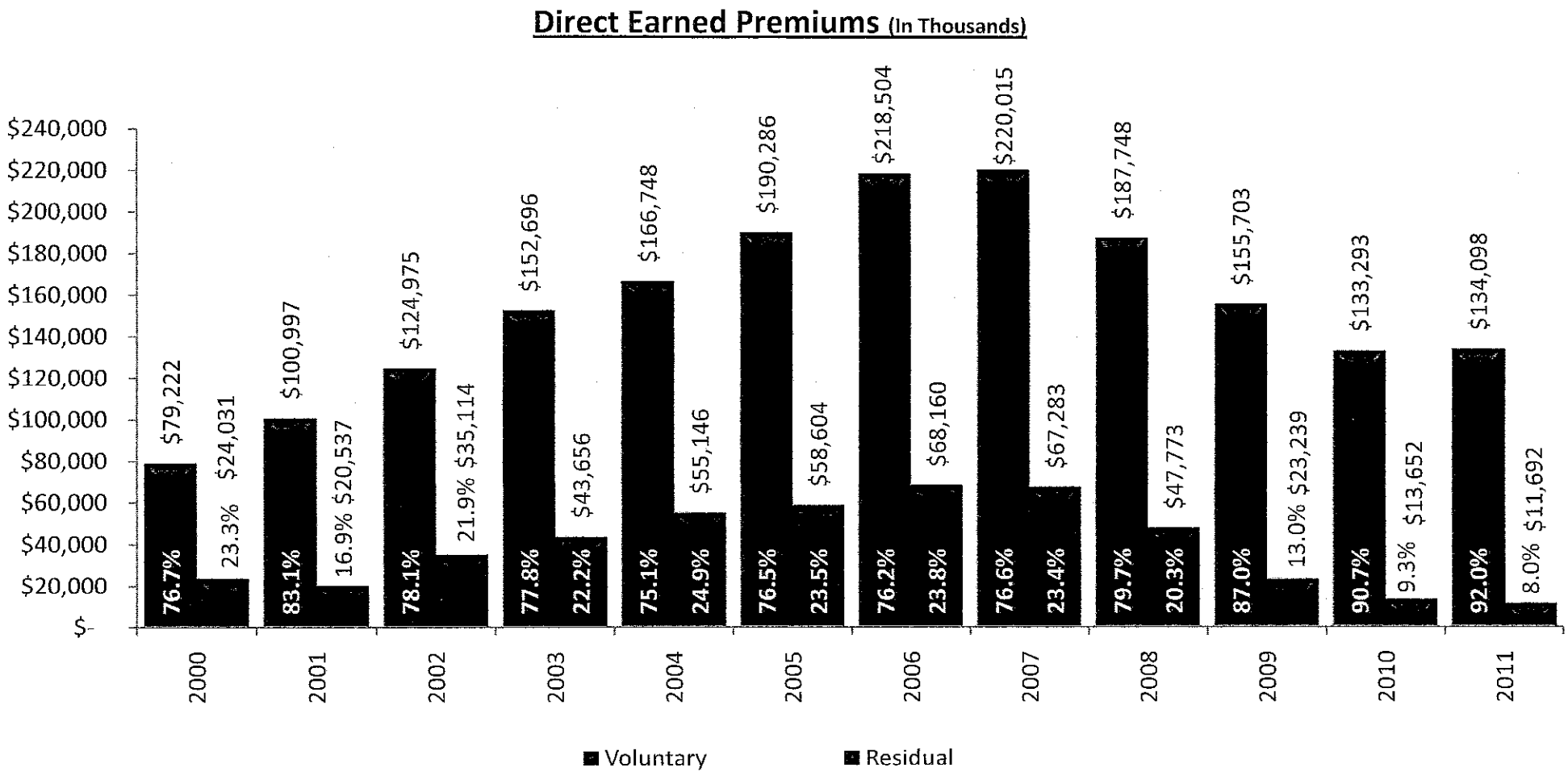
Residual Market Statistics

Policy Count



Workers Compensation Fund

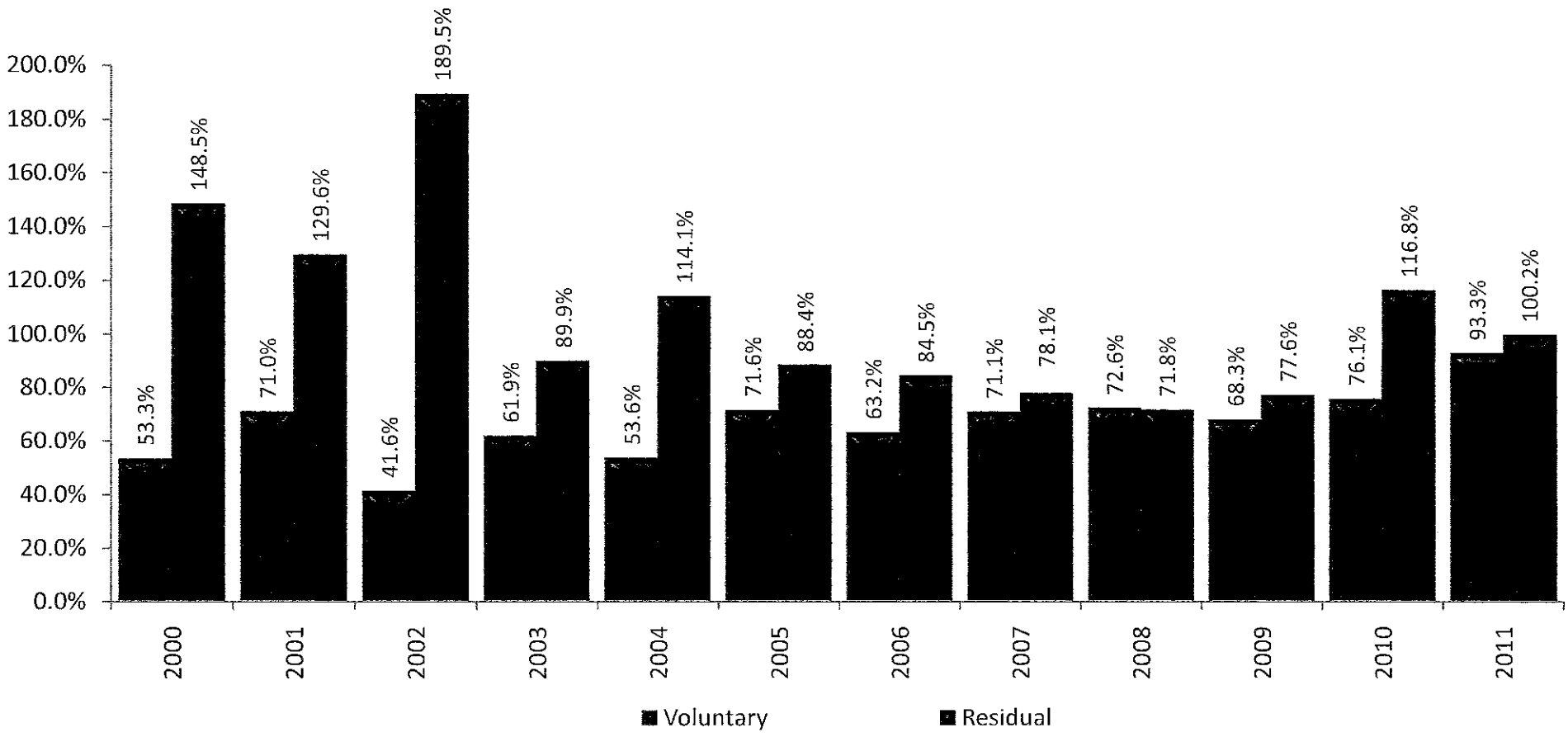
Residual Market Statistics



Workers Compensation Fund

Residual Market Statistics

