Utah FOUNDATION Research Report

Report Number 670, December 2004

GOING FOR BROKE:
UTAH'S ALARMING BANKRUPTCY PROBLEM

HIGHLIGHTS

- Since the mid 1980s, consumer bankruptcy filings nationwide have been rising. Not only have non-business filings been climbing, but they are a much larger percentage of total bankruptcies than in previous years.
- Utah has consistently ranked in the top quarter of states with the highest bankruptcy rates since 1960. In 2002 and 2003, Utah emerged in the top position, replacing Tennessee, with the highest household bankruptcy filing rate.
- Different theories on the cause of the national bankruptcy problem include rising home prices relative to income, increasing credit card debt, medical problems, declining personal savings, and decreased stigma associated with filing for bankruptcy.
- Factors that may explain why the bankruptcy problem in Utah is so acute include larger than average families and homes, low wages, high charitable commitments, high rates of entrepreneurship, and a legal culture that steers debtors into solutions that often fail.
- Additional research on bankruptcy will be published by several different parties, including Utah Foundation, through 2005. These efforts will attempt to explain what drives Utah's alarmingly high filing rate.

Utah Foundation is a nonprofit, nonadvocacy research organization. Our mission is to encourage informed public policy making and to serve as Utah's trusted source for independent, objective research on crucial public policy issues.

D. Douglas Larson, President
Alan K. Allred, Vice President
Stephen J. Kroes, Executive Director

10 West Broadway, Suite 307
Salt Lake City, UT 84101
(801) 355-1400 • www.utahfoundation.org

A wave of increasing bankruptcy rates has swept across the nation, causing economic, political, and social hardships. To address this, Congress has considered changing bankruptcy laws to make it harder for debtors to receive a discharge of their debts. Of greater concern to the Utah Foundation, Utah has emerged in recent years as the number one state in terms of the number of bankruptcies compared to the number of households.

Several questions must be answered in order to gain a better understanding of the situation. Why would Utah fare worse in this national trend than other states, and how is this possible in a state that prides itself on responsible social behavior and self-reliance? What is unique about Utah's economy, culture, demographics, or legal climate that would put Utah atop this national trend?

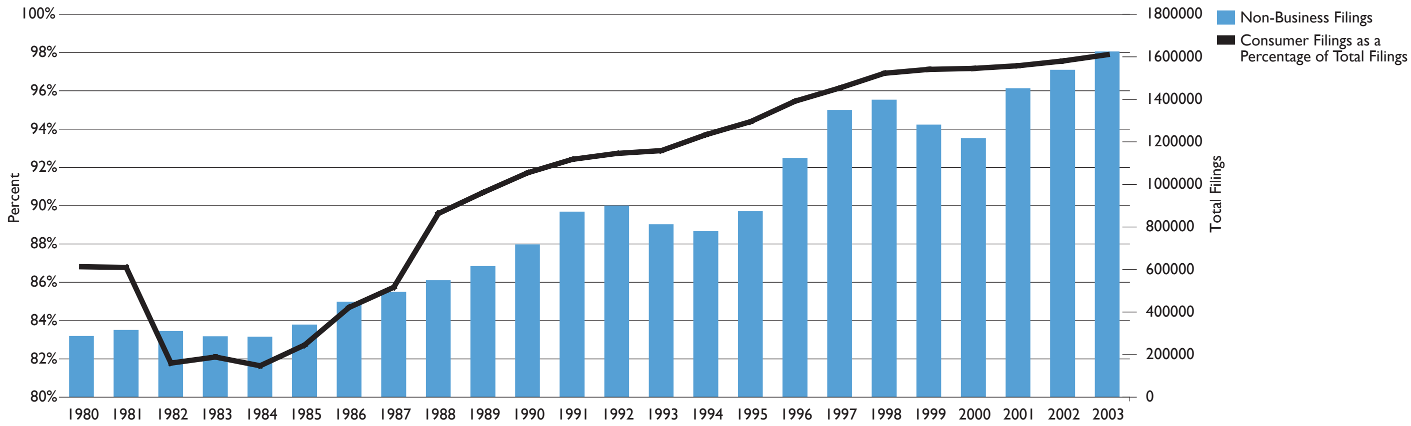
This report is the beginning of an effort to answer these questions. First, Utah Foundation will examine Utah's bankruptcy rate over a long period to place the current trend in context. Next, we will lay out a number of theories that attempt to explain the national rise in bankruptcies before moving on to address possible reasons why Utah's rate is now so high. This report will also describe current research on this topic by other organizations and individuals. In the coming year, Utah Foundation and others working on this issue intend to provide additional data and analysis to help identify which of the many theories seem most credible to explain why this phenomenon is having such an effect on Utah.

Figure 1: Non-Business Bankruptcies, 2003

State	Total Bankruptcies	State	Total Bankruptcies
US	**1,610,769**		
Alabama	42,134	Montana	4,287
Alaska	1,389	Nebraska	8,387
Arizona	31,110	Nevada	20,240
Arkansas	23,878	New Hampshire	4,248
California	137,158	New Jersey	41,643
Colorado	25,404	New Mexico	9,003
Connecticut	12,059	New York	73,812
Delaware	3,413	North Carolina	38,637
Florida	92,890	North Dakota	2,188
Georgia	79,620	Ohio	88,345
Hawaii	3,723	Oklahoma	26,590
Idaho	9,435	Oregon	23,779
Illinois	84,520	Pennsylvania	58,230
Indiana	55,155	Rhode Island	4,509
Iowa	12,259	South Carolina	16,070
Kansas	15,889	South Dakota	2,737
Kentucy	29,570	Tennessee	64,747
Louisiana	29,076	Texas	88,687
Maine	4,555	Utah	21,565
Maryland	33,708	Vermont	1,825
Massachusetts	17,864	Virginia	42,512
Michigan	62,070	Washington	39,818
Minnesota	19,608	West Virginia	10,811
Mississippi	21,964	Wisconsin	27,524
Missouri	37,452	Wyoming	2,416

Source: American Bankruptcy Institute (ABI)

Figure 2: U.S. Consumer Bankruptcy Filings



Source: ABI "U.S. Bankruptcy Filings, Business, Non-Business, Totals. 1980-2003"

BANKRUPTCY BASICS

Since the mid 1980s, consumer bankruptcy filings nationwide have been rising. As seen from Figure 2, not only have non-business filings been climbing, especially since the mid to late 1990s, but personal non-business bankruptcies are a much larger percentage of total bankruptcies than in previous years. According to the Executive Office for the United States Trustees, on an average day in U.S. Bankruptcy Court, 6,310 new cases are filed.[1] To illustrate the number of bankruptcies, consider that in a given year more Americans file for bankruptcy than graduate from college, and more children live through their parents' bankruptcy than their parents' divorce.

When considering bankruptcy filing rates since World War II, the Congressional Budget Office reports that the personal filing rate has risen during every period of economic expansion except for one.[2] Filing rates follow a cyclical pattern of rising during recessions, falling post-recession, and later rising during economic expansions. This lag may be due to defaults of loans or credit problems that are not readily apparent during a recession; furthermore, many individuals spend time trying to rectify their financial situation before filing for bankruptcy, causing further lag in filings from the time of financial distress.

Under the United States Constitution, the federal government is given the power to regulate bankruptcy. Bankruptcy law in the United States originated with the Bankruptcy Act of 1898, which was amended several times before being replaced by the 1978 Bankruptcy Reform Act. The Bankruptcy Reform Act provides debtors nationwide a uniform code of obligations and relief. Federal bankruptcy judges preside over cases in over ninety distinct districts across the United States. Much of the process of filing for bankruptcy is administrative and little time is spent actually in the courtroom.

Ideally, the purpose of bankruptcy is to give an individual who has fallen on hard times an opportunity to obtain a fresh start—free of existing debt. In order for this to occur, debtors are typically granted a discharge to be released from specific debts outright, or are required to follow a repayment plan that grants protection from creditors. While a discharge absolves an individual from repaying certain types of debts, valid liens against property from a secured creditor are not protected.[3] Furthermore, the types of debts that can be discharged vary by the type of chapter filing and exemption laws. Eighteen categories of debts are exempted from the discharge process. Generally, individuals are not able to discharge debts incurred based on dishonest or improper behavior, tax claims, debts owed for spousal and child support, or debts owed for government funded or guaranteed student loans.

Held over from the 1898 Bankruptcy Act, current law allows states to set their own exemption levels. In some instances, a debtor can choose either a federal or state exemption package. Bankruptcy law also allows states to opt out of federal exemptions. Currently, only sixteen states allow debtors to use federal exemptions if they choose (Utah only allows state exemptions).[4] Exemption levels vary greatly by state; however, asset exemption levels do not appear to be a major factor in a debtor's decision to file for bankruptcy, nor are they well correlated with filing rates.

Bankruptcy is divided up into several different chapters and deciding which chapter to file is contingent on a variety of factors that are discussed in more detail below. Chapter choices include Chapter 7, 9, 11, 12 and 13. Each of these choices has various rules and requirements for individual debtors to be eligible for filing. The United States Trustee Program oversees bankruptcy cases. As a component of the Department of Justice, the Trustee Program is responsible for the effectiveness and integrity of the bankruptcy system and process. Court appointed U.S. Trustees impartially supervise both liquidation and reorganization proceedings to prevent fraud and abuse of the system. For the purposes of this report, when discussing bankruptcy filing rates we are specifically referring to consumer Chapter 7 and Chapter 13.[5]

UTAH SPECIFICS

The state of Utah has consistently ranked in the top quarter of states with the highest bankruptcy filing rate in terms of households per filings since 1960.[6] A standard method for measuring bankruptcy rates is the number of households per filing. Figure 4 (pp. 4-5) shows these filing rates for all states over time.

Chapter 7

About 70% of all debtors file for a Chapter 7 consumer bankruptcy, also referred to as "straight bankruptcy" or liquidation, which allows for the complete discharge of all debts except those prohibited under the U.S. Bankruptcy Code.[i] Individuals can file for Chapter 7 bankruptcy regardless of their debt levels and are not obligated to create a repayment schedule for outstanding debts. Straight bankruptcy filings typically involve the liquidation of all non-exempt assets held by the debtor for their distribution to creditors. Of all Chapter 7 debtors, 99% are granted a discharge of debts; however, a discharge is not considered a fundamental right of straight bankruptcy filers.[ii] Objections to debt discharge can be filed by creditors or Trustees involved in the case. Individuals cannot file for bankruptcy if they were granted a discharge of debts in the previous six years or had a case dismissed in the previous 180 days. However, during the six-year waiting period after a Chapter 7 bankruptcy is granted, debtors are eligible to file for a Chapter 13 repayment plan.

Chapter 13

Chapter 13 bankruptcies or Individual Debt Adjustments are used primarily by individuals to reorganize their finances by utilizing a debt repayment plan supervised by the U.S. Trustees to be completed within three to five years. Total amounts to be repaid can vary by Court district. Individual debtors are eligible to file for Chapter 13 if their unsecured debts total less than \$290,525 and their secured debts total less than \$871,550 as laid out by the U.S. Bankruptcy Code.[iii] Within this repayment plan, an individual is still eligible for a discharge of any remaining unsecured debts following successful completion of the plan.

Higher marriage rates, homeownership, and employment encourage individuals to select Chapter 13 debt reorganization as opposed to Chapter 7 liquidation. One reason is that a homeowner can often keep his or her home after a Chapter 13 bankruptcy. Individuals who file for Chapter 13 are also more likely to have higher levels of secured debt, lower levels of unsecured debt, and higher incomes than those individuals who file for Chapter 7.

