

Senator Karen Mayne proposes the following substitute bill:

WORKERS' COMPENSATION PREMIUM

ASSESSMENT AND RELATED

FUNDING

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen Mayne

House Sponsor: Michael T. Morley

LONG TITLE

General Description:

This bill modifies provisions concerning funding related to workers' compensation and workplace safety programs through the workers' compensation premium assessments.

Highlighted Provisions:

This bill:

- ▶ requires a report of the Workers' Compensation Advisory Council and Labor Commission;
- ▶ creates the Industrial Accident Restricted Account;
- ▶ modifies the purposes for which monies may be appropriated from the Workplace Safety Account;
- ▶ names the Eddie P. Mayne Workplace Safety and Occupational Health Funding Program;
- ▶ caps the amount that may be appropriated under the Eddie P. Mayne Workplace Safety and Occupational Health Funding Program;
- ▶ requires reporting;
- ▶ addresses premium assessment allocations;

1st Sub. S.B. 15



- 26 ▶ provides for the repeal of the Industrial Accident Restricted Account; and
- 27 ▶ makes technical and conforming changes.

28 **Monies Appropriated in this Bill:**

29 This bill appropriates, as an ongoing appropriation subject to future budget constraints,
30 from the Workplace Safety Account for fiscal year 2009-10, \$150,000 to the University
31 of Utah to be used by the Rocky Mountain Center for Occupational and Environmental
32 Health.

33 **Other Special Clauses:**

34 This bill provides an immediate effective date.

35 **Utah Code Sections Affected:**

36 AMENDS:

- 37 **34A-2-107**, as last amended by Laws of Utah 2001, Chapter 114
- 38 **34A-2-202.5**, as last amended by Laws of Utah 2007, Chapter 232
- 39 **34A-2-701**, as last amended by Laws of Utah 2006, Chapter 259
- 40 **53B-17-804**, as enacted by Laws of Utah 2007, Chapter 232
- 41 **59-9-101**, as last amended by Laws of Utah 2006, Chapter 44
- 42 **59-9-102.5**, as last amended by Laws of Utah 2007, Chapter 232
- 43 **63I-1-234**, as renumbered and amended by Laws of Utah 2008, Chapter 382

44 ENACTS:

45 **34A-2-705**, Utah Code Annotated 1953



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

48 Section 1. Section **34A-2-107** is amended to read:

49 **34A-2-107. Appointment of workers' compensation advisory council --**

50 **Composition -- Terms of members -- Duties -- Compensation.**

51 (1) The commissioner shall appoint a workers' compensation advisory council
52 composed of:

- 53 (a) the following voting members:
- 54 (i) five employer representatives; and
- 55 (ii) five employee representatives; and
- 56 (b) the following nonvoting members:

- 57 (i) a representative of the Workers' Compensation Fund;
- 58 (ii) a representative of a private insurance carrier;
- 59 (iii) a representative of health care providers;
- 60 (iv) the Utah insurance commissioner or the insurance commissioner's designee; and
- 61 (v) the commissioner or the commissioner's designee.

62 (2) Employers and employees shall consider nominating members of groups who
63 historically may have been excluded from the council, such as women, minorities, and
64 individuals with disabilities.

65 (3) (a) Except as required by Subsection (3)(b), as terms of current council members
66 expire, the commissioner shall appoint each new member or reappointed member to a two-year
67 term beginning July 1 and ending June 30.

68 (b) Notwithstanding the requirements of Subsection (3)(a), the commissioner shall, at
69 the time of appointment or reappointment, adjust the length of terms to ensure that the terms of
70 council members are staggered so that approximately half of the council is appointed every two
71 years.

72 (4) (a) When a vacancy occurs in the membership for any reason, the replacement shall
73 be appointed for the unexpired term.

74 (b) The commissioner shall terminate the term of ~~any~~ a council member who ceases
75 to be representative as designated by the member's original appointment.

