

DEPARTMENT OF COMMERCE

BUSINESS, ECONOMIC DEVELOPMENT & LABOR APPROPRIATIONS SUBCOMMITTEE
STAFF: ANDREA WILKO

BUDGET BRIEF

SUMMARY

The Utah Department of Commerce is the licensing and registration agency for Utah’s professional and corporate community. Business registrations, professional licensing, consumer protection and education, oversight of public utilities, and monitoring of real estate and securities industries are all department responsibilities.

ISSUES AND RECOMMENDATIONS

The subcommittee should consider the following items in its deliberations:

Budget Adoption

For the Department of Commerce, the Fiscal Analyst recommends an FY 2013 budget of \$27,075,600 as shown in the table on page 4 titled Commerce.

Adoption of Fees

For the FY 2013 fee schedule for the Department of Commerce, please refer to the issue brief, *Department of Commerce: FY 2013 Fee Schedule*.

Federal Funds

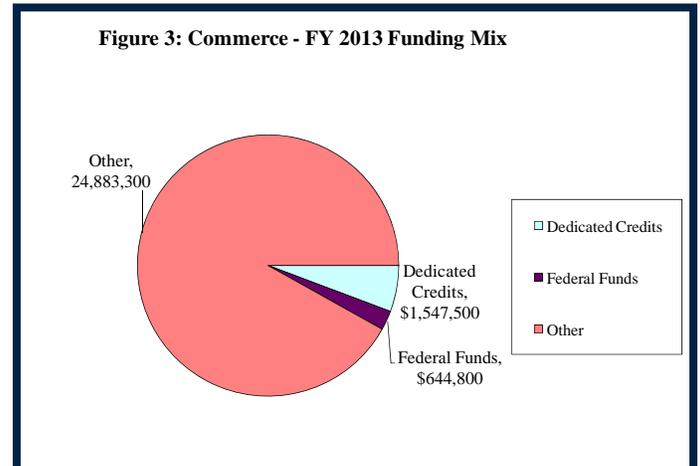
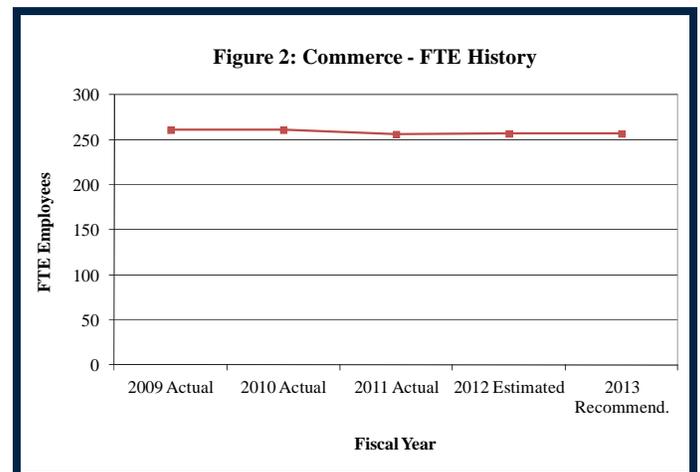
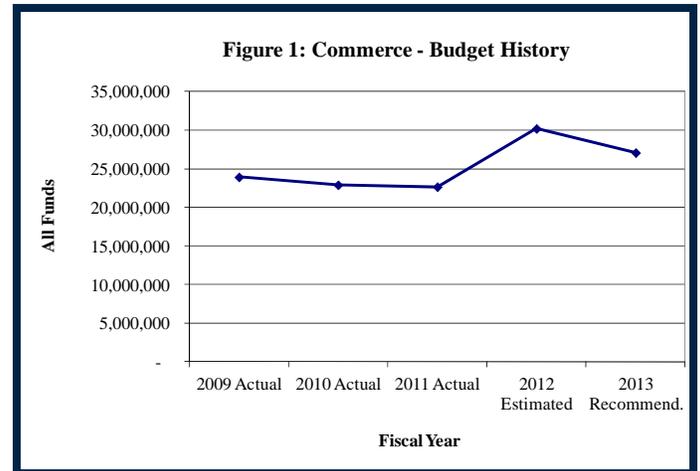
Federal funds for Commerce Department are shown in the Issue Brief *Business, Economic Development, and Labor: Federal Funds*.

