

**WORKERS' COMPENSATION PREMIUM
ASSESSMENT AND WORKPLACE SAFETY
FUNDING**

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen Mayne

House Sponsor: _____

LONG TITLE

Committee Note:

The Business and Labor Interim Committee recommended this bill.

General Description:

This bill modifies provisions related to the workers' compensation premium assessment and to the Workplace Safety Account.

Highlighted Provisions:

This bill:

- ▶ requires a report of the Workers' Compensation Advisory Council;
- ▶ 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;
- ▶ reduces premium assessments; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:



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

32 **Other Special Clauses:**

33 This bill provides an immediate effective date.

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **34A-2-107**, as last amended by Laws of Utah 2001, Chapter 114

37 **34A-2-701**, as last amended by Laws of Utah 2006, Chapter 259

38 **53B-17-804**, as enacted by Laws of Utah 2007, Chapter 232

39 **59-9-101**, as last amended by Laws of Utah 2006, Chapter 44



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

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

43 **34A-2-107. Appointment of workers' compensation advisory council --**

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

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

47 (a) the following voting members:

48 (i) five employer representatives; and

49 (ii) five employee representatives; and

50 (b) the following nonvoting members:

51 (i) a representative of the Workers' Compensation Fund;

52 (ii) a representative of a private insurance carrier;

53 (iii) a representative of health care providers;

54 (iv) the Utah insurance commissioner or the insurance commissioner's designee; and

55 (v) the commissioner or the commissioner's designee.

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

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

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

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

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

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

72 ~~[(a)]~~ (i) the Utah workers' compensation and occupational disease laws;

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

74 ~~[(c)]~~ (iii) rules related to the laws described in Subsection (5)(a)~~[-](i)~~; and

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

76 (b) (i) To recommend to the Business and Labor Interim Committee whether or not
77 legislative action should be considered by the Legislature in the 2010 General Session, the
78 council shall study in relation to the premium assessment under Section 59-9-101 on an
79 admitted insurer writing workers' compensation insurance in this state or a self-insured
80 employer under Section 34A-2-202:

81 (A) whether or not the premium assessment should be reduced; or

82 (B) whether changes should be made to how the premium assessment is used.

83 (ii) The council shall jointly report with the commission the recommendations
84 described in this Subsection (5)(b) to the Business and Labor Interim Committee by no later
85 than the 2009 October interim meeting.

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

88 (a) offer advice on issues requested by:

89 (i) the commission;

90 (ii) the division; and

91 (iii) the Legislature; and

92 (b) make recommendations to:

93 (i) the commission; and

94 (ii) the division.

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

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

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

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

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

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

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

113 **34A-2-701. Premium assessment restricted account for safety.**

114 (1) There is created in the General Fund a restricted account known as the Workplace
115 Safety Account.

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

120 (b) Beginning with fiscal year 2008-09, if the balance in the Workplace Safety Account

121 exceeds \$500,000 at the close of a fiscal year, the excess shall be transferred to the Employers'
 122 Reinsurance Fund, created under Subsection 34A-2-702(1).

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

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

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

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

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

132 (b) subject to Subsection (7), monies known as the "Eddie P. Mayne Workplace Safety
 133 and Occupational Health Funding Program":

134 (i) to an institution within the state system of higher education, as defined in Section
 135 53B-1-102; and

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

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

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

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

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

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

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

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

151 (i) to:

- 152 (A) the governor;
- 153 (B) the Legislature;
- 154 (C) the commission; and
- 155 (D) the state workers' compensation advisory council created under Section
- 156 34A-2-107; and

- 157 (ii) regarding:
- 158 (A) the use of the monies appropriated under Subsection (3)(b); and
- 159 (B) the impact of the use of the monies on the safety of Utah's workplaces.