76 (5) (a) The council shall confer at least quarterly for the purpose of advising the
77 commission, the division, and the Legislature on:

78 ~~(a)~~ (i) the Utah workers' compensation and occupational disease laws;

79 ~~(b)~~ (ii) the administration of the laws described in Subsection (5)(a)(i); ~~and~~

80 ~~(c)~~ (iii) rules related to the laws described in Subsection (5)(a)~~(i)~~; and

81 (iv) advising the Legislature in accordance with Subsection (5)(b).

82 (b) (i) The council and the commission shall jointly study during 2009 the premium
83 assessment under Section 59-9-101 on an admitted insurer writing workers' compensation
84 insurance in this state and on a self-insured employer under Section 34A-2-202 as to:

85 (A) whether or not the premium assessment should be changed; or

86 (B) whether or not changes should be made to how the premium assessment is used.

87 (ii) The council and commission shall jointly report the results of the study described in

88 this Subsection (5)(b) to the Business and Labor Interim Committee by no later than the 2009
89 November interim meeting.

90 (6) Regarding workers' compensation, rehabilitation, and reemployment of employees
91 who are disabled because of an industrial injury or occupational disease the council shall:

92 (a) offer advice on issues requested by:

93 (i) the commission;

94 (ii) the division; and

95 (iii) the Legislature; and

96 (b) make recommendations to:

97 (i) the commission; and

98 (ii) the division.

99 (7) The commissioner or the commissioner's designee shall serve as the chair of the
100 council and call the necessary meetings.

101 (8) The commission shall provide staff support to the council.

102 (9) (a) (i) ~~[Members who are]~~ A member who is not a government ~~[employees]~~
103 employee may not receive compensation or benefits for ~~[their services]~~ the member's service,
104 but may receive per diem and expenses incurred in the performance of the member's official
105 duties at the rates established by the Division of Finance under Sections 63A-3-106 and
106 63A-3-107.

107 (ii) ~~[Members]~~ A member may decline to receive per diem and expenses for ~~[their]~~ the
108 member's service.

109 (b) (i) ~~[State]~~ A state government officer ~~[and]~~ or employee ~~[members]~~ member who
110 ~~[do]~~ does not receive salary, per diem, or expenses from ~~[their]~~ the member's agency for ~~[their]~~
111 the member's service may receive per diem and expenses incurred in the performance of ~~[their]~~
112 the member's official duties from the council at the rates established by the Division of Finance
113 under Sections 63A-3-106 and 63A-3-107.

114 (ii) ~~[State]~~ A state government officer ~~[and]~~ or employee ~~[members]~~ member may
115 decline to receive per diem and expenses for ~~[their]~~ the member's service.

116 Section 2. Section **34A-2-202.5** is amended to read:

117 **34A-2-202.5. Offset for occupational health and safety related donations.**

118 (1) As used in this section:

119 (a) "Occupational health and safety center" means the Rocky Mountain Center for
120 Occupational and Environmental Health created in Title 53B, Chapter 17, Part 8, Rocky
121 Mountain Center for Occupational and Environmental Health.

122 (b) "Qualified donation" means a donation that is:

123 (i) cash;

124 (ii) given directly to an occupational health and safety center; and

125 (iii) given exclusively for the purpose of:

126 (A) supporting graduate level education and training in fields of:

127 (I) safety and ergonomics;

128 (II) industrial hygiene;

129 (III) occupational health nursing; and

130 (IV) occupational medicine;

131 (B) providing continuing education programs for employers designed to promote
132 workplace safety; and

133 (C) paying reasonable administrative, personnel, equipment, and overhead costs of the
134 occupational health and safety center.

135 (c) "Self-insured employer" is a self-insured employer as defined in Section
136 34A-2-201.5 that is required to pay the assessment imposed under Section 34A-2-202.

137 (2) (a) A self-insured employer may offset against the assessment imposed under
138 Section 34A-2-202 an amount equal to the lesser of:

139 (i) the total of qualified donations made by the self-insured employer in the calendar
140 year for which the assessment is calculated; and

141 (ii) .10% of the self-insured employer's total calculated premium calculated under
142 Subsection 34A-2-202(1)(d) for the calendar year for which the assessment is calculated.