[i] Lown, Jean M., & Llewellyn, Bonny. 2004. "Bankruptcy Chapter Choice: A Myth?" In *Proceedings of the Association for Financial Counseling and Planning Education*. Ed R. Travnicheck, 72-78.

[ii] Administrative Office of the United States Courts. *Bankruptcy Basics*. Revised Second Edition, March 2004, 8.

[iii] Ibid., 18.

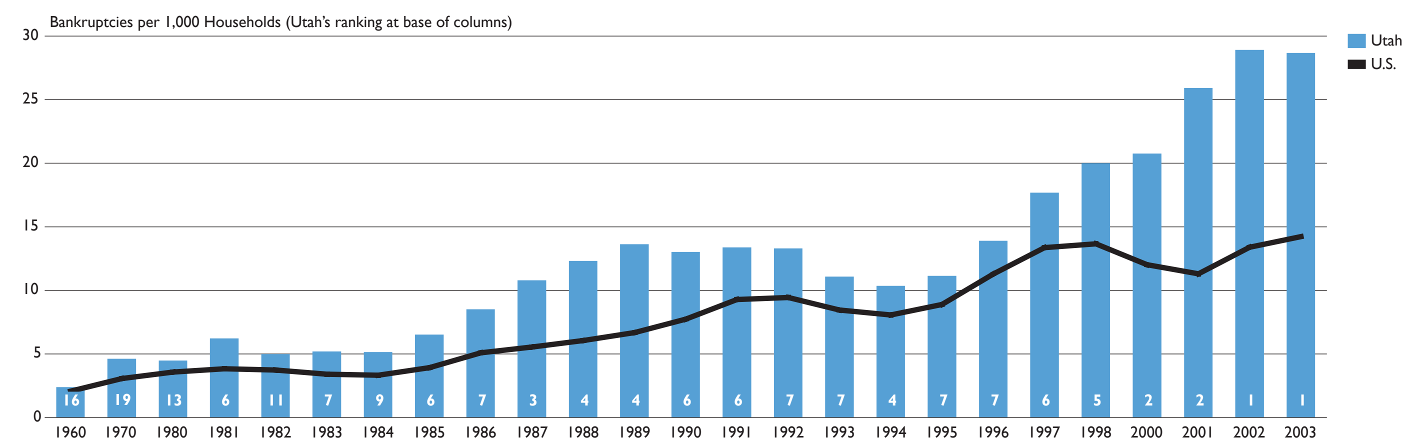
This method of tracking bankruptcy is confusing to graph because a lower number of households per filing means that the bankruptcy rate is getting worse, not better. An alternative method—measuring the number of filings per 1,000 households—is used in Figure 3, showing a more intuitive graph that rises as bankruptcies rise. This graph reveals that there are several periods in Utah history in which state bankruptcy filing rates break dramatically from national averages.

Beginning in 1987, Utah filings rose substantially higher than the national average until the early-mid 1990s, at which time bankruptcy filing rates fell both nationally and in Utah. However, despite the decline in bankruptcy filings in the mid 1990s, Utah still held a position in the top 10 "worst" states in terms of households per filing. Utah remained in the top 10 through the end of the decade, at which point both the filing rate and the state ranking skyrocketed to unprecedented levels despite overall declines in the rest of the country. In 2002 and 2003, Utah emerged in the top position, replacing Tennessee, with the highest household bankruptcy filing rate.

When evaluating historical trends in bankruptcy filing rates and rankings, it is clear there is little variation from year to year in regards to which states round out the top positions in term of high filing rates. While rank position may shuffle annually, the fact remains that a handful of states consistently report high household filing rates.[7] Alabama, Georgia, Idaho, Indiana, Nevada, Missouri, Oklahoma, Ohio, Tennessee, and Utah not only post high filing rates today, but have appeared in the top quarter of states since 1960. In other words, it appears that a state struggles with high filing rates over a long period rather than suddenly developing a "problem" with bankruptcy.

Current research by Professors Jean Lown and Barbara Rowe at Utah State University focuses on comparing family economic statistics between Utahns and the rest of the nation. Lown and Rowe are also concerned with understanding why Utah has a high bankruptcy rate when the majority of the state's residents are members of a religion that encourages its members to be financially sound and avoid incurring

Figure 3: Bankruptcy Filings in Utah and U.S.



*1999 data was not produced by the U.S. Census Bureau

Source: Household Data derived from American Community Survey (ACS), 2003, U.S. Census, Bankruptcies total from ABI

Figure 4: Historical Bankruptcy Filing Rates*

State/ Year	1960	Rank	State	1970	Rank	State	1980	Rank	State	1990	Rank	State	1995	Rank	State	1996	Rank
Alabama	128.64	1	Alabama	106.63	1	Tennessee	135.41	1	Tennessee	52.42	1	Tennessee	52.86	1	Tennessee	42.73	1
Oregon	179.37	2	Nevada	126.62	2	Alabama	144.52	2	Georgia	59.10	2	Georgia	59.63	2	Missouri	45.53	2
Illinois	213.95	3	Tennessee	136.77	3	Ohio	160.12	3	Alabama	61.51	3	Alabama	62.13	3	Georgia	50.67	3
Tennessee	216.04	4	Kansas	148.56	4	Indiana	160.72	4	Missouri	67.37	4	Missouri	63.18	4	Alabama	52.83	4
Colorado	222.91	5	Oregon	150.98	5	Nevada	163.27	5	Nevada	76.26	5	Nevada	78.21	5	Nevada	61.03	5
Georgia	254.84	6	Maine	169.42	6	Illinois	165.68	6	Utah	76.76	6	California	80.80	6	California	64.23	6
California	256.76	7	Colorado	171.32	7	Kentucky	176.40	7	Colorado	82.30	7	Utah	89.76	7	Utah	71.96	7
Ohio	263.20	8	Wyoming	172.89	8	Mississippi	186.76	8	Arizona	85.51	8	Virginia	91.51	8	Virginia	72.60	8
Kansas	277.71	9	Arizona	179.30	9	Idaho	191.67	9	Oklahoma	88.58	9	Oregon	91.56	9	Oklahoma	74.14	9
Maine	294.18	10	Kentucky	186.48	10	Georgia	191.75	10	Indiana	89.74	10	Oklahoma	95.44	10	Arkansas	74.59	10
Washington	300.76	11	California	188.24	11	Colorado	218.14	11	Idaho	96.58	11	Indiana	96.06	11	Indiana	75.69	11
Arizona	312.56	12	New Mexico	188.65	12	California	218.74	12	Oregon	100.03	12	Arkansas	104.51	12	Oregon	78.18	12
Kentucky	346.57	13	Georgia	189.33	13	Utah	222.96	13	California	102.76	13	Kentucky	104.77	13	Washington	78.39	13
Virginia	382.47	14	Ohio	191.71	14	Virginia	234.88	14	Kentucky	103.02	14	Washington	105.53	14	Louisiana	79.44	14
Idaho	390.80	15	Montana	199.91	15	Kansas	234.91	15	Ohio	107.82	15	Illinois	105.98	15	Kentucky	80.43	15
Utah	418.60	16	Idaho	201.44	16	Oregon	241.09	16	Kansas	114.50	16	Arizona	107.38	16	Maryland	81.90	16
Wisconsin	447.61	17	Louisiana	204.56	17	Nebraska	242.43	17	Illinois	117.41	17	New Jersey	107.93	17	Illinois	83.42	17
Michigan	465.80	18	Indiana	215.52	18	Washington	243.60	18	Virginia	123.01	18	Louisiana	109.89	18	Arizona	85.39	18
Minnesota	473.73	19	Utah	216.36	19	Michigan	252.19	19	Minnesota	123.64	19	Colorado	111.63	19	Idaho	86.30	19
Wyoming	503.49	20	Washington	236.34	20	Oklahoma	266.20	20	Louisiana	129.47	20	Idaho	112.01	20	New Jersey	87.83	20
West Virgina	515.98	21	Virginia	247.05	21	Missouri	278.48	21	Washington	129.60	21	Kansas	112.30	21	Rhode Island	90.75	21
New Hampshire	543.87	22	Oklahoma	247.33	22	Arizona	297.12	22	Wyoming	131.09	22	Maryland	112.36	22	Kansas	90.78	22
Oklahoma	552.74	23	Missouri	266.30	23	North Carolina	300.35	23	Arkansas	135.12	23	Rhode Island	117.91	23	Colorado	95.94	23
Nevada	626.85	24	Illinois	266.75	24	Louisiana	330.01	24	New Mexico	140.89	24	Florida	126.61	24	Ohio	98.12	24
Louisiana	669.93	25	West Virgina	321.51	25	Montana	335.39	25	Florida	152.32	25	Ohio	126.64	25	Florida	98.88	25
Indiana	686.73	26	Nebraska	331.51	26	New York	336.06	26	Texas	159.91	26	Minnesota	134.20	26	Wyoming	108.95	26
Missouri	712.82	27	Iowa	339.90	27	New Mexico	343.29	27	Nebraska	165.81	27	Connecticut	136.65	27	Minnesota	110.15	27
Connecticut	715.53	28	Wisconsin	369.42	28	Arkansas	360.93	28	Montana	177.18	28	New Hampshire	138.00	28	Connecticut	111.00	28
Montana	796.22	29	Michigan	392.58	29	Minnesota	369.91	29	Mississippi	179.27	29	New York	139.39	29	New Mexico	112.86	29
Nebraska	848.23	30	Minnesota	413.90	30	Iowa	370.53	30	Michigan	181.00	30	Texas	149.09	30	New York	113.98	30
Iowa	912.53	31	Alaska	420.53	31	West Virgina	381.32	31	Rhode Island	187.30	31	New Mexico	150.67	31	Texas	117.73	31
Rhode Island	935.76	32	Vermont	431.69	32	Maryland	409.66	32	Alaska	191.02	32	Michigan	152.68	32	Michigan	118.61	32
New Mexico	989.01	33	New Hampshire	435.93	33	Wyoming	419.30	33	West Virgina	193.84	33	Montana	157.18	33	New Hampshire	121.69	33
New York	1302.09	34	Mississippi	495.51	34	Rhode Island	429.14	34	Maryland	195.28	34	Wyoming	160.39	34	Nebraska	125.22	34
Arkansas	1349.36	35	Hawaii	543.02	35	D.C.	455.29	35	New Jersey	195.75	35	West Virgina	165.46	35	Wisconsin	125.25	35
Massachusetts	1406.95	36	Arkansas	543.18	36	Delaware	470.64	36	New Hampshire	197.88	36	D.C.	165.55	36	D.C.	125.36	36
Hawaii	1700.71	37	Rhode Island	625.19	37	Wisconsin	475.61	37	Wisconsin	209.35	37	Massachusetts	165.78	37	North Carolina	129.78	37
Mississippi	1850.39	38	North Dakota	672.64	38	Hawaii	515.88	38	New York	216.68	38	Nebraska	174.01	38	West Virgina	130.08	38
New Jersey	2016.11	39	Connecticut	699.60	39	Maine	529.74	39	North Carolina	221.19	39	Mississippi	176.88	39	Montana	131.61	39
D.C.	2211.11	40	New York	966.16	40	New Jersey	549.86	40	Iowa	223.60	40	North Carolina	179.68	40	Mississippi	133.05	40
Alaska	2385.42	41	South Dakota	1073.83	41	New Hampshire	569.53	41	South Dakota	234.63	41	Iowa	180.97	41	Hawaii	134.67	41
South Dakota	2405.20	42	Massachusetts	1132.36	42	Connecticut	597.64	42	Connecticut	238.33	42	Wisconsin	181.91	42	Iowa	135.03	42
North Dakota	2441.72	43	Delaware	1384.91	43	South Dakota	610.89	43	South Carolina	245.49	43	South Carolina	191.87	43	Massachusetts	138.29	43
Delaware	3136.15	44	New Jersey	1445.07	44	Alaska	620.11	44	Delaware	259.43	44	Delaware	193.43	44	South Dakota	145.69	44
Florida	3170.58	45	Florida	1520.15	45	North Dakota	627.17	45	D.C.	260.58	45	Pennsylvania	201.49	45	South Carolina	146.00	45
Pennsylvania	4306.99	46	North Carolina	1870.59	46	Pennsylvania	654.51	46	Massachusetts	270.22	46	North Dakota	205.01	46	Pennsylvania	149.95	46
Maryland	6120.57	47	Texas	2035.56	47	Florida	753.52	47	North Dakota	275.92	47	Hawaii	205.82	47	Delaware	153.12	47
Texas	6678.16	48	Pennsylvania	2301.50	48	Massachusetts	769.09	48	Pennsylvania	278.91	48	South Dakota	213.36	48	North Dakota	160.86	48
Vermont	6717.88	49	Maryland	2422.83	49	Texas	794.79	49	Maine	311.66	49	Maine	247.47	49	Maine	171.24	49
South Carolina	8747.12	50	D.C.	2430.91	50	Vermont	1019.00	50	Vermont	403.54	50	Vermont	249.88	50	Vermont	184.43	50
North Carolina	12419.74	51	South Carolina	3384.21	51	South Carolina	1064.03	51	Hawaii	440.93	51	Alaska	266.55	51	Alaska	203.60	51
United States	481.89		United States	326.39		United States	279.55		United States	128.04		United States	112.43		United States	88.56	