Intent Language

See Appendix A for proposed agency intent language and explanations.

Governor’s Recommendation

The Governor recommended \$95,000 from the Commerce Service Fund to restore funds swept in previous sessions.



BACKGROUND AND ANALYSIS

The Department of Commerce budget history shows some fluctuations over the past few fiscal years. This is largely reflective of balances carrying across years, utilization of those balances and providing the necessary coverage for different costs.

The Department of Commerce does not have a General Fund appropriation and operates directly from the Commerce Service Fund and Public Utilities Regulatory Fee (PURF). There are other restricted accounts in the department budget that provide smaller portions of revenue sources including the following General Fund Restricted accounts, with accompanying FY 2013 appropriations: Factory Built Housing Fees (\$104,700), Geologist Education & Enforcement (\$10,000), Nurses Education & Enforcement (\$10,000), Pawnbroker Operations (\$129,000), and Utah Housing Opportunity Restricted Account (\$20,000).

COMMERCE SERVICE FUND AND PURF

Commerce Service Account - The Commerce Service Account, created in Utah Code **13-1-2** is the major funding source for the Department of Commerce operations, services and administration. According to statute, "There is created a restricted account within the General Fund known as the Commerce Service Account. The restricted account...consists of fees collected by each division and by the department. At the end of each fiscal year, the director of the Division of Finance shall transfer into the General Fund any fee collections that are greater than the legislative appropriations from the Commerce Service Account for that year. The department may not charge or collect a fee or expend money from the restricted account without approval by the Legislature."

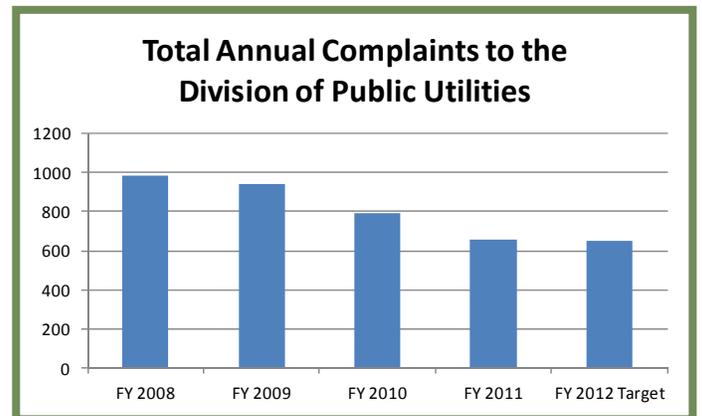
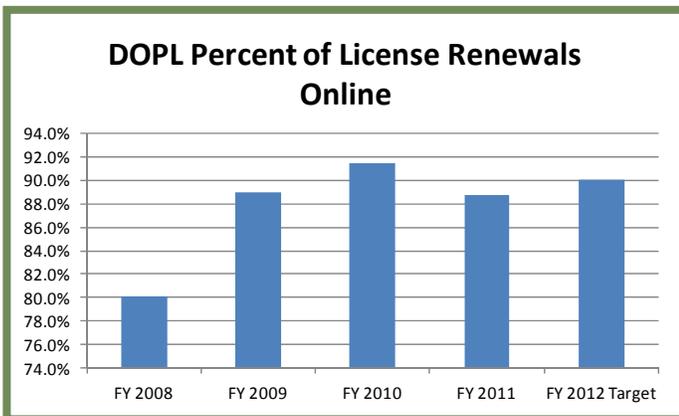
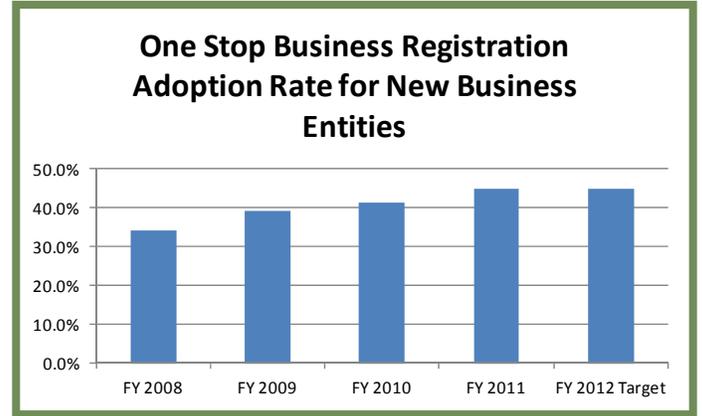
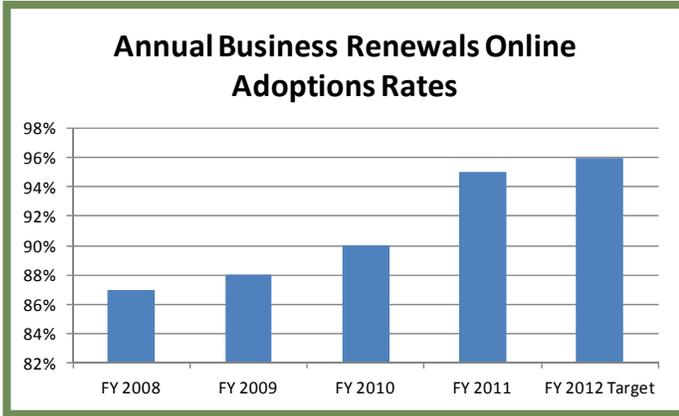
Below are the amounts from the Commerce Service Fund that have been transferred over the past five fiscal years:

<u>Fiscal Year</u>	<u>Revenue to Comm. Svc. Fund</u>	<u>Transfer to GF</u>
FY 07	\$32,053,176	\$8,319,676
FY 08	\$37,038,749	\$11,871,849
FY 09	\$32,246,288	\$6,571,688
FY 10	\$38,162,344	\$9,415,944
FY 11	\$35,653,690	\$9,893,790

Public Utilities Regulatory Fee - a special fee to defray the cost of regulation imposed upon all public utilities. The fee is assessed as a uniform percentage of the gross operating revenue from the preceding calendar year derived from each public utility's business and operations during that period. These fees provide funding to the Division of Public Utilities within the Department of Commerce, as well as the Public Service Commission.

ACCOUNTABILITY DETAIL

Streamlined renewal processes help Commerce meet its goal of timeliness in licensing. To measure this, the department tracks the percent online renewals for the various programs. The department also tracks the number of complaints to the Division of Public Utilities to measure effectiveness. Charts for these measures are shown below.



BUDGET DETAIL

The following tables show the budget history for the Utah Department of Commerce line items in addition to a department wide summary.

Commerce						
Sources of Finance	FY 2011 Actual	FY 2012 Appropriated	Changes	FY 2012 Revised	Changes	FY 2013* Recommended
Federal Funds	260,400	644,800	0	644,800	0	644,800
Dedicated Credits Revenue	740,800	1,547,500	0	1,547,500	0	1,547,500
GFR - Commerce Service	18,861,500	18,826,100	845,200	19,671,300	(845,200)	18,826,100
GFR - Commerce Service, One-time	10,000	195,100	(195,100)	0	0	0
GFR - CSF - PURF	4,446,700	5,083,400	(650,100)	4,433,300	650,100	5,083,400
GFR - Factory Built Housing Fees	104,700	104,700	0	104,700	0	104,700
GFR - Geologist Ed. & Enf.	10,000	10,000	0	10,000	0	10,000
GFR - Nurses Ed & Enf Account	10,000	10,000	0	10,000	0	10,000
GFR - Pawnbroker Operations	129,000	129,000	0	129,000	0	129,000
GFR - Utah Housing Opportunity Restr	20,000	20,000	0	20,000	0	20,000
Transfers	894,700	0	0	0	0	0
Transfers - Within Agency	(894,700)	0	0	0	0	0
Pass-through	10,000	50,000	0	50,000	0	50,000
Beginning Nonlapsing	4,712,000	961,200	3,272,700	4,233,900	(3,583,800)	650,100
Closing Nonlapsing	(4,233,900)	(183,400)	(466,700)	(650,100)	650,100	0
Lapsing Balance	(2,414,700)	0	0	0	0	0
Total	\$22,666,500	\$27,398,400	\$2,806,000	\$30,204,400	(\$3,128,800)	\$27,075,600
Line Items						
Commerce General Regulation	21,455,200	25,748,300	233,600	25,981,900	(466,500)	25,515,400
Building Inspector Training	278,300	260,000	770,400	1,030,400	(770,400)	260,000
Public Utilities Professional & Technic	438,200	300,000	1,496,700	1,796,700	(1,496,700)	300,000
Committee of Consumer Services Prof	494,800	1,090,100	305,300	1,395,400	(395,200)	1,000,200
Total	\$22,666,500	\$27,398,400	\$2,806,000	\$30,204,400	(\$3,128,800)	\$27,075,600
Categories of Expenditure						
Personnel Services	16,442,300	18,799,700	(1,600)	18,798,100	0	18,798,100
In-state Travel	60,500	90,900	2,100	93,000	0	93,000
Out-of-state Travel	31,100	98,500	87,000	185,500	0	185,500
Current Expense	4,367,500	6,828,200	2,540,900	9,369,100	(3,128,800)	6,240,300