- 160 (6) The monies deposited in the restricted account:
- 161 (a) shall be:
- 162 (i) used only for the activities described in Subsection (3) or (4); and
- 163 (ii) expended according to processes that can be verified by audit; and
- 164 (b) may not be used by the commission for:
- 165 (i) administrative costs unrelated to the restricted account; or
- 166 (ii) any activity of the commission other than the activities of the commission
- 167 described in Subsection (3) or (4).

168 (7) The total of appropriations under Subsection (3)(b) may not exceed for a fiscal year
 169 an amount equal to 20% of the premium income remitted to the state treasurer pursuant to
 170 Subsection 59-9-101(2)(c) and deposited in the Workplace Safety Account during the previous
 171 fiscal year.

172 Section 3. Section **53B-17-804** is amended to read:
 173 **53B-17-804. Reporting.**

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

- 176 ~~[(a)]~~ (i) the president of the university; and
- 177 ~~[(b)]~~ (ii) the Business and Labor Interim Committee.
- 178 ~~[(2)]~~ (b) The report required by this ~~[section]~~ Subsection (1) shall:

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

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

183 [(†)] (A) improve workplace health and safety; and
 184 [(†)] (B) contribute to economic growth and development in Utah and the surrounding
 185 region.

186 (2) (a) If the center receives in a fiscal year monies from the Eddie P. Mayne
 187 Workplace Safety and Occupational Health Funding Program provided for in Section
 188 34A-2-701, the center shall provide a written report:

189 (i) by no later than the August 15 following the fiscal year;

190 (ii) to the Office of the Legislative Fiscal Analyst;

191 (iii) for review by the one or more appropriations subcommittees designated by the
 192 Executive Appropriations Committee;

193 (iv) that accounts for the expenditure of monies received in the fiscal year by the center
 194 from the Eddie P. Mayne Workplace Safety and Occupational Health Funding Program
 195 including impact on workplace safety in Utah; and

196 (v) that includes a preliminary statement as to monies the center will request from the
 197 Eddie P. Mayne Workplace Safety and Occupational Health Funding Program for the fiscal
 198 year following the day on which the report is provided.

199 (b) A report provided under this Subsection (2) meets the reporting requirements under
 200 Subsection 34A-2-701(5)(b)(ii)(B).

201 Section 4. Section **59-9-101** is amended to read:

202 **59-9-101. Tax basis -- Rates -- Exemptions -- Rate reductions.**

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

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

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

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

210 (iii) annuity considerations;

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

213 (v) ocean marine insurance.

214 (c) The taxable premium under this Subsection (1) shall be reduced by:
215 (i) all premiums returned or credited to policyholders on direct business subject to tax
216 in this state;
217 (ii) all premiums received for reinsurance of property or risks located in this state; and
218 (iii) the dividends, including premium reduction benefits maturing within the year:
219 (A) paid or credited to policyholders in this state; or
220 (B) applied in abatement or reduction of premiums due during the preceding calendar
221 year.

222 (d) (i) For purposes of this Subsection (1)(d):
223 (A) "Utah variable life insurance premium" means an insurance premium paid:
224 (I) by:
225 (Aa) a corporation; or
226 (Bb) a trust established or funded by a corporation; and
227 (II) for variable life insurance covering risks located within the state.
228 (B) "Variable life insurance" means an insurance policy that provides for life
229 insurance, the amount or duration of which varies according to the investment experience of
230 one or more separate accounts that are established and maintained by the insurer pursuant to
231 Title 31A, Insurance Code.

232 (ii) Notwithstanding Subsection (1)(a), beginning on January 1, 2006, the tax on that
233 portion of the total premiums subject to a tax under Subsection (1)(a) that is a Utah variable
234 life insurance premium shall be calculated as follows:
235 (A) 2-1/4% of the first \$100,000 of Utah variable life insurance premiums:
236 (I) paid for each variable life insurance policy; and
237 (II) received by the admitted insurer in the preceding calendar year; and
238 (B) 0.08% of the Utah variable life insurance premiums that exceed \$100,000:
239 (I) paid for the policy described in Subsection (1)(d)(ii)(A); and
240 (II) received by the admitted insurer in the preceding calendar year.