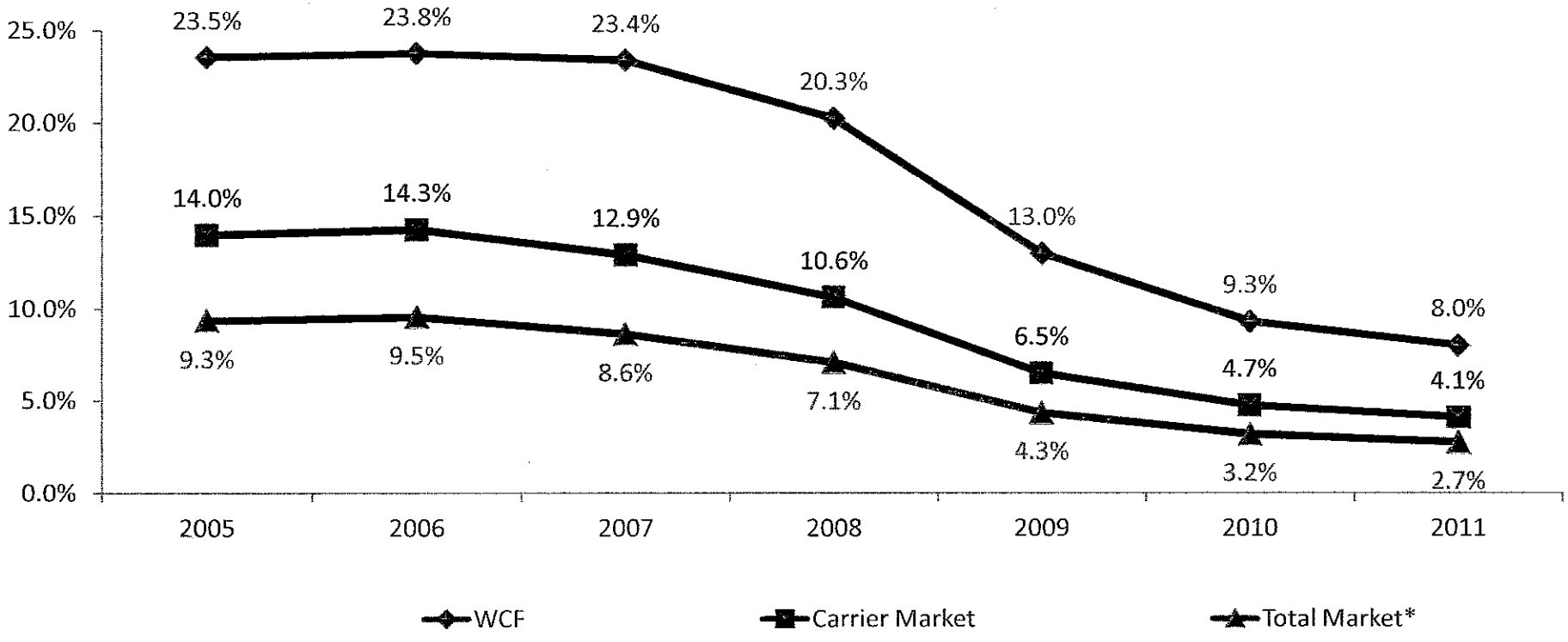
Calendar Year Loss & LAE Ratio



Workers Compensation Fund

Residual Market Statistics

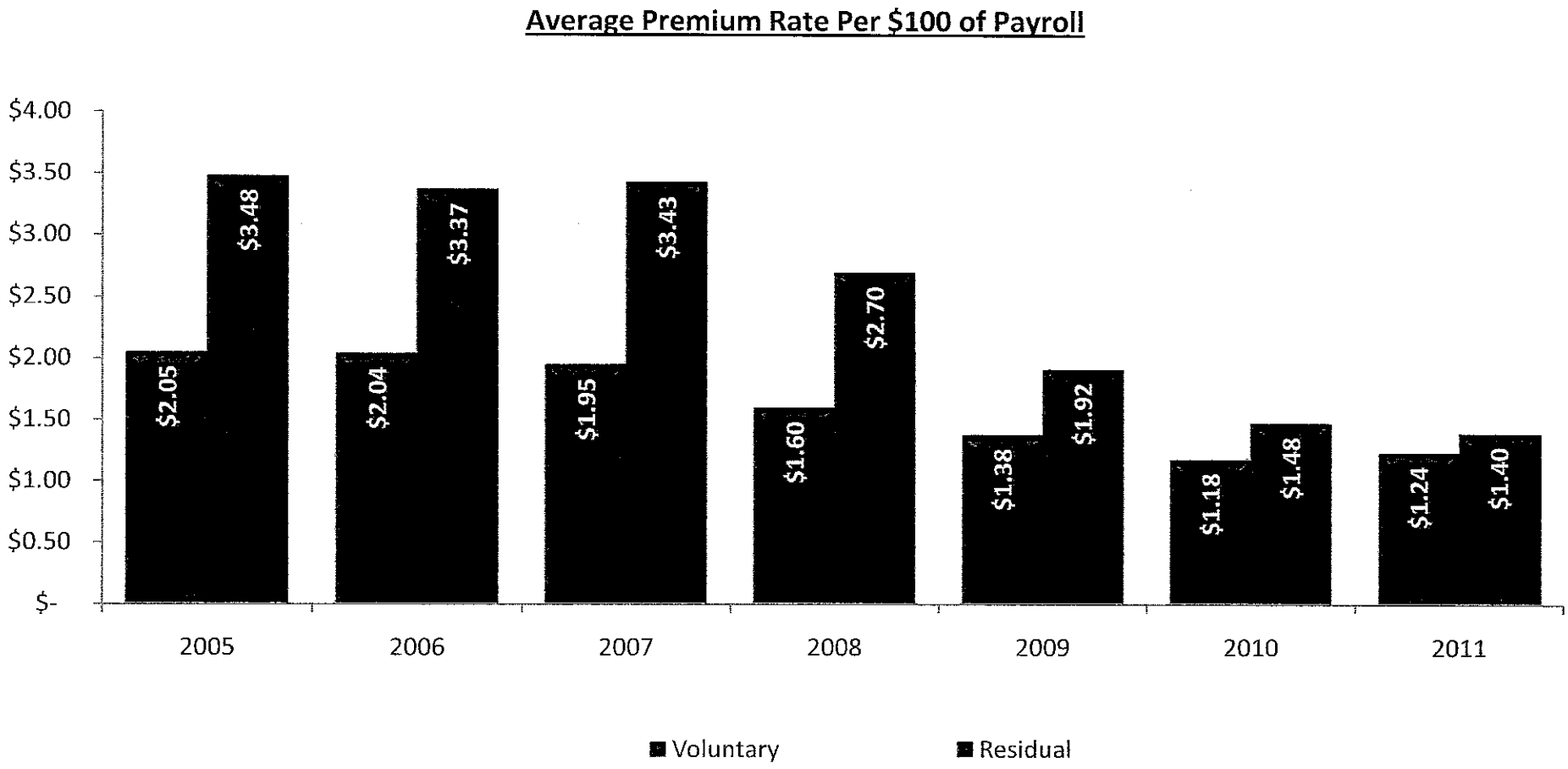
Residual as a % of Market



Estimated assuming one third of Utah market is self-insured.