143 (b) The offset provided under this Subsection (2) shall be allocated [~~to the restricted~~
144 ~~account and funds described in Subsection 59-9-101(2)(c)] in proportion to the [rates]
145 percentages provided in Subsection 59-9-101(2)(c).~~

146 (3) An occupational health and safety center shall:

147 (a) provide a self-insured employer a receipt for any qualified donation made by the
148 self-insured employer to the occupational health and safety center;

149 (b) expend monies received by a qualified donation:

150 (i) for the purposes described in Subsection (1)(b)(iii); and
151 (ii) in a manner that can be audited to ensure that the monies are expended for the
152 purposes described in Subsection (1)(b)(iii); and
153 (c) in conjunction with the report required by Section 59-9-102.5, report to the
154 Legislature through the Office of the Legislative Fiscal Analyst by no later than July 1 of each
155 year:

156 (i) the qualified donations received by the occupational health and safety center in the
157 previous calendar year; and
158 (ii) the expenditures during the previous calendar year of qualified donations received
159 by the occupational health and safety center.

160 Section 3. Section **34A-2-701** is amended to read:

161 **34A-2-701. Premium assessment restricted account for safety.**

162 (1) There is created in the General Fund a restricted account known as the "Workplace
163 Safety Account."

164 (2) (a) An amount equal to 0.25% of the premium income remitted to the state
165 treasurer pursuant to Subsection 59-9-101(2)(c)(ii) shall be deposited in the Workplace Safety
166 Account in the General Fund for use ~~[by the commission to promote Utah workplace safety]~~ as
167 provided in this section.

168 (b) Beginning with fiscal year 2008-09, if the balance in the Workplace Safety Account
169 exceeds \$500,000 at the close of a fiscal year, the excess shall be transferred to the Employers'
170 Reinsurance Fund, created under Subsection 34A-2-702(1).

171 (3) ~~[Monies shall be appropriated by the]~~ The Legislature shall appropriate from the
172 restricted account monies to one or both of the following:

173 (a) monies to the commission for use by the commission to:

174 ~~[(a)]~~ (i) improve safety consultation services available to Utah employers; or

175 ~~[(b)]~~ (ii) provide for electronic or print media advertising campaigns designed to
176 promote workplace safety; ~~[or]~~ and

177 ~~[(c) contract for studies of workplace safety issues such as whether or not there is~~
178 ~~scientific support for a presumption that for certain occupations some occupational diseases are~~
179 ~~medically caused or aggravated by employment.]~~

180 (b) subject to Subsection (7), monies known as the "Eddie P. Mayne Workplace Safety

181 and Occupational Health Funding Program":

182 (i) to an institution within the state system of higher education, as defined in Section
 183 53B-1-102; and

184 (ii) to be expended by an education and research center that is:

185 (A) affiliated with the institution described in Subsection (3)(b)(i); and

186 (B) designated as an education and research center by the National Institute for
 187 Occupational Safety and Health.

188 (4) From monies appropriated by the Legislature from the restricted account to the
 189 commission for use by the commission, the commission may fund other safety programs or
 190 initiatives recommended to it by its state workers' compensation advisory council created under
 191 Section 34A-2-107.

192 (5) (a) The commission shall annually report to the governor, the Legislature, and its
 193 state council regarding:

194 ~~[(a)]~~ (i) the use of the monies appropriated to the commission under Subsection (3) or
 195 (4); and

196 ~~[(b)]~~ (ii) the [use] impact of the use of the monies on the safety of Utah's workplaces.

197 (b) By no later than August 15 following a fiscal year in which an education and
 198 research center receives monies from an appropriation under Subsection (3)(b), the education
 199 and research center shall report:

200 (i) to:

201 (A) the governor;

202 (B) the Legislature;

203 (C) the commission; and

204 (D) the state workers' compensation advisory council created under Section
 205 34A-2-107; and

206 (ii) regarding:

207 (A) the use of the monies appropriated under Subsection (3)(b); and

208 (B) the impact of the use of the monies on the safety of Utah's workplaces.