DP Current Expense	1,620,100	1,413,400	(122,900)	1,290,500	0	1,290,500
DP Capital Outlay	90,200	0	398,200	398,200	0	398,200
Capital Outlay	6,400	0	0	0	0	0
Other Charges/Pass Thru	48,400	167,700	(97,700)	70,000	0	70,000
Total	\$22,666,500	\$27,398,400	\$2,806,000	\$30,204,400	(\$3,128,800)	\$27,075,600
Other Data						
Budgeted FTE	256.3	254.5	2.5	257.0	0.0	257.0
Vehicles	36	34	2	36	(2)	34

*Does not include amounts in excess of subcommittee's state fund allocation that may be recommended by the Fiscal Analyst.

Commerce - Commerce General Regulation

Sources of Finance	FY 2011	FY 2012	Changes	FY 2012	Changes	FY 2013*
	Actual	Appropriated		Revised		Recommended
Federal Funds	260,400	644,800	0	644,800	0	644,800
Dedicated Credits Revenue	524,700	1,287,500	0	1,287,500	0	1,287,500
GFR - Commerce Service	18,211,400	18,826,100	195,100	19,021,200	(195,100)	18,826,100
GFR - Commerce Service, One-time	10,000	195,100	(195,100)	0	0	0
GFR - CSF - PURF	4,446,700	4,433,300	0	4,433,300	0	4,433,300
GFR - Factory Built Housing Fees	104,700	104,700	0	104,700	0	104,700
GFR - Geologist Ed. & Enf.	10,000	10,000	0	10,000	0	10,000
GFR - Nurses Ed & Enf Account	10,000	10,000	0	10,000	0	10,000
GFR - Pawnbroker Operations	129,000	129,000	0	129,000	0	129,000
GFR - Utah Housing Opportunity Restr	20,000	20,000	0	20,000	0	20,000
Transfers	894,700	0	(1,267,500)	(1,267,500)	1,267,500	0
Transfers - Within Agency	(894,700)	0	0	0	0	0
Pass-through	10,000	50,000	0	50,000	0	50,000
Beginning Nonlapsing	221,900	221,200	1,317,700	1,538,900	(1,538,900)	0
Closing Nonlapsing	(1,538,900)	(183,400)	183,400	0	0	0
Lapsing Balance	(964,700)	0	0	0	0	0
Total	\$21,455,200	\$25,748,300	\$233,600	\$25,981,900	(\$466,500)	\$25,515,400
Programs						
Administration	4,082,300	3,356,100	0	3,356,100	(203,400)	3,152,700
Building Operations and Maintenance	272,500	264,300	0	264,300	8,300	272,600
Committee of Consumer Services	653,000	996,300	0	996,300	0	996,300
Consumer Protection	1,418,400	1,682,800	0	1,682,800	0	1,682,800
Corporations and Commercial Code	1,914,900	2,307,200	0	2,307,200	0	2,307,200
Occupational & Professional Licensing	7,100,400	9,202,100	233,600	9,435,700	(271,400)	9,164,300
Public Utilities	2,826,200	3,743,600	0	3,743,600	0	3,743,600
Real Estate	1,659,500	2,184,600	0	2,184,600	0	2,184,600
Securities	1,528,000	2,011,300	0	2,011,300	0	2,011,300
Total	\$21,455,200	\$25,748,300	\$233,600	\$25,981,900	(\$466,500)	\$25,515,400
Categories of Expenditure						
Personnel Services	16,390,700	18,799,700	(56,400)	18,743,300	0	18,743,300
In-state Travel	56,900	90,900	2,100	93,000	0	93,000
Out-of-state Travel	29,200	88,500	(3,000)	85,500	0	85,500
Current Expense	3,213,300	5,188,100	113,300	5,301,400	(466,500)	4,834,900
DP Current Expense	1,620,100	1,413,400	(122,900)	1,290,500	0	1,290,500
DP Capital Outlay	90,200	0	398,200	398,200	0	398,200
Capital Outlay	6,400	0	0	0	0	0
Other Charges/Pass Thru	48,400	167,700	(97,700)	70,000	0	70,000
Total	\$21,455,200	\$25,748,300	\$233,600	\$25,981,900	(\$466,500)	\$25,515,400
Other Data						
Budgeted FTE	255.3	254.5	1.5	256.0	0.0	256.0
Vehicles	36.0	34.0	2.0	36.0	(2.0)	34.0