Workers Compensation Fund

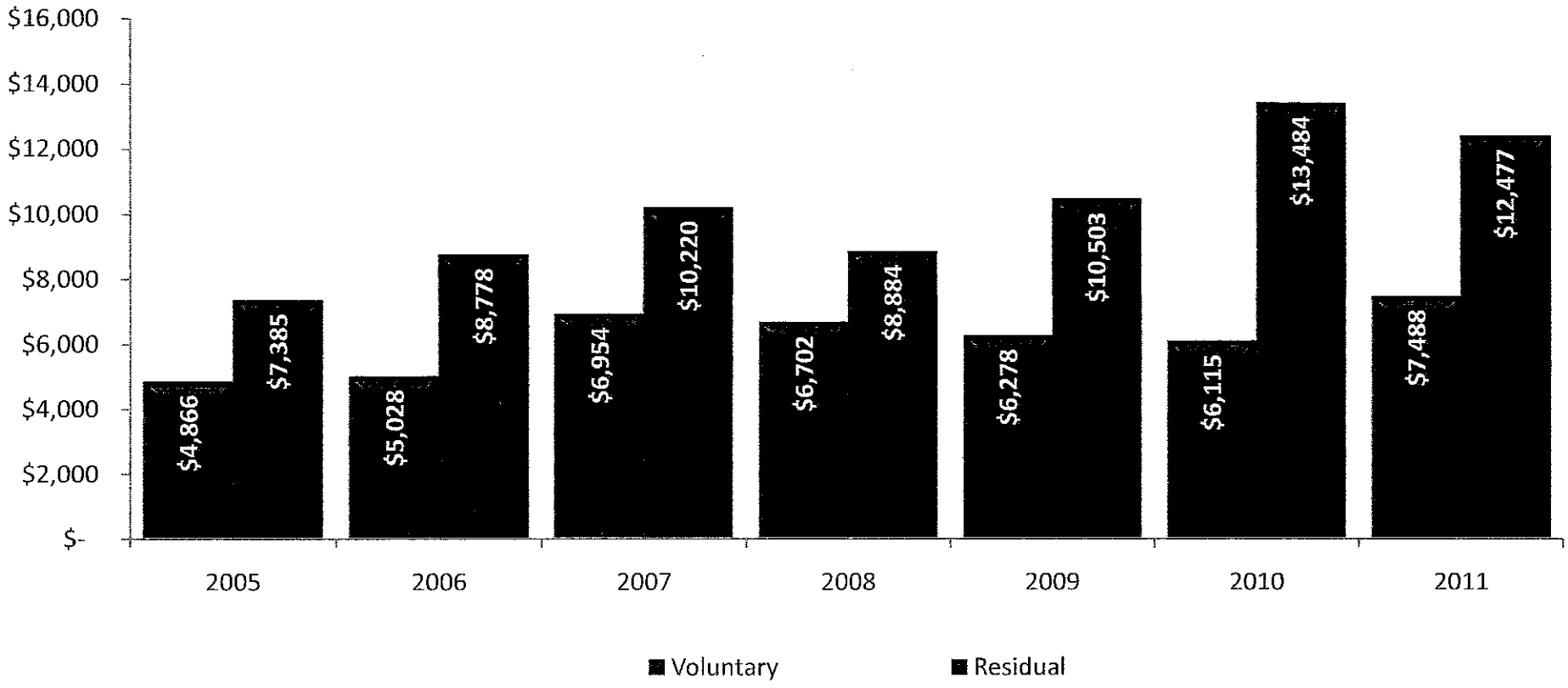
Residual Market Statistics



Workers Compensation Fund

Residual Market Statistics

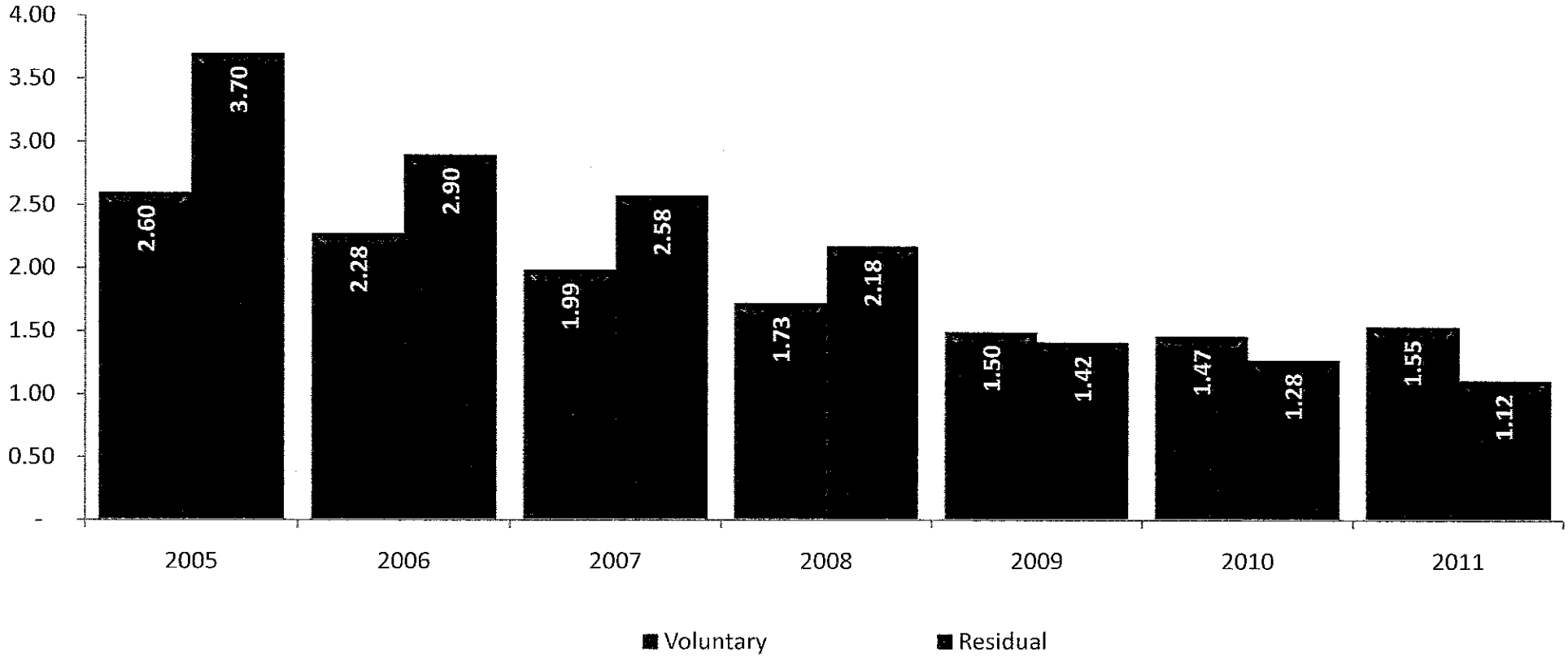
Average Loss Severity Per Claim



Workers Compensation Fund