209 (6) The monies deposited in the restricted account:

210 (a) shall be:

211 (i) used only for the activities described in Subsection (3) or (4); and

212 (ii) expended according to processes that can be verified by audit; and

213 (b) may not be used by the commission for:

214 (i) administrative costs unrelated to the restricted account; or

215 (ii) any activity of the commission other than the activities of the commission

216 described in Subsection (3) or (4).

217 (7) The total of appropriations under Subsection (3)(b) may not exceed for a fiscal year

218 an amount equal to 20% of the premium income remitted to the state treasurer pursuant to

219 Subsection 59-9-101(2)(c) and deposited in the Workplace Safety Account during the previous

220 fiscal year.

221 Section 4. Section **34A-2-705** is enacted to read:

222 **34A-2-705. Industrial Accident Restricted Account.**

223 (1) As used in this section:

224 (a) "Account" means the Industrial Accident Restricted Account created by this
225 section.

226 (b) "Advisory council" means the state workers' compensation advisory council created
227 under Section 34A-2-107.

228 (2) There is created in the General Fund a restricted account known as the "Industrial
229 Accident Restricted Account."

230 (3) (a) The account is funded from .5% of the premium income remitted to the state
231 treasurer and credited to the account pursuant to Subsection 59-9-101(2)(c)(iv).

232 (b) If the balance in the account exceeds \$500,000 at the close of a fiscal year, the
233 excess shall be transferred to the Uninsured Employers' Fund created under Section 34A-2-704.

234 (4) (a) From monies appropriated by the Legislature from the account to the
235 commission and subject to the requirements of this section, the commission may fund:

236 (i) the activities of the Division of Industrial Accidents described in Section
237 34A-1-202; and

238 (ii) the activities of the Division of Adjudication described in Section 34A-1-202.

239 (b) The monies deposited in the account may not used for a purpose other than a
240 purpose described in this Subsection (4), including an administrative cost or another activity of
241 the commission unrelated to the account.

242 (5) (a) Each year before the public hearing required by Subsection 59-9-101(2)(d)(i),

243 the commission shall report to the advisory council regarding:

244 (i) the commission's budget request to the governor for the next fiscal year related to:

245 (A) the Division of Industrial Accidents; and

246 (B) the Division of Adjudication;

247 (ii) the expenditures of the commission for the fiscal year in which the commission is
248 reporting related to:

249 (A) the Division of Industrial Accidents; and

250 (B) the Division of Adjudication; and

251 (iii) revenues generated from the premium assessment under Section 59-9-101 on an
252 admitted insurer writing workers' compensation insurance in this state and on a self-insured
253 employer under Section 34a-2-202.

254 (b) The commission shall annually report to the governor and the Legislature
255 regarding:

256 (i) the use of the monies appropriated to the commission under this section; and

257 (ii) revenues generated from the premium assessment under Section 59-9-101 on an
258 admitted insurer writing workers' compensation insurance in this state and on a self-insured
259 employer under Section 34a-2-202.

260 Section 5. Section **53B-17-804** is amended to read:

261 **53B-17-804. Reporting.**

262 (1) (a) The board, through the director and the board chair, shall provide by no later
263 than July 1 of each year, a written report to:

264 [(a)] (i) the president of the university; and

265 [(b)] (ii) the Business and Labor Interim Committee.

266 [(2)] (b) The report required by this [section] Subsection (1) shall:

267 [(a)] (i) summarize the center's activities and accomplishments in the immediate
268 proceeding calendar year; and

269 [(b)] (ii) provide information and the board's advice and recommendations on how the
270 state, university, and the center can:

271 [(i)] (A) improve workplace health and safety; and

272 [(ii)] (B) contribute to economic growth and development in Utah and the surrounding
273 region.