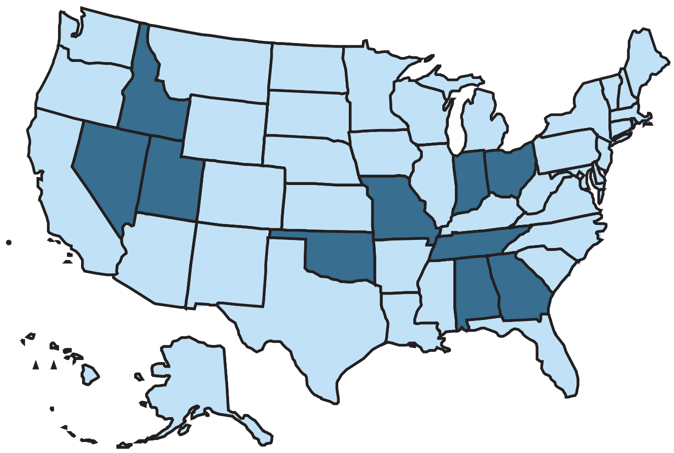
* Households per filing
Source: ABI & ACS. Calculations by Utah Foundation

Figure 4: Historical Bankruptcy Filing Rates* (continued)

State	1997	Rank	State	1998	Rank	State	2000	Rank	State	2001	Rank	State	2002	Rank	State	2003	Rank
Missouri	38.89	1	Missouri	35.83	1	Tennessee	45.66	1	Tennessee	38.15	1	Utah	34.59	1	Utah	34.87	1
Tennessee	39.99	2	Tennessee	41.72	2	Utah	48.18	2	Utah	38.59	2	Tennessee	36.13	2	Tennessee	35.46	2
Georgia	45.42	3	Nevada	44.25	3	Georgia	50.02	3	Georgia	44.20	3	Georgia	41.40	3	Georgia	39.60	3
Alabama	49.50	4	Georgia	47.43	4	Alabama	53.06	4	Nevada	44.32	4	Alabama	41.71	4	Nevada	41.19	4
Nevada	49.56	5	Utah	49.99	5	Nevada	54.54	5	Alabama	45.28	5	Nevada	41.93	5	Alabama	41.38	5
Utah	56.55	6	Alabama	52.20	6	Mississippi	56.39	6	Mississippi	48.00	6	Missouri	43.61	6	Indiana	42.62	6
California	56.68	7	Maryland	55.75	7	Indiana	61.98	7	Indiana	49.28	7	Indiana	44.38	7	Arkansas	45.06	7
Oklahoma	60.23	8	California	55.92	8	Arkansas	63.10	8	Arkansas	49.34	8	Arkansas	45.68	8	Mississippi	48.06	8
Virginia	60.98	9	Indiana	57.72	9	Maryland	66.65	9	Maryland	58.15	9	Mississippi	47.42	9	Oklahoma	50.45	9
Indiana	61.41	10	Arkansas	58.30	10	Idaho	68.43	10	Oklahoma	58.38	10	Oklahoma	56.03	10	Ohio	50.72	10
Maryland	62.36	11	Virginia	60.97	11	Oklahoma	71.48	11	Idaho	61.09	11	Idaho	56.52	11	Idaho	53.33	11
Arkansas	63.52	12	Oklahoma	61.04	12	Louisiana	73.53	12	Kentucky	61.60	12	Illinois	57.07	12	Kentucky	54.35	12
Washington	67.96	13	Idaho	62.47	13	Washington	74.89	13	Illinois	62.99	13	Ohio	57.54	13	Illinois	54.72	13
Idaho	68.06	14	New Jersey	65.70	14	Virginia	75.65	14	Louisiana	63.37	14	Maryland	58.20	14	Louisiana	57.53	14
Kentucky	70.02	15	Illinois	68.05	15	Illinois	75.81	15	Washington	63.66	15	Kentucky	59.62	15	Oregon	59.27	15
Arizona	70.54	16	Washington	68.22	16	Kentucky	76.38	16	Ohio	64.26	16	Oregon	61.17	16	Washington	59.83	16
Louisiana	70.57	17	Kentucky	68.57	17	Oregon	81.93	17	Oregon	64.41	17	Washington	61.20	17	Maryland	60.76	17
New Jersey	70.88	18	Hawaii	70.15	18	California	82.46	18	Virginia	66.84	18	Louisiana	62.92	18	Missouri	61.00	18
Illinois	71.06	19	Rhode Island	70.32	19	New Jersey	82.77	19	Wisconsin	72.55	19	Virginia	66.24	19	Michigan	62.58	19
Rhode Island	71.12	20	Louisiana	71.55	20	Ohio	83.32	20	Missouri	74.43	20	Arizona	69.56	20	Virginia	65.63	20
Oregon	75.56	21	Florida	75.08	21	Wisconsin	86.03	21	Florida	75.48	21	Michigan	70.15	21	Arizona	65.86	21
Kansas	78.16	22	Arizona	75.19	22	Hawaii	86.23	22	New Jersey	75.60	22	Wisconsin	71.19	22	Kansas	66.62	22
Florida	80.97	23	Ohio	77.15	23	Missouri	87.16	23	Kansas	75.83	23	Kansas	71.75	23	Wisconsin	67.68	23
Ohio	80.99	24	Kansas	77.19	24	Florida	88.24	24	California	77.83	24	Florida	72.68	24	Florida	71.46	24
Colorado	82.10	25	D.C.	80.28	25	Rhode Island	92.78	25	Arizona	78.45	25	New Jersey	76.46	25	Colorado	71.69	25
New Mexico	87.14	26	Oregon	83.27	26	Kansas	92.91	26	Wyoming	79.25	26	New Mexico	79.47	26	New Jersey	74.98	26
Wisconsin	87.35	27	New Mexico	83.45	27	Wyoming	94.49	27	New Mexico	82.76	27	California	80.86	27	New Mexico	77.54	27
Hawaii	92.61	28	Wyoming	85.36	28	Arizona	94.81	28	Hawaii	82.81	28	Rhode Island	84.32	28	West Virgina	78.44	28
Connecticut	92.85	29	Wisconsin	85.61	29	New Mexico	101.55	29	Michigan	83.08	29	Colorado	86.87	29	Nebraska	80.54	29
D.C.	93.44	30	Colorado	87.38	30	Michigan	106.29	30	Rhode Island	84.24	30	West Virgina	87.67	30	Wyoming	82.28	30
New York	94.21	31	New York	88.60	31	D.C.	106.64	31	Montana	92.48	31	Nebraska	89.46	31	Pennsylvania	82.45	31
New Hampshire	94.22	32	Connecticut	89.75	32	Pennsylvania	110.98	32	Pennsylvania	94.36	32	North Carolina	89.58	32	North Carolina	84.65	32
Wyoming	94.84	33	Michigan	92.28	33	Colorado	112.12	33	Nebraska	94.53	33	Pennsylvania	90.05	33	Montana	85.30	33
Michigan	95.31	34	Montana	96.88	34	Montana	112.77	34	Colorado	95.67	34	Wyoming	90.14	34	Texas	86.09	34
Minnesota	100.07	35	New Hampshire	98.38	35	North Carolina	115.74	35	North Carolina	96.43	35	Montana	90.64	35	California	86.44	35
Texas	100.68	36	Pennsylvania	102.14	36	Nebraska	120.34	36	D.C.	96.84	36	Hawaii	93.75	36	Delaware	89.01	36
Massachusetts	101.61	37	Texas	102.93	37	West Virgina	121.55	37	West Virgina	98.60	37	Delaware	97.52	37	Rhode Island	91.28	37
Montana	104.18	38	Minnesota	106.01	38	New York	122.51	38	Texas	101.36	38	Texas	97.61	38	Iowa	94.46	38
West Virgina	109.08	39	Nebraska	106.15	39	Connecticut	122.88	39	Delaware	102.86	39	D.C.	98.77	39	New York	96.44	39
Mississippi	109.30	40	West Virgina	107.95	40	Texas	123.16	40	New York	105.93	40	Iowa	100.01	40	South Carolina	97.56	40
North Carolina	111.30	41	Massachusetts	108.80	41	Delaware	124.28	41	Iowa	106.01	41	South Carolina	100.36	41	Minnesota	102.61	41
Nebraska	111.62	42	North Carolina	108.99	42	South Carolina	127.13	42	South Carolina	109.90	42	New York	101.29	42	D.C.	109.34	42
Pennsylvania	111.82	43	Mississippi	113.19	43	Maine	134.82	43	Connecticut	112.81	43	Minnesota	112.20	43	South Dakota	109.35	43
Delaware	115.21	44	Delaware	113.63	44	North Dakota	135.59	44	South Dakota	113.95	44	Connecticut	112.84	44	Connecticut	109.74	44
Iowa	117.96	45	Maine	114.68	45	Minnesota	140.17	45	North Dakota	117.68	45	South Dakota	114.90	45	Hawaii	112.66	45
Maine	124.16	46	North Dakota	117.35	46	Iowa	141.27	46	Minnesota	117.70	46	Maine	124.09	46	New Hampshire	116.04	46
South Dakota	128.91	47	Iowa	119.48	47	New Hampshire	141.99	47	Maine	120.29	47	New Hampshire	127.13	47	North Dakota	116.30	47
South Carolina	130.03	48	Vermont	123.26	48	South Dakota	145.01	48	New Hampshire	134.25	48	North Dakota	130.08	48	Maine	117.47	48
Vermont	130.89	49	South Carolina	126.72	49	Massachusetts	158.46	49	Massachusetts	142.41	49	Vermont	139.60	49	Vermont	132.63	49
North Dakota	136.80	50	South Dakota	130.97	50	Vermont	168.69	50	Vermont	148.31	50	Massachusetts	142.91	50	Massachusetts	136.36	50
Alaska	174.05	51	Alaska	158.81	51	Alaska	171.10	51	Alaska	160.78	51	Alaska	165.91	51	Alaska	165.16	51
United States	74.85		United States	73.18		United States	87.13		United States	74.03		United States	69.58		United States	67.31	

* Households per filing
Source: ABI & ACS. Calculations by Utah Foundation

Figure 5: States with Historically High Bankruptcy Rates



large amounts of debts. Until this and other research is completed, the bankruptcy phenomena in Utah may remain largely undiscovered, and until then we must rely on exploring theoretical models.