Residual Market Statistics

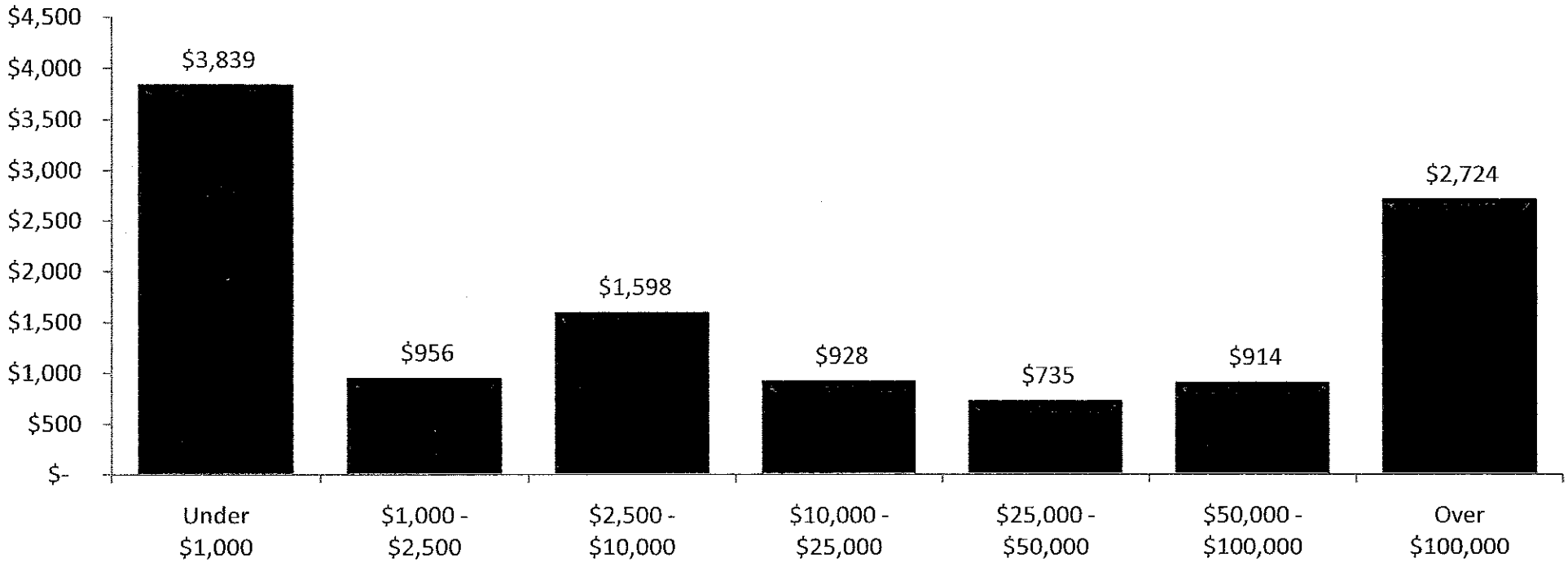
Claims Frequency Per Million $ of Reported Payroll



Workers Compensation Fund

Residual Market Statistics

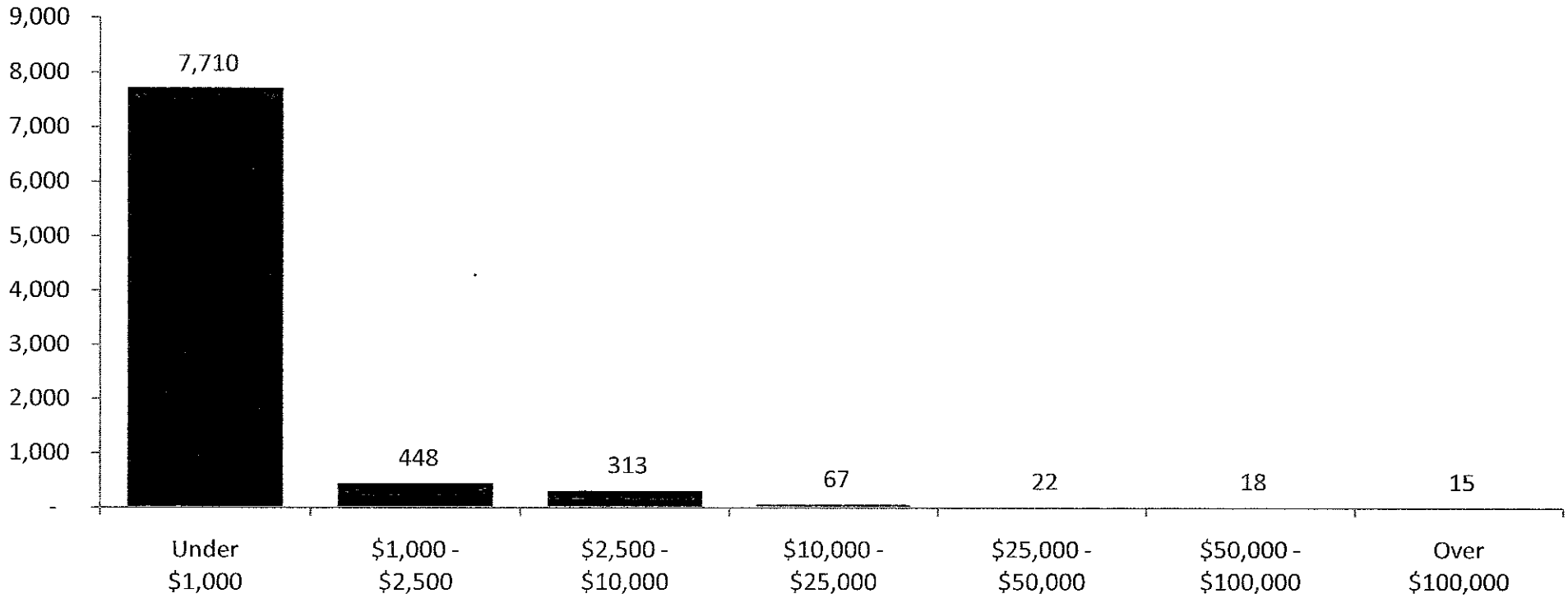
2011 Residual By Strata - Earned Premium *(000's)*