274 (2) (a) If the center receives in a fiscal year monies from the Eddie P. Mayne
275 Workplace Safety and Occupational Health Funding Program provided for in Section
276 34A-2-701, the center shall provide a written report:
277 (i) by no later than the August 15 following the fiscal year;
278 (ii) to the Office of the Legislative Fiscal Analyst;
279 (iii) for review by the one or more appropriations subcommittees designated by the
280 Executive Appropriations Committee;
281 (iv) that accounts for the expenditure of monies received in the fiscal year by the center
282 from the Eddie P. Mayne Workplace Safety and Occupational Health Funding Program
283 including impact on workplace safety in Utah; and
284 (v) that includes a preliminary statement as to monies the center will request from the
285 Eddie P. Mayne Workplace Safety and Occupational Health Funding Program for the fiscal
286 year following the day on which the report is provided.
287 (b) A report provided under this Subsection (2) meets the reporting requirements under
288 Subsection 34A-2-701(5)(b)(i)(B).

289 Section 6. Section **59-9-101** is amended to read:

290 **59-9-101. Tax basis -- Rates -- Exemptions -- Rate reductions.**

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

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

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

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

298 (iii) annuity considerations;

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

301 (v) ocean marine insurance.

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

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

305 (ii) all premiums received for reinsurance of property or risks located in this state; and
306 (iii) the dividends, including premium reduction benefits maturing within the year:
307 (A) paid or credited to policyholders in this state; or
308 (B) applied in abatement or reduction of premiums due during the preceding calendar
309 year.

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

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

312 (I) by:

313 (Aa) a corporation; or

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

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

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

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

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

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

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

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

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

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

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

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

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

335 (II) make recommendations concerning whether the rate reduction should be continued,

336 modified, or repealed; and

337 (III) make findings regarding:

338 (Aa) the cost of the rate reduction;

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

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

341 (2) (a) ~~[Every]~~ An admitted insurer writing workers' compensation insurance in this
342 state, including the Workers' Compensation Fund created under Title 31A, Chapter 33,
343 Workers' Compensation Fund, shall pay to the tax commission, on or before March 31 in each
344 year, a premium assessment ~~[of between 1% and 8%]~~ on the basis of the total workers'
345 compensation premium income received by the insurer from workers' compensation insurance
346 in this state during the preceding calendar year~~[-]~~ as follows:

347 (i) on or before December 31, 2010, an amount of equal to or greater than 1%, but
348 equal to or less than 5.75% of the total workers' compensation premium income described in
349 this Subsection (2)(a);

350 (ii) on and after January 1, 2011, but on or before December 31, 2011, an amount of
351 equal to or greater than 1%, but equal to or less than 4.25% of the total workers' compensation
352 premium income described in this Subsection (2)(a);

353 (iii) on and after January 1, 2012, but on or before December 31, 2012, an amount of
354 equal to or greater than 1%, but equal to or less than 2.25% of the total workers' compensation
355 premium income described in this Subsection (2)(a); and

356 (iv) on and after January 1, 2013, an amount of equal to or greater than 1%, but equal
357 to or less than 1.25% of the total workers' compensation premium income described in this
358 Subsection (2)(a).

359 (b) Total workers' compensation premium income means the net written premium as
360 calculated before any premium reduction for any insured employer's deductible, retention, or
361 reimbursement amounts and also those amounts equivalent to premiums as provided in Section
362 34A-2-202.

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

367 premium assessment collected under this Subsection (2):

368 (i) [~~an amount of up to 7.25% of the premium~~] income to the state treasurer for credit
369 to the Employers' Reinsurance Fund created under Subsection 34A-2-702(1)[~~;~~] as follows:

370 (A) on or before December 31, 2009, an amount of up to 5% of the premium income;

371 (B) on and after January 1, 2010, but on or before December 31, 2010, an amount of up
372 to 4.5% of the premium income;

373 (C) on and after January 1, 2011, but on or before December 31, 2011, an amount of up
374 to 3% of the premium income;

375 (D) on and after January 1, 2012, but on or before December 31, 2012, an amount of
376 up to 1% of the premium income; and