241 (iii) (A) On or before October 1, 2009, and every three years after October 1, 2009, the
242 Revenue and Taxation Interim Committee shall study the rate reduction contained in this
243 Subsection (1)(d).
244 (B) As part of the study required by Subsection (1)(d)(iii)(A) the Revenue and

245 Taxation Interim Committee shall:

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

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

249 (III) make findings regarding:

250 (Aa) the cost of the rate reduction;

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

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

253 (2) (a) [~~Every~~] An admitted insurer writing workers' compensation insurance in this
254 state, including the Workers' Compensation Fund created under Title 31A, Chapter 33,
255 Workers' Compensation Fund, shall pay to the tax commission, on or before March 31 in each
256 year, a premium assessment of between 1% and [~~8%~~] 5.75% of the total workers' compensation
257 premium income received by the insurer from workers' compensation insurance in this state
258 during the preceding calendar year.

259 (b) Total workers' compensation premium income means the net written premium as
260 calculated before any premium reduction for any insured employer's deductible, retention, or
261 reimbursement amounts and also those amounts equivalent to premiums as provided in Section
262 34A-2-202.

263 (c) The percentage of premium assessment applicable for a calendar year shall be
264 determined by the Labor Commission under Subsection (2)(d). The total premium income
265 shall be reduced in the same manner as provided in Subsections (1)(c)(i) and (1)(c)(ii), but not
266 as provided in Subsection (1)(c)(iii). The tax commission shall promptly remit from the
267 premium assessment collected under this Subsection (2):

268 (i) an amount of up to [~~7.25%~~] 5% of the premium income to the state treasurer for
269 credit to the Employers' Reinsurance Fund created under Subsection 34A-2-702(1);

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

272 (iii) an amount of up to 0.50% and any remaining assessed percentage of the premium
273 income to the state treasurer for credit to the Uninsured Employers' Fund created under Section
274 34A-2-704.

275 (d) (i) The Labor Commission shall determine the amount of the premium assessment

276 for each year on or before each October 15 of the preceding year. The Labor Commission shall
277 make this determination following a public hearing. The determination shall be based upon the
278 recommendations of a qualified actuary.

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

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

285 (iv) At the end of each fiscal year the minimum approximate assets in the Employers'
286 Reinsurance Fund shall be \$5,000,000 which amount shall be adjusted each year beginning in
287 1990 by multiplying by the ratio that the total workers' compensation premium income for the
288 preceding calendar year bears to the total workers' compensation premium income for the
289 calendar year 1988.

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

295 (vi) At the end of each fiscal year the minimum approximate assets in the Uninsured
296 Employers' Fund shall be \$2,000,000, which amount shall be adjusted each year beginning in
297 1990 by multiplying by the ratio that the total workers' compensation premium income for the
298 preceding calendar year bears to the total workers' compensation premium income for the
299 calendar year 1988.

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

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

307 for:

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

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

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

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

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

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

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

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

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

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

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

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

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

336 Section 5. **Appropriation.**

337 As an ongoing appropriation subject to future budget constraints, there is appropriated

338 from the Workplace Safety Account, in the General Fund, for fiscal year 2009-10, \$150,000:

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

341 (2) to the University of Utah; and

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

345 **Section 6. Effective date.**

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

Legislative Review Note
as of 11-24-08 12:58 PM

Office of Legislative Research and General Counsel

Fiscal Note**S.B. 15 - Workers' Compensation Premium Assessment and Workplace Safety 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.

	<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	(\$2,900,000)	\$0	\$0
Restricted Funds	\$0	\$150,000	\$150,000	\$2,900,000	\$0	\$0
Total	\$0	\$150,000	\$150,000	\$0	\$0	\$0

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.