Workers Compensation Fund

Residual Market Statistics

2011 Residual By Strata - Policy Count

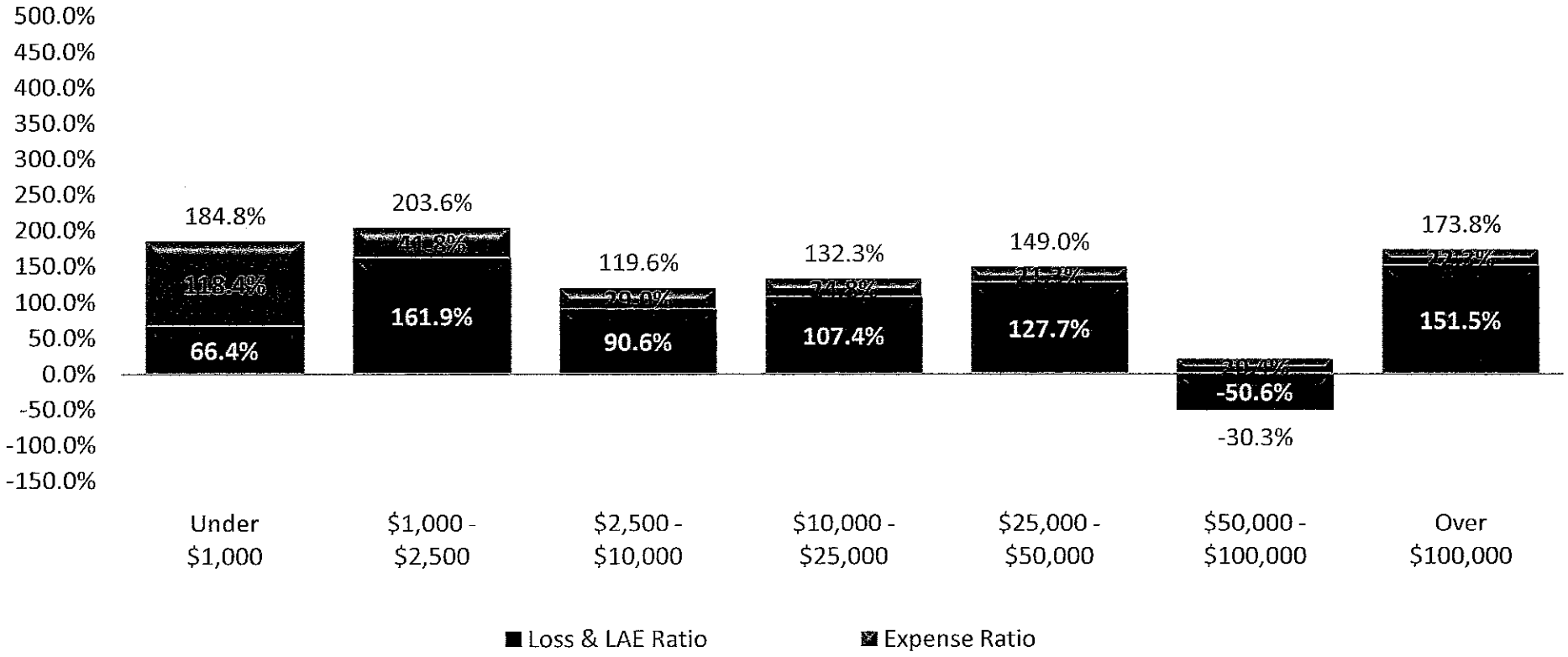


Workers Compensation Fund

Residual Market Statistics

Residual Market By Strata

2011 Loss & LAE and Expense Ratios



Utah Issues

- Physician Fee Schedule
  - Effective December 1, 2011
  - Overall impact 1.3%, incorporated in the loss cost filing effective December 1, 2011

- Maximum Attorney Fee Change
  - Increased by about 12%
  - Effective October 1, 2011
  - Overall cost impact expected to be minimal

© Copyright 2013 National Council on Compensation Insurance, Inc. All Rights Reserved

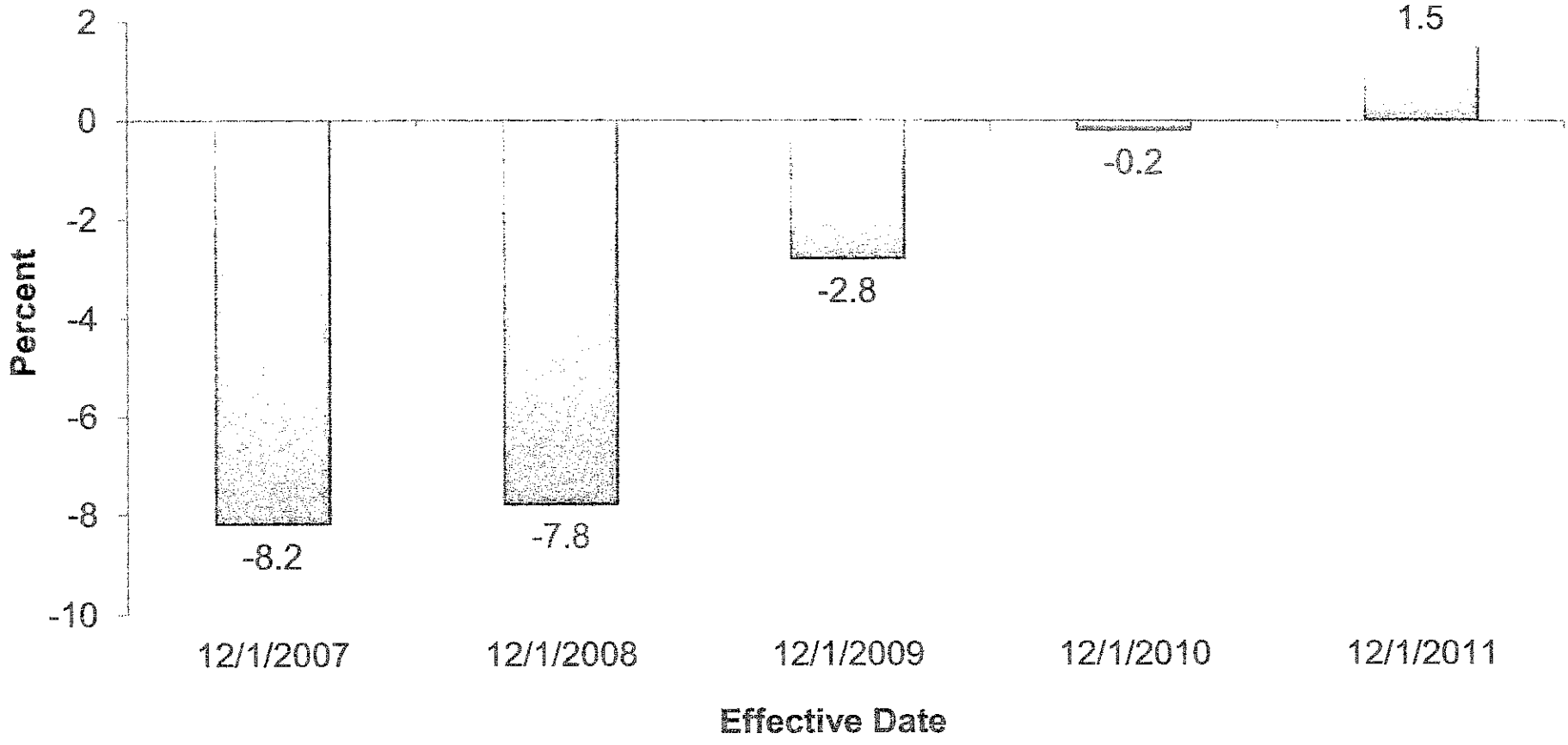
Utah
Workers Compensation System
An Overview

- Premium continues to decline
- Combined ratios continue to deteriorate
- Utah pure loss costs remain in the bottom fourth of NCCI states
- Utah claim frequency continues to decline
- Utah average medical cost per case has increased steadily

© Copyright 2011 National Council on Compensation Insurance, Inc. All Rights Reserved.