WHY IS BANKRUPTCY ON THE INCREASE?

Despite the large number of Americans who file for bankruptcy and the long history of bankruptcy, relatively little is known about the phenomenon. Increased attention in recent years has added to the bankruptcy literature; however, this research remains both inconsistent and inconclusive as to the major factors that lead people to file for bankruptcy. Research demonstrates that financial difficulties are not limited to certain levels of socio-economic class, age, race, or education levels. Any individual or family may be affected by job loss, divorce, large medical bills, or simply be unsuccessful in handling his or her own finances.

Predicting or isolating the characteristics of who will go bankrupt is not an exact science. Studies conducted on bankruptcy range from attempts to discover if single parent families are more likely to file for bankruptcy, if economic downturns are the culprit, if there is a decline in the social stigma associated with going bankrupt, or if increasing divorce rates or being a single mother are possible explanatory factors in bankruptcy.

"AFFLUENZA" AND CREDIT CARD DEBT

Different arguments exist that attempt to understand the rise of consumer debt and ultimately bankruptcy in the last several decades. *Affluenza*, a PBS documentary and recent book by John De Graaf, David Wann, and Thomas H. Naylor argues that Americans are caught up in a "painful, contagious, socially transmitted condition of overload, debt, anxiety, and waste resulting from the dogged pursuit of more."[8] In the pursuit of the "American Dream," individuals are in a frenzy of consuming more goods and services, buying newer and better cars, and larger and more expensive homes. This consumption is funded by credit, with the average American household having five or more credit cards and carrying a debt level of over $8,000 on those cards.[9]

Any discussion of bankruptcy that does not address consumer credit and the proliferation of credit cards is insufficient. Consumer debt in 2003—not including mortgages—rose to $1.98 *trillion.* This debt equates to about $18,700 per household. Initial reports by the Federal Reserve reveals that at the end of the second quarter 2004, that amount had increased to $2.02 *trillion* in total outstanding consumer debt. Partly explaining the increased consumer debt load that individuals carry is the deregulation of the credit card market in the 1980s and the rise of credit card debt.

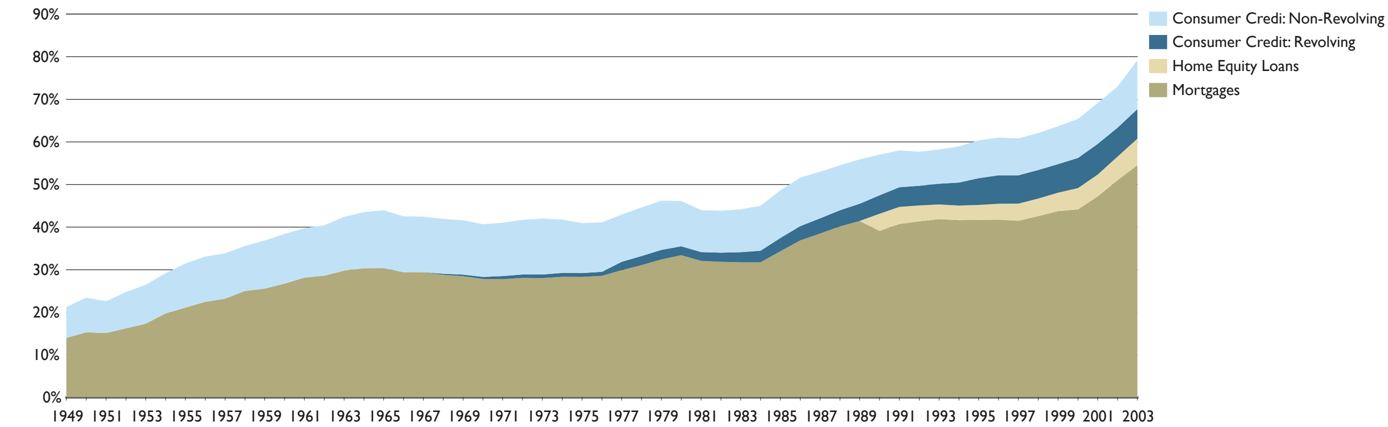
In 1978, the U.S. Supreme Court ruled in *Marquette National Bank of Minneapolis vs. First of Omaha Service Corporation* that nationally chartered banks could charge maximum interest rates based on where the bank was chartered as opposed to the maximum rates set by the state in which the borrower resided. As a result, many states eliminated or raised the ceilings on interest rates which creditors could charge their borrowers and contributed to the expansion of credit card lending. While deregulation of the credit industry undoubtedly brought increased competition and expanded credit card offers and incentives, it also opened the market to high risk borrowers or individuals previously denied access to credit—albeit at higher interest rates or less desirable terms.

Marketing of credit cards has increased dramatically. Since the early 1990s, individuals in the lowest income brackets doubled their credit card usage.[10] Using credit cards has become more common for convenience. Credit card use is widespread throughout all demographic categories, though it is considerably higher among low-income households and younger households.[11] The Federal Reserve estimates that 76.2% of all American families have some form of credit card.[12]

While credit card debt is undoubtedly becoming more and more common, mortgage debt has increasingly occupied a larger portion of overall debt. Mortgage debt has been steadily rising since the end of the 2001 recession, and by the end of the second quarter 2004 was over $7 trillion, representing a 33% increase since 2001.[13] As can be seen from Figure 6, total household debt trends closely mirror mortgage debt trends. Total consumer credit—which includes credit cards, car loans, and other non-mortgage debt—as a percentage of total household debt has remained fairly consistent since the 1960s. An increasing portion of consumer credit has consisted of revolving credit, or credit cards, displacing non-revolving consumer credit or installment loans. Still, while consumer credit may be high due to increased credit card debt, when considered as a portion of total debt, including mortgages, it is relatively low. Mortgage debt is responsible for most of the growth in household debt.

While mortgage debt is growing at faster rates than the economy, disposable personal income per capita has only been increasing at about 3% a year since 2001.[14] More individuals may be filing for bankruptcy because their debt to income ratio has increased. While debt-service-burden ratios have fallen in the last few years,[15] this number is still high compared to 20 years ago. Research by Sullivan,

Figure 6: U.S. Household Debt as Percent of GDP



Source: Federal Reserve Bank; U.S. Bureau of Economic Analysis (BEA)

Warren & Westbrook demonstrates that as income increases, households are more likely to have a corresponding increase in consumer debt levels.[16]

Another aspect of credit card debt that must be explored when considering possible explanations for rising bankruptcy rates is the increasing reliance of small business owners on credit. Credit cards are a convenient method of payment and are required for many sorts of purchases (hotel reservations, car rentals, etc); many Americans also rely on access to credit to fund their small businesses. Entrepreneurs face challenges in finding start up money, funding business projects, and helping make ends meet. Bank lines of credit or other loans for small businesses may require lengthier application and approval processes, while obtaining approval for credit cards is much easier and faster and may explain why many small business owners rely on credit cards as a primary source of funding.[17]

Data collected for the 1981 Consumer Bankruptcy Project showed that 20% of all debtors in the sample owned their own small business as compared to 7.4% of the general population.[18] A 1998 Arthur Anderson survey of small businesses reported that 47% of owners used credit cards to finance their operations as opposed to 45% who used bank loans.[19] Although those reports are widely separated by time and purpose, together they indicate a potential economic weakness in which small business owners generate large amounts of credit card debt that can lead to bankruptcy when the business does not succeed. Because Utah is known for a high level of entrepreneurship, this phenomenon may be influencing Utah's high bankruptcy rate. More research is needed to know if this is truly the case. Utah Foundation interviews with professionals involved in the bankruptcy process in Salt Lake City revealed sentiments that many small business owners are inadequately prepared to handle their daily finances.

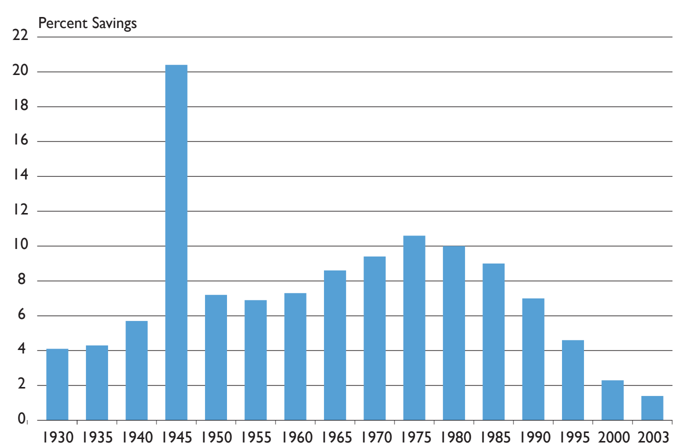
PERSONAL SAVINGS & DISPOSABLE PERSONAL INCOME

Increased reliance on credit, when coupled with a historically low savings rate, has the potential to drive up the number of individuals or families who are in financial jeopardy and unable to handle any income disruptions. Personal savings rates for the United States have been steadily declining since the early 1990s. In 1990, the personal savings rate (as a percentage of disposable personal income) was 7%. By 2003, the personal savings rate had fallen to 1.4% (When considering personal savings, it is important to note that while contributions to 401(k) or other individual retirement accounts are taken into account, any gains of those investments are not).

There are many possible explanations for the decline in the personal savings rate. The data listed in Figure 7 uses measures from the Bureau of Economic Analysis' National Income and Product Accounts to show savings as a percent of after-tax income.[20] The personal savings rate is intimately connected with changes in mortgage credit. Increased access to home loans, lower interest rates, and incentives to refinance homes in order to gain access to home equity can lower the personal savings rate as people use debt, rather than savings as an emergency reserve.

Many economists argue that a better measure of savings is to consider an individuals' net worth as opposed to his or her personal savings rate—when factoring in net worth, individuals are able to consider

Figure 7: U.S. Personal Savings as a Percent of Disposable Personal Income



Source: BEA

the value of their home, which most often is their largest investment. While this may demonstrate that some individuals are indeed financially well off, it does not necessarily mean that those assets can be easily liquidated in times of financial distress or have the ability to provide an emergency buffer during hard times. Without a 'buffer' between paychecks, families are more at risk of financial problems if medical problems or job loss occur. While savings may be at an all time low, it is possible that more and more individuals are turning towards increased reliance on credit to stretch budgets and make ends meet.

STIGMA

Increased access to credit and declining savings rates are frequently used as possible explanations for rising bankruptcy rates. Several studies take a different approach to understand bankruptcy and examine the role social stigma plays in an individuals' decision to file for bankruptcy. The basic premise of such arguments is that as the stigma associated with filing for bankruptcy declines, the filing rates will subsequently rise. While those studies do offer insight into the bankruptcy filing decision, the results are inconclusive due in large part to the difficulties in quantifying social stigma, and the reliance on proxy variables for measurement of stigma.