377 (E) on and after January 1, 2013, and a subsequent fiscal year, no portion of the
378 premium income;

379 (ii) an amount equal to 0.25% of the premium income to the state treasurer for credit to
380 the [~~restricted account in the General Fund;~~] Workplace Safety Account created by Section
381 34A-2-701; [~~and~~]

382 (iii) an amount of up to [~~0.50%~~] 0.5% and any remaining assessed percentage of the
383 premium income to the state treasurer for credit to the Uninsured Employers' Fund created
384 under Section 34A-2-704[~~;~~]; and

385 (iv) beginning on January 1, 2010, 0.5% of the premium income to the state treasurer
386 for credit to the Industrial Accident Restricted Account created in Section 34A-2-705.

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

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

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

397 (iv) At the end of each fiscal year the minimum approximate assets in the Employers'

398 Reinsurance Fund shall be \$5,000,000 which amount shall be adjusted each year beginning in
399 1990 by multiplying by the ratio that the total workers' compensation premium income for the
400 preceding calendar year bears to the total workers' compensation premium income for the
401 calendar year 1988.

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

407 (vi) At the end of each fiscal year the minimum approximate assets in the Uninsured
408 Employers' Fund shall be \$2,000,000, which amount shall be adjusted each year beginning in
409 1990 by multiplying by the ratio that the total workers' compensation premium income for the
410 preceding calendar year bears to the total workers' compensation premium income for the
411 calendar year 1988.

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

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

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

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

426 (4) Beginning July 1, 1986, a former county ~~[mutuals]~~ mutual and a former mutual
427 benefit ~~[associations]~~ association shall pay the premium tax or assessment due under this
428 chapter. ~~[All premiums]~~ Premiums received after July 1, 1986, shall be considered in

429 determining the tax or assessment.

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

432 (a) [~~insurers~~] an insurer licensed under Title 31A, Chapter 5, Domestic Stock and
433 Mutual Insurance Corporations;

434 (b) [~~insurers~~] an insurer licensed under Title 31A, Chapter 7, Nonprofit Health Service
435 Insurance Corporations;

436 (c) [~~insurers~~] an insurer licensed under Title 31A, Chapter 8, Health Maintenance
437 Organizations and Limited Health Plans;

438 (d) [~~insurers~~] an insurer licensed under Title 31A, Chapter 9, Insurance Fraternal;

439 (e) [~~insurers~~] an insurer licensed under Title 31A, Chapter 11, Motor Clubs;

440 (f) [~~insurers~~] an insurer licensed under Title 31A, Chapter 13, Employee Welfare
441 Funds and Plans; and

442 (g) [~~insurers~~] an insurer licensed under Title 31A, Chapter 14, Foreign Insurers.

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

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

448 Section 7. Section **59-9-102.5** is amended to read:

449 **59-9-102.5. Offset for occupational health and safety related donations.**

450 (1) As used in this section:

451 (a) "Occupational health and safety center" means the Rocky Mountain Center for
452 Occupational and Environmental Health created in Title 53B, Chapter 17, Part 8, Rocky
453 Mountain Center for Occupational and Environmental Health.

454 (b) "Qualified donation" means a donation that is:

455 (i) cash;

456 (ii) given directly to an occupational health and safety center; and

457 (iii) given exclusively for the purpose of:

458 (A) supporting graduate level education and training in fields of:

459 (I) safety and ergonomics;