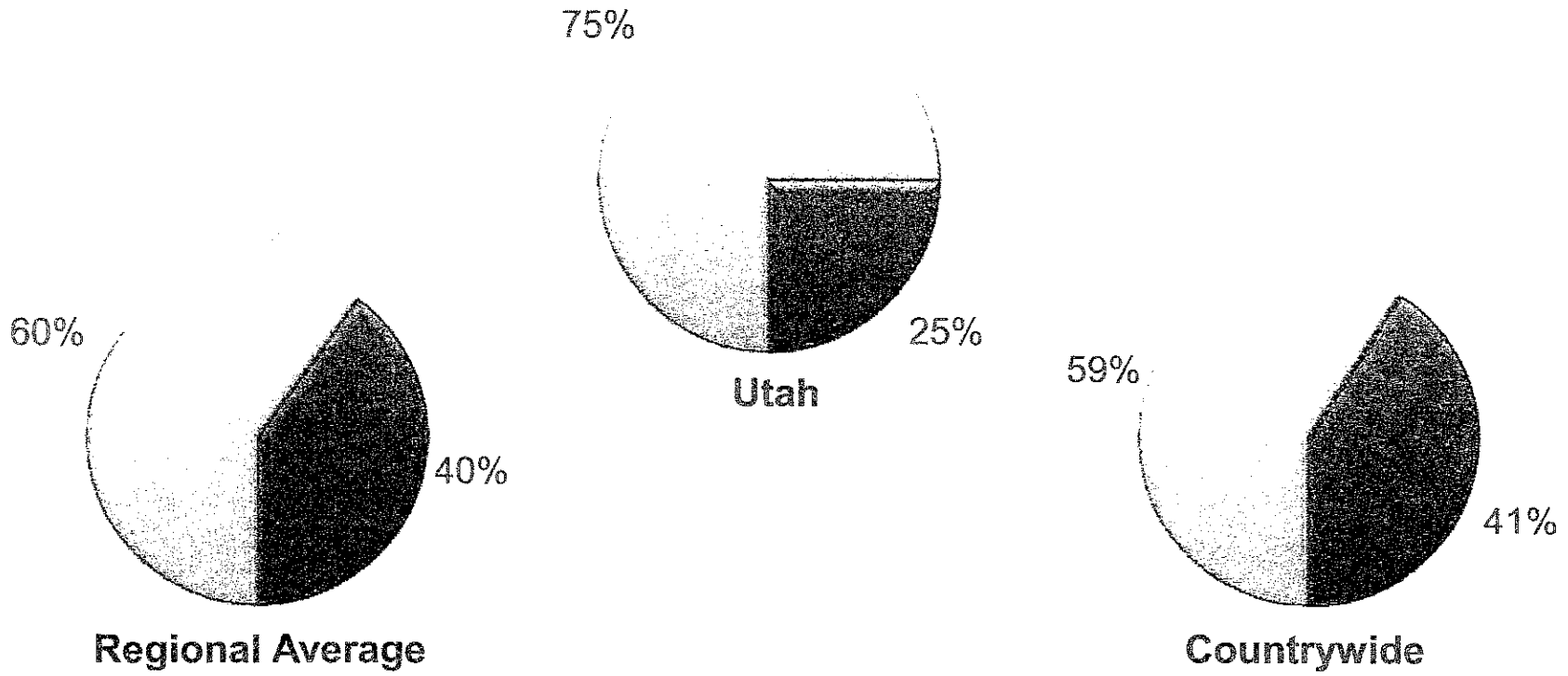
Utah Filing Activity

Voluntary Loss Cost Level Changes



© Copyright 2011 National Council on Compensation Insurance, Inc. All Rights Reserved

Medical Benefits Constitute the Majority of Total Benefit Costs in Utah



Regional states are AZ, CO, ID, NM, NV, and OR
Regional average and countrywide are based on financial data valuated in 2009
Utah is based on financial data valuated in 2010

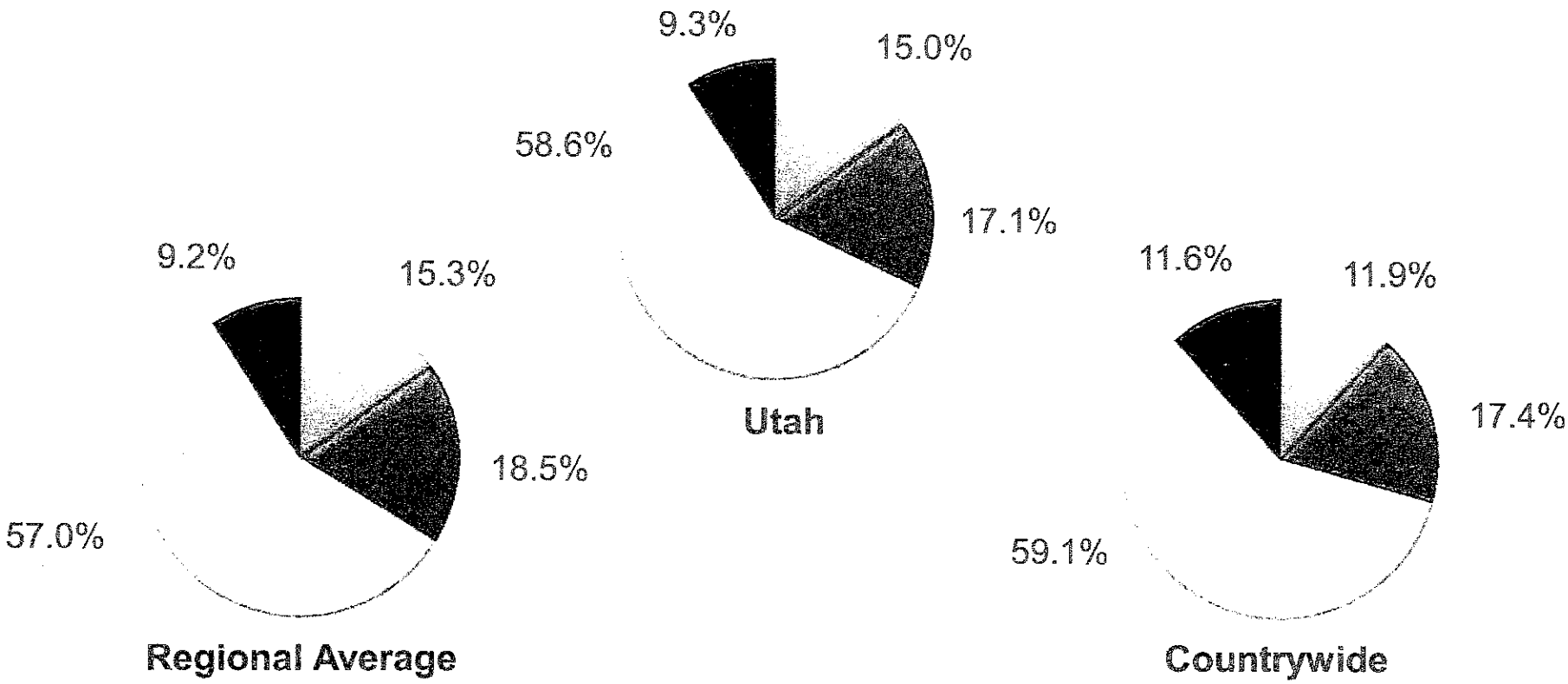
© Copyright 2011 National Council on Compensation Insurance, Inc. All Rights Reserved.

Utah Filing Overview

- One indemnity benefit change (+0.2%) and one medical fee change (+1.3%) reflected
- Loss Adjustment Expense (LAE) increase contributes +0.5% to increase
- Utah experience exhibits some deterioration, partially offset by decline in loss development factors
- Average medical cost per case has increased steadily while frequency has continued to decline

© Copyright 2011 National Council on Compensation Insurance, Inc. All Rights Reserved.