*Does not include amounts in excess of subcommittee's state fund allocation that may be recommended by the Fiscal Analyst.

Commerce - Building Inspector Training						
	FY 2011	FY 2012		FY 2012		FY 2013*
Sources of Finance	Actual	Appropriated	Changes	Revised	Changes	Recommended
Dedicated Credits Revenue	216,100	260,000	0	260,000	0	260,000
Beginning Nonlapsing	832,600	0	770,400	770,400	(770,400)	0
Closing Nonlapsing	(770,400)	0	0	0	0	0
Total	\$278,300	\$260,000	\$770,400	\$1,030,400	(\$770,400)	\$260,000
Programs						
Building Inspector Training	278,300	260,000	770,400	1,030,400	(770,400)	260,000
Total	\$278,300	\$260,000	\$770,400	\$1,030,400	(\$770,400)	\$260,000
Categories of Expenditure						
Personnel Services	51,600	0	54,800	54,800	0	54,800
Current Expense	226,700	260,000	715,600	975,600	(770,400)	205,200
Total	\$278,300	\$260,000	\$770,400	\$1,030,400	(\$770,400)	\$260,000
Other Data						
Budgeted FTE	1.0	0.0	1.0	1.0	0.0	1.0

*Does not include amounts in excess of subcommittee's state fund allocation that may be recommended by the Fiscal Analyst.

Commerce - Public Utilities Professional & Technical Services						
	FY 2011	FY 2012		FY 2012		FY 2013*
Sources of Finance	Actual	Appropriated	Changes	Revised	Changes	Recommended
GFR - Commerce Service	150,000	0	150,000	150,000	(150,000)	0
GFR - CSF - PURF	0	150,000	(150,000)	0	150,000	150,000
Transfers	0	0	922,900	922,900	(922,900)	0
Beginning Nonlapsing	1,612,000	150,000	723,800	873,800	(723,800)	150,000
Closing Nonlapsing	(873,800)	0	(150,000)	(150,000)	150,000	0
Lapsing Balance	(450,000)	0	0	0	0	0
Total	\$438,200	\$300,000	\$1,496,700	\$1,796,700	(\$1,496,700)	\$300,000
Programs						
Professional & Technical Services	438,200	300,000	1,496,700	1,796,700	(1,496,700)	300,000
Total	\$438,200	\$300,000	\$1,496,700	\$1,796,700	(\$1,496,700)	\$300,000
Categories of Expenditure						
In-state Travel	3,600	0	0	0	0	0
Out-of-state Travel	0	0	50,000	50,000	0	50,000
Current Expense	434,600	300,000	1,446,700	1,746,700	(1,496,700)	250,000
Total	\$438,200	\$300,000	\$1,496,700	\$1,796,700	(\$1,496,700)	\$300,000

*Does not include amounts in excess of subcommittee's state fund allocation that may be recommended by the Fiscal Analyst.