One long-term research project conducted by the University of Michigan reported that half of bankrupt families were unwilling to admit *anonymously* that they had gone bankrupt. Other calculations in this same study show that up to 17% of all U.S. households could improve their financial situation if they filed for bankruptcy protection.[21] In other words, it is reasonable to assume that stigma is associated with bankruptcy and it is strong enough to prevent individuals and families from obtaining needed help. Because of the difficulties in measuring stigma and the variation in research, pinpointing the perceived decline in social stigma as one of the driving forces behind rising bankruptcies rates is difficult. Nevertheless, the nature of culture and close family ties in Utah communities may keep the stigma of bankruptcy alive.[22] Measuring such effects would be difficult for the reasons mentioned above.

THE TWO-INCOME TRAP

While the authors of *Affluenza* paint the picture that Americans are spending more and more money in vain attempts to buy happiness, Elizabeth Warren and Amelia Warren Tyagi in *The Two-Income Trap* paint a decidedly different picture. Warren and Tyagi instead argue that while Americans *are* spending a fair portion of their money on dining out, new clothes, and appliances, the percentage of income spent on those items is actually considerably less than American families spent fifty years ago.

When categorizing expenses in the average household, Warren and Tyagi discovered that a decrease in one category offsets an increase in another category. For example, Warren argues that today's family of four spends 22% less on food than a family a generation ago. While families spend more money dining out, the total grocery bill has declined in part due to the rise of discount chain stores such as Costco and the concept of buying food in bulk.[23]

Despite this trade-off, American families—especially middle class families—remain in financial trouble and the single biggest factor according to Warren and Tyagi is the cost of housing. More specifically, rising home prices are a problem for families much more than for childless individuals. Warren and Tyagi's research demonstrates that, between 1983 and 1998, home prices for families with children increased three times faster than for families without children.[24]

Fueling this increase in home prices is a desire for families to provide the best possible environment for their children—from safety to the quality of suburban public schools. Families have entered into a "bidding war" in which they are willing to devote larger and larger portions of their incomes to their homes. Warren and Tyagi argue that while families are working harder and making more money, after taking into consideration house and car payments, insurance, and child care, two-income families today have *less* discretionary income than a family with one bread-winner did in the 1970s. Most of the additional expenses are funded largely with money earned from women entering the workforce. By using money derived from a woman's second income to pay for household necessities rather than saving that money for emergencies, families today are more likely to be affected by income disruptions.

The economy has shifted, with more women and mothers working; however, this means that two-wage earner families are at *twice* the risk of income instability and disruptions. Any change in family dynamics, income interruptions, or job loss creates pressures on a family budget that is already overextended, making survival on one income difficult.

SINGLE MOTHERS & WOMEN

Despite advances in economic and social equality for women, single mothers are more likely than any other group to file for bankruptcy. Statistically, single mothers are 50% more likely to file for bankruptcy than married couples with children and three times more likely to file than individuals without children, whether they are married or not.[25] Bearing children is now the single best predictor that an unmarried woman will end up financial collapse in the course of her lifetime, and research by Warren and Tyagi reveals that more than 200,000 single mothers file each year—or one in every 38 single mothers. Warren and Tyagi's research also demonstrates that college educated single mothers are 60% more likely to file for bankruptcy than their counterparts without a college degree. Furthermore, college educated single mothers are more likely to hold good jobs and to have obtained homeownership status than are single parents in the general population.[26]

DIVORCE

While the causes of bankruptcy may be numerous, the impact of divorce leads many single mothers to turn towards bankruptcy as marriage rates decline and divorce rates rise. While divorce may not be the primary cause of bankruptcy, many of the hardships associated with divorce are reasons for filing. Financial problems do not necessarily lead to divorce or vice versa, but these types of events likely reinforce each other. Research demonstrates that bankruptcy and divorce are intimately related, and debtors are more likely to be divorced than the population in general.[27] Sullivan, Warren and Westbrook in *The Fragile Middle Class* find that divorcees were twice as likely to be bankrupt as any other group in the population due to the pressures of having to maintain a household on less income.[28]

Despite a divorce, formerly married couples may still be obligated to pay off their former spouses' debts. In addition to sharing debts, single mothers with custody of children are faced with dealing with the issue of child support. Some studies show that while the majority of women receive some form of child support from their former spouse, the amount is often inadequate to cover the needs of children due to either a low settlement or the father's inability to financially afford a higher amount of assistance to the children.[29]

Utah has a slightly higher than average divorce rate, but while states with historically high bankruptcy filing rates do have a higher than average divorce rate, this does not hold true consistently. Divorcees are more likely to file for bankruptcy, but a low state divorce rate does not necessarily imply that married couples are more likely to be financially secure and thus less likely to file for bankruptcy. Further research is needed to determine specifically what percentage of divorcees in each state file for bankruptcy.

MEDICAL FACTORS

Medical problems and job loss are other top factors commonly associated with bankruptcy. Rising costs and lost income due to medical illness or accidents may in part explain bankruptcy filings. Sullivan, Warren & Westbrook report from their 1998 study that more than one in five debtors listed medical problems as their primary reason to file bankruptcy.[30] Income loss, decreased hours, missed workdays, and possible job termination result in decreased income and negatively affect a family's ability to meet its monthly obligations.

While insurance may cover medical situations for many people, not everyone is covered. In the United States, 15.6% of individuals are uninsured, with 24.2% of those individuals coming from low-income families.[31] In Utah, 13.6% of individuals are not covered by health insurance.[32] Uninsured medical debt is the single largest factor at the margin for filing for bankruptcy. Households with medical debt in excess of their income are 28 times more likely to be bankrupt than other households.[33] And because the majority of Americans have some form of insurance, it does not follow that everyone is covered adequately or is able to comfortably pay increasing premiums. Costs of insurance premiums have steadily increased over the last few years, as have prescription drug co-payments. Medical debt in particular has the potential to disrupt family finances and affect a large array of individuals. For the most part, medical problems constitute a largely unanticipated event and therefore many families are inadequately prepared to handle the ramifications of an accident or illness.

Recent research by Morgan Quitno ranked Utah as the sixth healthiest state in the nation. It follows from this that Utah workers may not suffer from as many medical emergencies or frequent missed workdays as in other states. Part of the explanation for the healthiness of Utah's population lies in the large number of children who are not at risk for many medical diseases and illnesses due to their young age. It is notable, however, that 9.3% of Utah children are not covered by health insurance. While the national average is 11.6%, more families in Utah may be at risk (due to larger family sizes) to incur substantial medical debt because of inadequate or non-existent health insurance for their children.

Figure 8: Divorce and Single Mothers, 2002

State	Divorce Rate*	Rank	% Single Mothers	Rank
U.S. Average	**4.0**	**--**	**12.4**	**--**
Alabama	5.5	3	14.1	7
Alaska	4.1	20	10.6	36
Arizona	4.8	11	11.3	31
Arkansas	6.3	2	12.2	21
California	NA	--	12.9	13
Colorado	4.7	12	9.8	40
Connecticut	2.9	41	11.9	25
Delaware	3.0	38	13.3	10
District of Columbia	2.4	47	19.5	1
Florida	5.2	7	12.3	18
Georgia	3.7	28	14.7	5
Hawaii	3.7	28	11.9	25
Idaho	5.2	7	7.9	51
Illinois	2.9	41	12.3	18
Indiana	NA	--	11.4	29
Iowa	2.9	41	9.1	44
Kansas	3.8	26	11.0	33
Kentucky	5.2	7	12.2	21
Louisiana	NA	--	17.6	3
Maine	3.9	24	11.1	32
Maryland	3.0	38	14.0	8
Massachusetts	2.6	46	12.3	18
Michigan	3.8	26	11.9	25
Minnesota	3.1	36	8.9	46
Mississippi	5.0	10	18.0	2
Missouri	4.0	22	11.4	29
Montana	2.8	45	8.3	50
Nebraska	3.7	28	8.7	48
Nevada	9.7	1	12.2	21
New Hampshire	4.6	13	10.3	37
New Jersey	3.4	32	12.4	17
New Mexico	4.4	17	13.3	10
New York	3.7	28	14.7	5
North Carolina	4.5	16	13.3	10
North Dakota	2.9	41	8.4	49
Ohio	4.0	22	12.7	16
Oklahoma	NA	--	10.9	34
Oregon	4.6	13	10.3	37
Pennsylvania	3.0	38	11.5	28
Rhode Island	3.1	36	13.4	9
South Carolina	3.2	35	15.1	4
South Dakota	3.4	32	8.8	47
Tennessee	5.4	5	12.9	13
Texas	3.9	24	12.9	13
Utah	**4.1**	**20**	**9.3**	**43**
Vermont	4.2	18	9.5	42
Virginia	4.2	18	12.1	24
Washington	4.6	13	10.3	37
West Virginia	5.5	3	10.7	35
Wisconsin	3.3	34	9.6	41
Wyoming	5.3	6	9.0	45

* National Average based on states reporting
Source: Morgan Quitno 2004 State Rankings

Pinpointing medical debt as a leading cause of bankruptcy raises many difficult questions. Simply having large amounts of medical debt does not necessarily imply that one will go bankrupt, nor has research successfully demonstrated numerically how many bankruptcies are caused solely by medical issues. Difficulties in identifying medical debts exacerbate this, since many families will take out home equity lines of credit, second mortgages, or pay for medical bills on a credit card.[34] Further complicating the issue is the interrelationship between medical problems and loss of income or job tenure. Data demonstrates that nearly two-thirds of all bankruptcies are related to job-related financial stress.[35] It appears that the problem is so intertwined that extrapolating one factor from the other is challenging. Any disruption in the work place, whether it is job loss or replacement at lower wage levels, can put individuals and families too far behind in their monthly debt obligations to remain solvent.

WHY IS UTAH LEADING THE NATION IN BANKRUPTCY FILINGS?

Thus far, this report has been concerned with evaluating historical bankruptcy trends both nationally and within Utah, as well as laying out various theories on the causes of bankruptcy in general. This report now turns towards a more detailed analysis of what specifically may be responsible for Utah's high household filing rate. The report concludes by highlighting various research efforts currently underway in Utah that will improve our understanding and awareness of Utah's bankruptcy problem.

LOCAL LEGAL CULTURE & CHAPTER CHOICE

The concept of local legal culture has been introduced in the bankruptcy literature in an attempt to understand the differences in filing at both the state and district level. Local legal culture refers to the idea that there are systemic and persistent variations in the local legal practices of a certain area that are the result of perceptions and expectations of those individuals involved in the process (i.e. bankruptcy attorneys and judges). These perceptions and expectations shape the way formal legal rules, although uniform in nature, are carried out by individuals at the ground level and how that implementation differs profoundly from one locale to the next.[36]

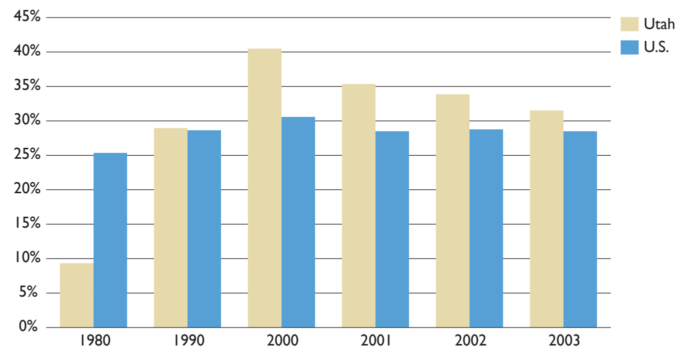
In their work "The Persistence of Local Legal Culture: Twenty Years of Evidence from the Federal Bankruptcy Courts," Sullivan and Warren argue that even though formal bankruptcy laws are mandated at the federal level, districts develop through individuals and practices their own sense of which chapter choice is more preferable and which levels of repayment are optimal. This in turn has the potential to affect filing and success rates. The local rules in any given district can vary greatly and offer judges and administrators the flexibility to create specific policies that best suit the dynamics of their region—so long as they are not more lenient or punitive than federally mandated.