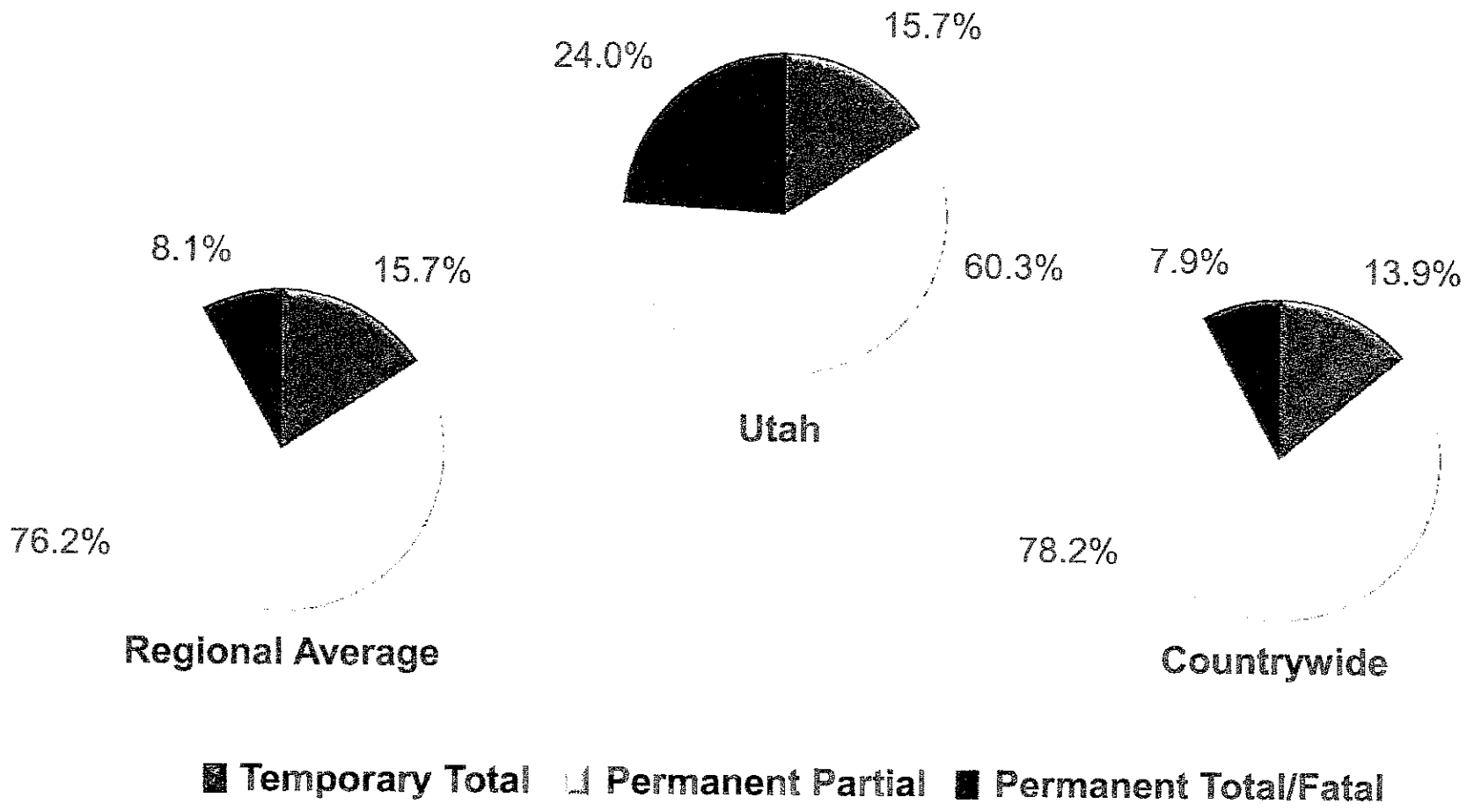
Utah Medical Loss Distribution by Injury Type



Regional states are AZ, CO, ID, NM, NV, and OR
Based on NCCI's ***Statistical Plan*** data

© Copyright 2011 National Council on Compensation Insurance, Inc. All Rights Reserved

Utah Indemnity Loss Distribution by Injury Type



Regional states are AZ, CO, ID, NM, NV, and OR
Based on NCCI's ***Statistical Plan*** data

© Copyright 2011 National Council on Compensation Insurance, Inc. All Rights Reserved.

Workers Compensation Market Share Reports
Top Ten Insurers by Written Premium

Data from insurers reported to the
National Association of Insurance Commissioners

2011

1- Workers Comp Fund	48.91%	$145,789,438
2- Zurich American Ins. Co.	4.02%	$ 11,789,438
3- New Hampshire Ins. Co.	3.05%	$ 9,089,739
4- Phoenix Ins. Co.	2.64%	$ 7,873,297
5- Liberty Ins. Corp.	2.08%	$ 6,200,891
6- American Zurich Ins. Co.	2.04%	$ 6,091,732
7- Auto Owners Ins. Co.	1.69%	$ 5,039,662
8- Twin City Fire Ins. Co.	1.56%	$ 4,635,365
9- American Liberty Ins. Co.	1.54%	$ 4,587,415
10-Owners Ins. Co.	1.51%	$ 4,496,979

2010

1- Workers Comp Fund	51.28%	$146,944,567
2- Zurich American Ins. Co.	4.81%	$ 13,794,363
3- Phoenix Ins. Co.	3.81%	$ 10,914,628
4- Illinois National Ins. Co.	2.47%	$ 7,083,374
5- New Hampshire Ins. Co.	2.47%	$ 7,074,560
6- Auto Owners Ins. Co.	1.90%	$ 5,449,924
7- American Liberty Ins. Co.	1.62%	$ 4,636,278
8- Liberty Ins. Corp.	1.52%	$ 4,342,361
9- Ins. Co. of The State of PA.	1.38%	$ 3,942,244
10-Owners Ins. Co.	1.24%	$ 3,567,640

2009

1- Workers Comp Fund	49.72%	$178,941,484
2- New Hampshire Ins. Co.	3.67%	$ 13,200,168
3- Zurich American Ins. Co.	3.25%	$ 11,686,053
4- Liberty Ins. Corp.	2.70%	$ 9,729,320
5- Phoenix Ins. Co.	2.65%	$ 9,548,040
6- Auto Owners Ins. Co.	2.09%	$ 7,529,809
7- Ins. Co. of The State of PA.	1.89%	$ 6,806,944
8- American Liberty Ins. Co.	1.65%	$ 5,932,462
9- American Zurich Ins. Co.	1.53%	$ 5,496,812
10-Benchmark Ins. Co.	1.39%	$ 5,009,330

2008

1- Workers Comp Fund	52.28%	$235,521,289
2- American Home Assur. Co.	2.83%	$ 12,748,681
3- Zurich American Ins. Co.	2.77%	$ 12,485,458
4- Auto Owners Ins. Co.	2.60%	$ 11,700,620
5- Liberty Ins. Corp.	2.59%	$ 11,659,623
6- Phoenix Ins. Co.	2.48%	$ 11,175,314
7- New Hampshire Ins. Co.	2.02%	$ 9,121,906
8- American Liberty Ins. Co.	1.88%	$ 8,461,464
9- Benchmark Ins. Co.	1.85%	$ 8,329,382
10-Liberty Mutual Fire Ins. Co.	1.52%	$ 6,862,466

UNIVERSITY OF UTAH
SCHOOL OF MEDICINE

Department of Family and Preventive Medicine
Rocky Mountain Center for Occupational & Environmental Health

June 29, 2012

Jonathan C. Ball
Legislative Fiscal Analyst
State Capitol Complex
House Building, Suite W310
Post Office Box 145310
Salt Lake City, UT 84114

Re: Annual Financial Report for SB 159 (2005 General Legislative Session): "Assessment Offset for Donations Promoting Occupational Health and Safety"

Dear Mr. Ball:

Pursuant to the terms of the above referenced legislation, and its continuation with the 2010 legislation,1HB221, "Sunset Act and Repealers Reauthorization," (2010 Utah General Legislative Session), please accept this letter as The Rocky Mountain Center for Occupational and Environmental Health's report of qualified donations received, as well as expenditures made, during calendar year 2011.