Commerce - Committee of Consumer Services Professional and Technical Services

Sources of Finance	FY 2011	FY 2012	Changes	FY 2012	Changes	FY 2013*
	Actual	Appropriated		Revised		Recommended
GFR - Commerce Service	500,100	0	500,100	500,100	(500,100)	0
GFR - CSF - PURF	0	500,100	(500,100)	0	500,100	500,100
Transfers	0	0	344,600	344,600	(344,600)	0
Beginning Nonlapsing	2,045,500	590,000	460,800	1,050,800	(550,700)	500,100
Closing Nonlapsing	(1,050,800)	0	(500,100)	(500,100)	500,100	0
Lapsing Balance	(1,000,000)	0	0	0	0	0
Total	\$494,800	\$1,090,100	\$305,300	\$1,395,400	(\$395,200)	\$1,000,200
Programs						
Professional & Technical Services	494,800	1,090,100	305,300	1,395,400	(395,200)	1,000,200
Total	\$494,800	\$1,090,100	\$305,300	\$1,395,400	(\$395,200)	\$1,000,200
Categories of Expenditure						
Out-of-state Travel	1,900	10,000	40,000	50,000	0	50,000
Current Expense	492,900	1,080,100	265,300	1,345,400	(395,200)	950,200
Total	\$494,800	\$1,090,100	\$305,300	\$1,395,400	(\$395,200)	\$1,000,200

*Does not include amounts in excess of subcommittee's state fund allocation that may be recommended by the Fiscal Analyst.

APPENDIX A

The Department of Commerce has asked that the intent language included below be considered by the subcommittee with regard to PURF and the Uniform Building Code.

Public Utilities Regulatory Fee

PURF are paid every month by every utility ratepayer in Utah. The fees are paid for utility rate regulation, and historically have been exclusively reserved for those purposes.

As reported by the Department of Commerce, rate cases are cyclical, with workload varying greatly from month-to-month. Rather than keep a much larger staff that would have significant down-time throughout the year, the Professional and Technical funds are maintained to allow hiring outside consultants to provide expert testimony on rate cases. Over the past few years rate cases have increased in both frequency and complexity.

The language below is intended to address this issue:

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Office of Consumer Services in Item 27 of Chapter 1 Laws of Utah 2011 lapse to the Office's Professional and Technical Services Fund at the close of Fiscal Year 2012.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Professional and Technical Services Fund of the Office of Consumer Services in Item 30 of Chapter 1 Laws of Utah 2011, not lapse at the close of Fiscal Year 2012.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Public Utilities in Item 27 of Chapter 1 Laws of Utah 2011 lapse to the Division's Professional and Technical Services Fund at the close of Fiscal Year 2012.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Professional and Technical Services Fund of the Division of Public Utilities in Item 29 of Chapter 1 Laws of Utah 2011, not lapse at the close of Fiscal Year 2012.

Uniform Building Code

UCA Section 58-56-9 creates a fund based on a surcharge from all building permit fees paid throughout the state. Those funds are used to give grants to providers of continuing education on state building codes. Historically those funds have been statutorily nonlapsing. In House Bill 253 (2010 General Session), the Legislature removed the statutory nonlapsing authority for those funds.

As reported by the Department of Commerce, this presents some issues for the construction industry in terms of providing consistency for continuing education. The continuing education on building codes is cyclical through the two-year license renewal period with one year (renewal year) including numerous continuing education offerings, and the following year with fewer. Providing nonlapsing authority to the account will likely create some continuity for education funds in the Uniform Building Code.

Proposed language:

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Building Codes Education Funds received by the Division of Occupational and Professional Licensing under the authority of Section 58-56-9 of the Utah Code and Item 28 of Chapter 1 Laws of Utah 2011 not lapse at the close of Fiscal Year 2012.