Sullivan and Warren discovered that local filing rates can vary by as much as a factor of 100, and different judicial boundaries within states can complicate any study; the entire state of Utah comprises its own district, but many states are divided into separate geographic districts.[37] When evaluating the differences intra-state, the discrepancies between filing rates are more apparent. To illustrate this point, Sullivan and Warren illustrated that in 1990 within the state of Alabama, the Southern District reported that Chapter 13 filings represented 20% of their total filings while the Middle District of Alabama had a Chapter 13 filing rate of 66%.

When considering what possible factors contribute to Utah's high rate of filings, it is impossible to ignore the ramifications of chapter choice and ultimately local legal culture. Current research by Jean Lown and Barbara Rowe at Utah State University is concerned with pinpointing if there are any specific demographic factors that may make Utahns more prone to financial insecurities as well as how chapter choice may affect Utah's filing rates. Lown and Rowe took a random sampling of over 2,500 consumer bankruptcy cases filed in the district of Utah during 1997 and are at present deciphering the data collected.

Today in Utah, approximately 32% of all consumer cases filed are in Chapter 13 repayment plans, but a few years ago the number was 40%. Nationwide approximately 29% of all consumer bankruptcy cases are filed in Chapter 13. Chapter 13 bankruptcies both locally and nationally have been on the rise since the 1970s, when only 16% of filings were Chapter 13.[38] As can be seen in Figure 9, the percentage of Chapter 13 cases in Utah escalated through 2000 before falling to 32% in 2003.

Figure 9: Chapter 13 Filings as a Percentage of Total Filings



Source: ABI

One theory to explain Utah's high bankruptcy rate is that many Chapter 13 filings fail to result in a discharge of debts. Failed bankruptcy cases have the potential to drive up the filing rates in Utah. Even though a bankruptcy case fails, a family or individual may still be in financial distress, and the only viable option is to re-file. More research is needed to establish how many *families* or *individuals* are filing for bankruptcy as opposed to how many bankruptcy *case numbers* are filed each year.

David Evans, a former Utah State University graduate student, used the samples acquired from Lown and Rowe's 1997 bankruptcy sample to reveal that single filers, filers with children, previous bankruptcies, and those filers with high levels of mortgage arrears were more likely to have their Chapter 13 cases dismissed.[39] The general assumption is that individuals who own their own home will file for a Chapter 13 bankruptcy as opposed to a Chapter 7 in an effort to save their house. Chapter 13 repayment plans have the potential to allow an individual or family to bring their mortgage current, repay a portion of their debts, and keep their home. In fact, a popular assumption is that people file Chapter 13 as a temporary strategy to avoid a foreclosure on their home, and once caught up on the mortgage, they allow the case to be dismissed. These filers are not necessarily seeking discharge of debts, but rather use Chapter 13 as a temporary legal strategy to save their house.

Figure 10: Chapter 13 Bankruptcies as Percent of Total Non-Business Bankruptcies

State	1980 Chapter 13 as Percent of Total	Rank	State	1990 Chapter 13 as Percent of Total	Rank	State	2000 Chapter 13 as Percent of Total	Rank	State	2001 Chapter 13 as Percent of Total	Rank	State	2002 Chapter 13 as Percent of Total	Rank	State	2003 Chapter 13 as Percent of Total	Rank
AR	72.80%	1	NC	62.92%	1	GA	63.45%	1	GA	59.96%	1	GA	57.62%	2	SC	56.51%	1
NC	71.47%	2	TN	60.04%	2	AL	60.01%	2	AL	55.19%	2	SC	56.74%	3	GA	54.31%	2
AL	67.43%	3	AL	57.33%	3	NC	58.54%	3	NC	54.04%	3	TN	52.35%	4	AL	51.30%	3
HI	52.11%	4	GA	56.23%	4	TN	56.13%	4	SC	53.94%	4	AL	52.29%	5	TN	51.03%	4
TN	46.05%	5	SC	49.05%	5	SC	52.56%	5	TN	53.24%	5	NC	52.21%	6	NC	50.61%	5
CO	45.20%	6	DC	46.35%	6	TX	47.81%	6	TX	46.03%	6	TX	46.71%	6	TX	47.54%	6
TX	41.60%	7	AR	44.20%	7	AR	43.83%	7	AR	41.04%	7	AR	41.73%	7	AR	40.19%	7
ME	40.48%	8	MS	38.41%	8	LA	42.41%	8	LA	38.43%	8	LA	38.80%	8	LA	38.68%	8
GA	35.32%	9	TX	37.52%	9	MS	40.54%	9	UT	35.37%	9	DE	37.77%	9	NJ	35.38%	9
MS	33.39%	10	NE	35.21%	10	UT	40.49%	10	MS	35.29%	10	NJ	36.50%	10	MD	33.01%	10
ID	31.52%	11	MD	33.61%	11	NJ	36.49%	11	NJ	35.16%	11	MS	34.19%	11	MS	31.75%	11
WA	31.18%	12	ID	32.90%	12	DE	35.45%	12	DE	34.73%	12	UT	33.87%	12	UT	31.52%	12
IL	28.76%	13	PA	30.28%	13	DC	35.14%	13	MD	30.99%	13	MD	33.52%	13	PA	31.18%	13
KS	27.31%	14	UT	28.96%	14	MD	31.99%	14	DC	29.16%	14	PA	31.00%	14	MI	29.64%	14
OH	27.08%	15	MN	28.68%	15	PA	30.65%	15	PA	28.46%	15	MI	29.58%	15	FL	27.53%	15
SC	26.45%	16	NV	27.84%	16	IL	29.44%	16	MI	27.44%	16	DC	29.46%	16	DC	27.17%	16
NJ	26.11%	17	MO	27.73%	17	MO	29.32%	17	MO	27.17%	17	FL	27.68%	17	VA	27.11%	17
MI	22.86%	18	LA	27.58%	18	FL	29.17%	18	FL	26.99%	18	IL	26.04%	18	MO	27.07%	18
PA	21.93%	19	NJ	26.95%	19	MI	27.86%	19	IL	26.71%	19	VA	25.48%	19	NV	24.85%	19
NE	20.70%	20	OR	26.61%	20	NV	26.47%	20	NV	24.98%	20	NV	24.80%	20	IL	24.82%	20
CA	20.41%	21	CO	26.16%	21	VA	25.54%	21	VA	24.28%	21	MO	23.16%	21	NE	22.30%	21
RI	20.41%	22	IL	24.51%	22	WA	22.61%	22	WA	19.92%	22	NE	21.64%	22	OH	20.65%	22
NY	20.08%	23	MI	24.10%	23	OH	21.37%	23	IN	19.25%	23	OH	20.47%	23	NY	19.94%	23
KY	19.67%	24	DE	23.90%	24	CA	20.54%	24	OH	18.88%	24	NY	20.38%	24	IN	19.68%	24
LA	19.35%	25	OH	23.88%	25	MN	20.29%	25	AZ	18.81%	25	WA	20.10%	25	WA	19.59%	25
MA	19.18%	26	ME	23.31%	26	IN	20.20%	26	NY	18.74%	26	AZ	19.91%	26	KS	19.36%	26
WI	18.88%	27	AZ	22.67%	27	NY	19.56%	27	CA	17.85%	27	IN	19.42%	27	AZ	19.28%	27
MN	15.92%	28	WA	21.86%	28	ID	18.44%	28	KS	17.21%	28	KS	18.90%	28	KY	17.80%	28
VA	14.76%	29	CA	21.85%	29	KS	18.34%	29	MN	17.17%	29	CA	17.91%	30	CT	17.26%	29
OR	12.84%	30	KY	21.52%	30	AZ	18.30%	30	WI	16.06%	30	KY	17.00%	31	CA	16.45%	30
AK	12.26%	31	VA	19.56%	31	KY	16.85%	31	KY	15.82%	31	MN	16.67%	32	WI	16.29%	31
SD	11.34%	32	NY	19.51%	32	WI	15.82%	32	NE	15.63%	32	WI	16.53%	33	MN	16.29%	32
MO	11.30%	33	KS	18.65%	33	NE	15.40%	33	ID	14.03%	33	CT	16.22%	34	MA	13.82%	33
DE	10.23%	34	MA	17.81%	34	CO	15.25%	34	MA	13.47%	34	MA	14.98%	35	VT	13.04%	34
WY	10.13%	35	CT	13.13%	35	NM	14.73%	35	CT	13.35%	35	ID	13.45%	36	ID	12.64%	35
UT	9.34%	36	WI	13.05%	36	MA	14.33%	36	CO	12.91%	36	CO	12.38%	37	HI	12.36%	37
IA	8.73%	37	AK	12.34%	37	OR	14.18%	37	OK	12.26%	37	MT	11.77%	38	OR	12.35%	38
CT	7.27%	38	FL	11.18%	38	OK	14.17%	38	NM	12.11%	38	OR	11.63%	39	MT	11.01%	39
DC	6.83%	39	VT	11.11%	39	CT	13.64%	39	OR	11.61%	39	VT	11.35%	40	NH	10.64%	40
NM	6.77%	40	NM	10.85%	40	MT	11.42%	40	MT	11.21%	40	OK	11.09%	41	OK	10.62%	41
MD	5.36%	41	WY	10.79%	41	HI	10.66%	42	HI	10.16%	41	HI	10.40%	42	CO	10.23%	42
FL	5.19%	42	OK	10.43%	42	AK	9.38%	43	VT	9.39%	42	NH	9.45%	43	NM	8.67%	43
NV	5.10%	43	MT	9.78%	43	VT	9.29%	44	AK	8.62%	43	NM	8.94%	44	ME	8.61%	44
AZ	4.97%	44	IN	9.78%	44	NH	8.90%	45	NH	8.59%	44	ME	8.47%	45	AK	8.14%	45
IN	4.60%	45	HI	9.65%	45	ME	7.42%	46	RI	7.97%	45	RI	8.12%	46	WY	7.74%	46
WV	4.37%	46	NH	9.29%	46	IA	7.07%	47	ME	6.87%	46	AK	8.09%	47	RI	7.61%	47
OK	3.45%	47	WV	8.57%	47	RI	6.78%	48	WY	5.84%	47	WY	6.18%	48	SD	5.81%	48
ND	2.75%	48	IA	8.49%	48	WY	5.66%	49	IA	5.29%	49	WV	5.25%	49	WV	5.28%	49
VT	2.29%	49	SD	6.61%	49	WV	5.03%	50	WV	5.08%	50	IA	5.03%	50	IA	5.11%	50
MT	1.77%	50	RI	6.44%	50	SD	3.60%	51	SD	3.42%	51	SD	4.92%	51	ND	4.25%	51
NH	1.76%	51	ND	4.01%	51	ND	3.20%	52	ND	2.41%	52	ND	4.03%	52	DE	0.04%	52
US	**25.36%**		**US**	**28.64%**		**US**	**30.58%**		**US**	**28.50%**		**US**	**28.77%**		**US**	**28.50%**	

Source: ABI "Annual U.S. Non-Business Bankruptcy Filings by Chapter"

However, Professor Lown and graduate student Bonny Llewellyn at Utah State University found that only 22.1% of Utah filers listed mortgage debt in their filing for Chapter 13.[40] Thirty-nine percent of filers listed tax debt to either the IRS or Utah Tax Commission and 63.8% of debtors had vehicles claims.[41] Furthermore, in their 1997 sample, 26.7% of all debtors had vehicle debt as their only obvious reason for filing for Chapter 13. In other words, it appears that in Utah the reasons for filing Chapter 13 may be contrary to popular assumptions. Further research on this issue is being explored at Utah State University; similar information on the demographics of Chapter 13 filers in other states is not yet available.