The purpose of this legislative initiative was to maintain the existence of the Rocky Mountain Center for Occupational and Environmental Health at the University of Utah by providing stable funding in the face of tighter State budgets and declining state funding of the University of Utah. This legislative goal has been met.

Application of SB159 Funding support:

All SB159 funds are maintained in a separate RMCOEH account to facilitate tracking of receipts and expenditures. All funds are exclusively expended to support graduate education and training in safety and ergonomics, industrial hygiene, and occupational medicine; to support continuing education programs for employers designed to promote workplace safety; or to support reasonable administrative, personnel, equipment, and overhead costs of our Center. These funds also support ongoing outreach program efforts to improve and inform the public. Receipts have been provided to all donors. Attached is a listing of receipts and expenditures for the period January 2011 through December 2011.

391 Chipeta Way, Suite C
Salt Lake City, Utah 84108
Phone 801-581-4055
Fax 801-585-5275

The revenues and sources generated under this funding mechanism, and a summary of the expenditures are shown in Appendix A.

Specific Occupational Health and Safety Enhancements and Activities as a Result of SB159 (2005 G.S.) in 2010 include:

1. Provide salary support that continues to be critical to the successful operation of the RMCOEH. Without this line of donations and funding, the RMCOEH would not survive.
2. Maintain support for young faculty members
3. On the basis of this revenue, we applied for a total of 3 additional extramural grants. We were thus far successful in achieving funding for 1 of those extramurally funded research grant proposals.
4. We now offer the Master of Science in Occupational Health (MSOH) and Master of Occupational Health MOH) degrees. Stable funding through the SB159 mechanism has helped the University to approve the degree program as a financially viable program. The MSOH program is already producing highly trained graduates with much more expertise in the various aspects of occupational safety and health. Our students are continuing to graduate with well-paid jobs. Another class of highly qualified students is matriculating this autumn.
5. We have developed a newly approved PhD in Occupational and Environmental Health to train highly qualified graduates for industry, as well as the next generation of teachers. As problems in industry have grown increasingly complex, the need for a select number of PhD graduates has also arisen which this funding has helped found.
6. These SB159 funds continue to allow faculty some time to participate in the RMCOEH's Outreach efforts, including consultations to reduce injuries in Utah's workers.

In summary, the RMCOEH has used the SB159 funds obtained during the seventh year of this initiative to further strengthen our faculty, provide funding to initiate a new PhD in Occupational and Environmental Health to address the needs of businesses, nurture new faculty, initiate new efforts to support businesses, continue two masters degree programs that are better preparing our graduates for industry, and continue to recruit and enroll well-qualified students who will be working in the future to improve the health or workers in Utah, as well as the state's business climate through prevention of work-related injuries and appropriate care for injuries that occur.

We note that SB159 funding was reauthorized by 1HB221, 2010 G.S. to sunset December 31, 2020. We are grateful for this confidence in the RMCOEH.

Rocky Mountain Center for Occupational and Environmental Health Background:

The Rocky Mountain Center for Occupational and Environmental Health (Rocky Mountain Center) is one of the 17 national Education and Research Centers sponsored by the National Institute for Occupational Safety and Health (NIOSH). It was established at the University of Utah in 1977 and has been funded continuously by major NIOSH grants since 1978. The mission of the Rocky Mountain Center is "*Protecting the worker and the environment though interdisciplinary education, research, and service.*"

Through training graduate students in occupational safety and health disciplines, providing short courses to enable these professionals to maintain and advance their capabilities, and research, the Rocky Mountain Center helps provide Utah with a healthy and safer workforce that makes Utah businesses more competitive in the world climate through reductions in workplace injuries and diseases that otherwise would cost businesses higher workers compensation costs. For example, our graduates directly work to address the nation's occupationally-related illnesses and injuries that cost more than $240 billion annually, equal to the cost of heart disease or cancer. Each day, 9,000 of the nation's workers sustain disabling injuries on the job; 137 people die from work-related illnesses, although these are slowly trending down. The efforts of professionals who have completed RMCOEH programs help prevent the daily toll of such illnesses and injuries in Utah's workers.

The Rocky Mountain Center trains graduate students (Masters and PhD) in Industrial Hygiene, Hazardous Substances, Occupational Injury Prevention, Occupational Medicine and Ergonomics and Safety. There have been over 500 graduates since the inception of the center, and surveys of our graduates demonstrate that all of our former graduates rate our programs as Excellent or Very Good in preparing them for their careers. We also conduct over 180 Continuing Education Courses and other outreach activities annually with over 5,000 participants to update and improve the existing OSH programs managed by these professionals in Utah's businesses.

The Rocky Mountain Center additionally contributes to Utah's knowledge based economy through major research projects that develop new and innovative methods to reduce the burden of occupational injuries. Current involvement in such research projects is approximately $22M/year. These projects include major investigations of truck drivers health and risk of crashes, common musculoskeletal disorders (carpal tunnel syndrome, low back pain, shoulder tendinitis, etc), and the National Children's Study, for which we provide the expertise and measurements of exposures to demonstrate what exposures, if any result in childhood illnesses. Additionally, we have major expertise in chemical/biological/nuclear terrorism preparedness, and our faculty have worked with the Department of Health to lead the development of the state's Medical Surge Capacity Plan, and another plan for a Regional Homeland Defense Medical Center for such untoward events.

The Rocky Mountain Center is involved in extensive Outreach efforts to businesses that include assistance to over 1,100 Utah businesses and government agencies annually. Such assistance

includes consultations to education to healthcare.

We would welcome an invitation to appear before a Legislative Committee to present this report or answer any questions Legislators may have about RMCOEH or occupational health and safety issues in Utah. If you have any additional questions, please do not hesitate to contact me or the financial administrator for the Rocky Mountain Center, Ms. Deanne Clegg at 581-3532.

Sincerely,

Kurt T. Hegmann, MD, MPH
Center Director and Professor
Dr. Paul S. Richards Endowed Chair in
Occupational Safety and Health

801-581-4800 (direct 801-587-3333)
kurt.hegmann@hsc.utah.edu

c. Sherrie Hayashi, Utah Labor Commissioner

Appendix A
SB 159 Expenses and Revenues

2011 Revenues:		
American Liberty Insurance Co., Inc	01/04/2011	$ 4,500.00
Workers Donor (chooses anonymity)	03/31/2011	$ 4,278.00
Brigham Young University	05/03/2011	$ 837.00
Intermountain Healthcare	05/04/2011	$ 2,626.00
Workers Compensation Fund	06/06/2011	$ 125,000.00
Intermountain Healthcare	12/16/2011	$ 6,190.00
Workers Compensation Fund	12/16/2011	$ 22,000.00
Total Revenue		**$165,431.00***

2011 Expenditures:		
Faculty Salaries / Benefits:	$ 59,472	Moser, Hughes, Larson, Pahler, Merryweather
Staff Salaries/Benefits:	$ 73,069	Bradakis, Clegg, Keough
Telephone	$ 163	Telephone monthly charges / Long distance Installation / Repair
Membership Dues	$ 4,900	AUPOHS annual membership (professional organization of the 17 NIOSH Education and Research Centers)
Postage/Shipping	$ 32	Postage and Fed Ex charges
Total Expenditures:		**$ 137,637.00***

***Revenues and Expenditures for this annual report are based on a Calendar year, January through December 2011. The University financial reporting is based on a Fiscal Year, July 1, 2011 – June 30, 2012. The balance of the funds will be expensed by the end of the fiscal year, June 30, 2012.**