- 460 (II) industrial hygiene;
- 461 (III) occupational health nursing; and
- 462 (IV) occupational medicine;
- 463 (B) providing continuing education programs for employers designed to promote
- 464 workplace safety; and
- 465 (C) paying reasonable administrative, personnel, equipment, and overhead costs of the
- 466 occupational health and safety center.
- 467 (c) "Workers' compensation insurer" means an admitted insurer writing workers'
- 468 compensation insurance in this state that is required to pay the premium assessment imposed
- 469 under Subsection 59-9-101(2).
- 470 (2) (a) A workers' compensation insurer may offset against the premium assessment
- 471 imposed under Subsection 59-9-101(2) an amount equal to the lesser of:
- 472 (i) the total of qualified donations made by the workers' compensation insurer in the
- 473 calendar year for which the premium assessment is calculated; and
- 474 (ii) .10% of the workers' compensation insurer's total workers' compensation premium
- 475 income as defined in Subsection 59-9-101(2)(b) in the calendar year for which the premium
- 476 assessment is calculated.
- 477 (b) The offset provided under this Subsection (2) shall be allocated [~~to the restricted~~
- 478 ~~account and funds described in Subsection 59-9-101(2)(c)] in proportion to the [rates]~~
- 479 percentages provided in Subsection 59-9-101(2)(c).
- 480 (3) An occupational health and safety center shall:
- 481 (a) provide a workers' compensation insurer a receipt for any qualified donation made
- 482 by the workers' compensation insurer to the occupational health and safety center;
- 483 (b) expend monies received by a qualified donation:
- 484 (i) for the purposes described in Subsection (1)(b)(iii); and
- 485 (ii) in a manner that can be audited to ensure that the monies are expended for the
- 486 purposes described in Subsection (1)(b)(iii); and
- 487 (c) in conjunction with the report required by Section 34A-2-202.5, report to the
- 488 Legislature through the Office of the Legislative Fiscal Analyst by no later than July 1 of each
- 489 year:
- 490 (i) the qualified donations received by the occupational health and safety center in the

491 previous calendar year; and

492 (ii) the expenditures during the previous calendar year of qualified donations received
493 by the occupational health and safety center.

494 Section 8. Section **63I-1-234** is amended to read:

495 **63I-1-234. Repeal dates, Title 34A.**

496 (1) Section 34A-2-202.5 is repealed December 31, 2010.

497 (2) Section 34A-2-705 and Subsection 59-9-101(2)(c)(iv) are repealed July 1, 2013.

498 [~~2~~] (3) Title 34A, Chapter 8, Utah Injured Worker Reemployment Act, is repealed
499 July 1, 2009.

500 Section 9. **Appropriation.**

501 As an ongoing appropriation subject to future budget constraints, there is appropriated
502 from the Workplace Safety Account, in the General Fund, for fiscal year 2009-10, \$150,000:

503 (1) as part of the Eddie P. Mayne Workplace Safety and Occupational Health Funding
504 Program provided for in Section 34A-2-701;

505 (2) to the University of Utah; and

506 (3) to be used by the Rocky Mountain Center for Occupational and Environmental
507 Health, to fund activities provided for in Title 53B, Chapter 17, Part 8, Rocky Mountain Center
508 for Occupational and Environmental Health.

509 Section 10. **Effective date.**

510 If approved by two-thirds of all the members elected to each house, this bill takes effect
511 upon approval by the governor, or the day following the constitutional time limit of Utah
512 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
513 the date of veto override.

Fiscal Note**S.B. 15 1st Sub. (Green) - Workers' Compensation Premium Assessment and Related Funding**

2009 General Session

State of Utah

State Impact

Enactment of this bill will transfer one-time funds of \$2,900,000 from the Workplace Safety Account to the Employer Reinsurance Fund in FY 2009. This bill has an on-going appropriation of \$150,000 from the Workplace Safety Account to the University of Utah, Rocky Mountain Center for Occupational and Environmental Health. Additionally, this bill establishes a new program, the Eddie P. Mayne Workplace Safety and Occupational Health Funding Program. Additionally, this bill creates the Industrial Accident Account and a new premium assessment.

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
Restricted Funds	\$0	\$0	\$0	\$46,000,000	\$33,000,000	\$24,000,000
Restricted Funds	\$0	\$150,000	\$150,000	\$2,900,000	\$0	\$0
Restricted Funds	\$0	\$0	\$0	(\$2,900,000)	\$0	\$0
Total	\$0	\$150,000	\$150,000	\$46,000,000	\$33,000,000	\$24,000,000

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals or local governments. Businesses may benefit from a reduction in their worker compensation premium assessments.