As stated before, a higher proportion of Utah filings are in Chapter 13 as opposed to Chapter 7 compared to the rest of the country. This does not mean, however, that Utahns are more apt to repay their debts rather than receive a complete discharge in Chapter 7. Of the total Chapter 13 filings in Utah in 1997, only 23.8% of those were completed and resulted in a discharge of any remaining unsecured debt. The remaining cases were either dismissed or converted to a Chapter 7 bankruptcy. Nationally, one third of Chapter 13 filings reach a successful discharge.[42]

Interviews with individuals involved in the bankruptcy process in Utah yield mixed results as to whether local rules in Utah are harsher as compared with other districts, or if local rules reflect a stronger push towards Chapter 13 filings as opposed to Chapter 7. Sullivan and Warren ascertain that while bankruptcy is indeed a national phenomenon, the decision whether to file at all is a local decision influenced by factors such as bankruptcy attorney advertising, attorney costs, and general knowledge about the bankruptcy system.

High rates of Chapter 13 filings overall do not necessarily correlate strictly with high filing rates in other states. Several other states rank in the top 20 for Chapter 13 filings. These states have held those positions consistently since 1980, and do not have a high total filing rate. Nevertheless, states with historically high bankruptcy filings rates are overly represented in the top tier of states with high Chapter 13 filings. It may be that the combination of a high rate of Chapter 13 filings plus a low rate of Chapter 13 success leads to high bankruptcy filing rates. More research is needed on this topic. Interestingly, those states with historically high Chapter 13 filings rates are disproportionately located in the Southeastern part of the United States. Research by Sullivan and Warren reveals that high filing rates of Chapter 13 in one year are directly correlated with subsequent future high Chapter 13 filings, giving rise to the concept of a permanent local legal culture that influences bankruptcy filings.[43]

HOUSING PRICES & INCOME

Local legal culture may be able to explain some of the reasons why Utah has a high filing rate; however, supporting research is still inadequate. When considering Warren and Tyagi's theories on bankruptcy in *The Two-Income Trap*, it is clear that many of the demographic factors they consider predictors of financial distress are present in Utah. Home prices for families with children have increased faster than for families without children, and this poses a unique challenge for Utahns because Utah has the largest family size in the nation (3.57 persons per family as compared to 3.14 nationally). About 46% of all Utah households have a child under the age of 18 living at home compared to 36% nationally.[44]

Larger families frequently have higher debt levels due to increased need for larger homes, bigger cars to accommodate all family members, and additional expenses for clothes, food, medical expenses, and other items. Utah has larger than average home sizes, with the median number of rooms per house being six as compared to 5.3 nationally. 28.3% of all homes in Utah have at least eight rooms.[45] Utahns also have a higher than average number of vehicles per household with 41.9% (38.4% nationally) of all households having 2 vehicles and 26.1% (17.1% nationally) having three or more vehicles.[46]

Utah has a high home ownership rate at 72.7%; this in itself is not a predictor of bankruptcy, but larger families require larger homes and larger homes typically cost more. The affordability of housing is a factor that may help explain Utah's high filing rate. Research by the Governor's Office of Planning and Budget showed that despite increases in home prices during the 1990s, housing has remained

Figure 11: Income, Mortgage Payments, and Homeownership

State	Percent Home Ownership	Rank	2002 Median Monthly Mortgage	Median Annual Household Income*	Average Monthly Household Income	Mortgage as a Percent of Household Income	Rank	Average Annual Pay Per Worker**	Average Monthly Pay Per Worker	Mortgage as a Percent of Per Worker Pay	Rank
US	**67.9%**		**$1,168**	**$43,052**	**$3,588**	**32.6%**		**$36,764**	**$3,064**	**38.1%**	
Alabama	73.5%	13	$892	$36,771	$3,064	29.1%	33	$31,163	$2,597	34.3%	44
Alaska	67.3%	38	1,363	55,412	4,618	29.5%	29	37,134	3,095	44.0%	8
Arizona	65.9%	43	1,105	41,554	3,463	31.9%	18	34,036	2,836	39.0%	26
Arkansas	70.2%	25	772	32,423	2,702	28.6%	35	28,074	2,340	33.0%	49
California	58.0%	48	1,592	48,113	4,009	39.7%	3	41,419	3,452	46.1%	2
Colorado	69.1%	35	1,333	49,617	4,135	32.2%	16	38,005	3,167	42.1%	11
Connecticut	71.6%	22	1,477	53,325	4,444	33.2%	12	46,852	3,904	37.8%	30
Delaware	75.6%	5	1,149	50,878	4,240	27.1%	44	39,684	3,307	34.7%	43
Florida	68.7%	36	1,091	38,533	3,211	34.0%	9	32,426	2,702	40.4%	17
Georgia	71.7%	21	1,125	43,316	3,610	31.2%	21	35,734	2,978	37.8%	32
Hawaii	57.4%	49	1,691	49,775	4,148	40.8%	1	32,671	2,723	62.1%	1
Idaho	73.0%	15	972	38,613	3,218	30.2%	28	28,163	2,347	41.4%	15
Illinois	70.2%	25	1,284	45,906	3,826	33.6%	10	39,688	3,307	38.8%	27
Indiana	75.0%	6	928	41,851	3,488	26.6%	47	32,608	2,717	34.2%	46
Iowa	73.9%	11	879	41,827	3,486	25.2%	50	29,668	2,472	35.6%	39
Kansas	70.2%	25	988	42,523	3,544	27.9%	40	30,825	2,569	38.5%	29
Kentucky	73.5%	13	870	37,893	3,158	27.6%	43	30,904	2,575	33.8%	48
Louisiana	67.1%	40	879	33,312	2,776	31.7%	20	30,115	2,510	35.0%	41
Maine	73.9%	11	971	37,654	3,138	30.9%	24	29,736	2,478	39.2%	25
Maryland	72.0%	18	1,366	55,912	4,659	29.3%	31	39,382	3,282	41.6%	14
Massachusetts	62.7%	46	1,486	50,587	4,216	35.3%	7	44,954	3,746	39.7%	21
Michigan	76.0%	4	1,085	45,335	3,778	28.7%	34	38,135	3,178	34.1%	47
Minnesota	77.3%	1	1,167	54,931	4,578	25.5%	49	37,458	3,122	37.4%	33
Mississippi	74.8%	7	827	32,447	2,704	30.6%	26	26,665	2,222	37.2%	34
Missouri	74.6%	8	946	43,955	3,663	25.8%	48	33,118	2,760	34.3%	45
Montana	69.3%	34	908	33,900	2,825	32.1%	17	26,001	2,167	41.9%	12
Nebraska	68.4%	37	977	43,566	3,631	26.9%	46	29,448	2,454	39.8%	19
Nevada	65.5%	44	1,267	46,289	3,857	32.8%	13	33,993	2,833	44.7%	6
New Hampshire	69.5%	31	1,377	53,549	4,462	30.9%	25	36,176	3,015	45.7%	3
New Jersey	67.2%	39	1,672	53,266	4,439	37.7%	5	45,185	3,765	44.4%	7
New Mexico	70.3%	24	963	35,251	2,938	32.8%	14	29,431	2,453	39.3%	24
New York	55.0%	50	1,411	42,432	3,536	39.9%	2	46,328	3,861	36.5%	35
North Carolina	70.0%	30	1,071	38,432	3,203	33.4%	11	32,689	2,724	39.3%	23
North Dakota	69.5%	31	852	36,717	3,060	27.8%	41	26,550	2,213	38.5%	28
Ohio	72.0%	18	1,028	43,332	3,611	28.5%	37	34,214	2,851	36.1%	37
Oklahoma	69.4%	33	832	35,500	2,958	28.1%	39	28,654	2,388	34.8%	42
Oregon	66.2%	42	1,217	42,704	3,559	34.2%	8	33,684	2,807	43.4%	10
Pennsylvania	74.0%	10	1,062	43,577	3,631	29.2%	32	35,808	2,984	35.6%	38
Rhode Island	59.6%	47	1,305	44,311	3,693	35.3%	6	34,810	2,901	45.0%	5
South Carolina	77.3%	1	995	38,460	3,205	31.0%	22	30,003	2,500	39.8%	20
South Dakota	71.5%	23	895	38,755	3,230	27.7%	42	26,360	2,197	40.7%	16
Tennessee	70.1%	29	962	36,329	3,027	31.8%	19	32,531	2,711	35.5%	40
Texas	63.8%	45	1,096	40,659	3,388	32.3%	15	36,248	3,021	36.3%	36
Utah	**72.7%**	**17**	**1,155**	**48,537**	**4,045**	**28.6%**	**36**	**30,585**	**2,549**	**45.3%**	**4**
Vermont	70.2%	25	1,082	41,929	3,494	31.0%	23	31,041	2,587	41.8%	13
Virginia	74.3%	9	1,228	49,974	4,165	29.5%	30	37,222	3,102	39.6%	22
Washington	67.0%	41	1,405	44,252	3,688	38.1%	4	38,424	3,202	43.9%	9
West Virginia	77.0%	3	762	30,072	2,506	30.4%	27	28,612	2,384	32.0%	50
Wisconsin	72.0%	18	1,088	46,351	3,863	28.2%	38	32,464	2,705	40.2%	18
Wyoming	72.8%	16	913	40,499	3,375	27.1%	45	28,975	2,415	37.8%	31

*Three-year average 2000-2002
**Pay for workers covered by unemployment insurance
Source: Morgan Quitno 2004 State Rankings; U.S. Bureau of Labor Statistics; Census

affordable in Utah.[47] The affordability index was calculated measuring household median income. Figure 11 shows that when evaluating monthly mortgage payments as a percent of median household income, Utah ranks in the bottom third of states—in other words, housing *is* very affordable in Utah.

While Utah may indeed have high household income, that may be a reflection of high rates of teenage employment. It is unclear whether those teenagers actually contribute to monthly family expenses with their earned income. Rather than rely on household income measures to calculate housing affordability, an alternative measure to help understand the affordability of housing is to consider the average wage of workers. While this is not a perfect measure, it is another economic statistic that helps us understand how workers in Utah are able to make ends meet.

The average annual pay for workers in Utah in 2003 was $31,606, or approximately 82 percent of U.S. annual average pay. This discrepancy reflects a downward trend that first appeared in 1981. Since that time, the gap between Utah and U.S. annual average wages has been widening. While average annual wages did rise faster than inflation in the mid-1990s, U.S. wages were also rising. For this reason, we have included average pay numbers in Figure 11 to reflect how Utah's price of housing compares to one worker's income.

When using the average wage of workers as opposed to average household incomes, Utah ranks high in terms of monthly mortgage payments as a percent of average monthly income. The median monthly mortgage payment in 2002 was $1,155, or 45.3% of the average monthly income for a worker, placing Utah fourth highest. This figure is based on the average salary of one worker. Utah has the highest number of workers per household in the nation with 1.49 workers per household as compared to 1.27 nationally. Although employed teens are not likely to pay their parents' mortgage, their presence inflates the household income figures and this per worker measure provides another perspective. In reality, the true affordability index for Utah is something between the measure based on household income and the measure based on one worker's income. Obviously, more research is needed to move beyond general home affordability factors and instead consider how many individuals or families buy homes that they actually can afford or if more individuals in Utah are overextended for various reasons.

When taking into account income levels and a family's ability to pay for its mortgage, extra vehicles expenses, as well as other expenses that a large family incurs, it is important to consider the wages all members of a family bring in. Warren and Tyagi argue that the "two-income trap" emerges when a mother enters the workforce and her salary is used for necessities rather than for savings or as an emergency buffer. The issue of working women in Utah must be examined in order to understand specifically how this phenomenon affects Utah's bankruptcy rate.

While Utah has a high percentage of women in the labor force, due in part to a younger population, Utah women are more likely than their national counterparts to be employed part-time as opposed to full time.[48] The effects of part-time as opposed to full-time work are numerous. Part-time employees typically do not receive health care benefits and work at lower wages making them more vulnerable to any income disruptions or medical problems suffered by them or their children. Furthermore, Utah has one of the largest gender wage gaps in the nation with women earning 70.3% of male wages as opposed to 76.2% nationally.[49] To illustrate this, in 2000, median female earnings in Utah were $24,872 as compared to $36,935 for men for full-time, year-round workers.[50] Keep in mind that the average cost of raising a child to age 18 can cost a middle class family as much as $165,630 according to the USDA.

SINGLE MOTHERS

Single mother headed households face increased challenges in providing for basic household needs due to their low wages in Utah. The issue of single mothers does not, however, necessarily explain why Utah has a high bankruptcy filing rate. Utah ranks in the bottom 10 states in terms of the percentage of households headed by single mothers, a figure that can largely be explained by a high remarriage rate.[51]

When taking into consideration high numbers of single mothers, the distribution along the scale of states with historically high bankruptcy filings is not uniform, but rather is scattered throughout. In other words, while single mothers may be at greater risk for bankruptcy, that alone as a predictor of filing rates is not a sufficient condition. Even though Utah may have a low percentage of single mothers, additional research may find that it is significant coupled with data on the employment of women—namely the large percentage of women in part-time work and the low wages earned by women.

JOB LOSS

Job loss, job creation, and wages are all important components of bankruptcy. Previous research by the Utah Foundation found that there was little job growth in Utah following the 2001 economic recession. Interestingly, the unemployment rate also remained relatively low. Possible explanations for this are that individuals either turned to self-employment or were "waiting out" the economic downturn before seeking employment. Regardless of the reason behind the low unemployment rate during a period of low job growth, it calls into question how Utahns are managing to get by and support their families and what effect this may have on the bankruptcy rate.

Another study by the Utah Foundation found that the average Utahn is more dependent on wage and salary income than his or her national counterpart. Approximately 73% of Utah's personal income was derived from wages and salaries as opposed to 68% nationally in 2003. Greater dependence on wages and salaries ultimately makes Utahns more dependent on the job market, and any fluctuations can seriously affect a family or individuals' economic wellbeing. In order to make ends meet, many Utahns are holding multiple jobs. Other research by the Utah Foundation found that Utahns are the third most likely in the U.S. to hold multiple jobs, and Utah is one of only five states in the union to experience an increase in multiple job holdings since 1991. Understanding the employment patterns of individuals who file for bankruptcy may reveal localized economic conditions that drive up Utah's bankruptcy rate. More research is needed on this subject.

CHARITABLE CONTRIBUTIONS

Two-thirds of Utah's population are members of the Church of Jesus Christ of Latter-Day Saints. As such, tithing and other charitable contributions are important to the majority of Utah's citizens. While giving 10% of one's income may not seem like a hardship, it is important to note that when applying for any type of loan, charitable contributions are not considered financial obligations as are other debt constraints. Individual failure to take charitable contributions into account may adversely affect a family's budget when they push the limits of how much debt they will be allowed by lenders, especially for mortgages.

Figure 12: 2002 Generosity Index by State

State	"Having" Rank*	"Giving" Rank**	Difference	Generosity Index
Mississippi	50	5	45	1
Arkansas	47	6	41	2
Oklahoma	43	8	35	3
Louisiana	42	10	32	4
Alabama	38	7	31	5
Tennessee	34	3	31	6
South Dakota	44	14	30	7
Utah	**31**	**2**	**29**	**8**
South Carolina	40	12	28	9
Idaho	41	20	21	10
Wyoming	21	1	20	11
Texas	23	4	19	12
West Virginia	48	31	17	13
Nebraska	35	19	16	14
North Dakota	46	30	16	15
North Carolina	27	15	12	16
Kansas	25	18	7	17
Florida	20	13	7	18
Georgia	17	11	6	19
Kentucky	39	33	6	20
Montana	49	43	6	21
Missouri	29	24	5	22
New Mexico	45	40	5	23
Alaska	24	21	3	24
Indiana	28	29	-1	25
New York	5	9	-4	26
Iowa	36	44	-8	27
Ohio	32	42	-10	28
California	6	17	-11	29
Maryland	4	16	-12	30
Illinois	10	22	-12	31
Maine	37	50	-13	32
Delaware	13	27	-14	33
Washington	11	25	-14	34
Vermont	33	47	-14	35
Oregon	26	41	-15	36
Hawaii	30	45	-15	37
Virginia	7	23	-16	38
Arizona	22	38	-16	39
Nevada	14	32	-18	40
Pennsylvania	18	36	-18	41
Michigan	16	35	-19	42
Colorado	8	28	-20	43
Connecticut	1	26	-25	44
Minnesota	12	37	-25	45
Wisconsin	19	46	-27	46
New Jersey	2	34	-32	47
Rhode Island	15	49	-34	48
Massachusetts	3	39	-36	49
New Hampshire	9	48	-39	50

* "Having" rank is based on average Adjusted Gross Income as reported by taxpayers on federal income tax returns.
** "Giving" rank is based on average charitable contributions reported by taxpayers on federal income tax returns.
Source: Catalog for Philanthropy

As seen in Figure 12, the Catalogue for Philanthropy ranks Utah 8th in the nation in charitable generosity.[52] This ranking compares each state's income levels to its donation levels. Utah ranks 31st in income (or "having") and is 2nd in donations (or "giving"). The difference between these rankings creates a "generosity" index. It is interesting to note that seven of the top 10 most generous states are also states that have historically high bankruptcy rates. In other words, states with the least to give in actuality give the most to charity. More research is needed to ascertain what role this plays in a state's bankruptcy filing rates.

RESEARCH ON UTAH'S BANKRUPTCY PROBLEM WILL CONTINUE

As can be seen from this report, there are no easy answers to the bankruptcy question in Utah. Several different possible explanations loom large in discussions—are large family sizes to blame? Are Utahns more irresponsible than people in other states, or are low wages and high home prices the reasons why Utah ranks high in bankruptcy filings? Alternatively, is it simply that the local legal culture pushes more debtors into a Chapter 13 solution that is not working, creating an inflated rate because of multiple filings? The answer to these questions is not readily apparent and until additional research is conducted, they simply remain hypotheses at best.

More research is required on a variety of factors that range from focusing on family economics, demographic factors, the role of financial education and budgetary planning for individuals, the impact of the wage garnishment laws, to the proliferation of payday loans. Or does an earlier age of first-time homeownership create burdens on young Utah families? Finally, it is also necessary to examine the role of credit in the bankruptcy process more closely to ascertain specifically how increased available credit affects bankruptcy. Research at Utah State University promises to greatly enrich the bankruptcy literature. The Salt Lake Tribune is currently updating its 1999 demographic study of Utah debtors and expects to release its 2004 survey results before year-end. Additionally, the Utah Foundation will continue to explore Utah's bankruptcy phenomenon to provide needed data. Hopefully, this analysis will help to not only understand why Utahns file bankruptcy at high rates but also have the potential to offer policy recommendations that may curb future high filing rates.

ENDNOTES

[1] In 1993, the average daily rate was around 4,000 per day and in 1973 the average daily rate was less than 1,500 per day. Flynn, Ed and Gordon Bermant. "Bankruptcy by the Numbers: A Day in Bankruptcy." United States Trustee Program. June 2003. Available from: http://www.usdoj.gov/ust/press/articles/abi_05_2003.htm. Retrieved 9/18/04

[2] Congressional Budget Office. "Personal Bankruptcy: A Literature Review." September 2000. Available from: http://www.cbo.gov/showdoc.cfm?index=2421&sequence=0. Retrieved 10/13/04

[3] Secured debts refer to those types of debts that are contingent upon the borrower providing some sort of collateral. Examples of secured loans include car and boat loans and home equity loans. Secured credit cards require the borrower to provide a deposit. Unsecured debts are not based on the borrower providing collateral, but are rather granted on the perception of the individual's ability to repay the loan. Student loans, medical bills, and personal lines of credit are examples of unsecured debt.

[4] Utah residents can exempt up to $20,000 in real estate ($40,000 if filing jointly), a motor vehicle up to $2,500, 75% of earned but unpaid wages, alimony, child support, various public and pension benefits, and miscellaneous household items. State exemptions vary widely. For example, Utah allows debtors to exempt water rights, while Texas, Oklahoma, and Oregon allow for one gun for personal use, and New York State allows for the exemption of 90% of an individual's milk sales. Residents of the District of Columbia are also eligible to retain their rights to a mule and harness.

[5] Other bankruptcy chapters are designed to deal with other types of situations. For instance, Chapter 12 bankruptcy is designed for family farmers. Chapter 9 is for Municipality Bankruptcy, while Chapter 11 is referred to as a "Reorganization Bankruptcy" in that it is typically used to reorganize a business or corporation.

[6] It may be possible that Utah has ranked in the top twenty prior to 1960 but data from previous years was not available at the time of this report.

[7] The ranking system employed by the Utah Foundation is to take the number of total households over the number of total filings for a given time period. For the years 2002 and 2003, rankings calculated by the Utah Foundation vary slightly from rankings frequently published by the American Bankruptcy Institute. The reason for this is that the ABI uses household data from 2001 to calculate filing rates for both 2002 and 2003. The Utah Foundation has opted to use the most up to date household information available and has used current year estimates provide by the American Community Survey and the U.S. Bureau of the Census. While our findings do not change the fact that Utah ranks number one for both these years, it does slightly alter the filing rate.

[8] De Graff, John, David Wann and Thomas H. Naylor. 2001. *Affluenza* San Francisco, CA: Berrett-Koehler Publishers, Inc., 2

[9] Ibid., 19. With each family in the United States possessing over five credit cards, the number of credit cards in the United States totals over one billion. Estimates on the number of credit cards the average American family has range as high as 10-15 per family.

[10] Individuals with incomes below the poverty line or in the $10-$25,000 income bracket specifically. Sullivan, Teresa, Elizabeth Warren and Jay Lawrence Westbrook. 2000. *The Fragile Middle Class: Americans Deeper in Debt* New Haven, CT: Yale University Press, 137

[11] Federal Deposit Insurance Corporation (FDIC). 1998. "The Effect of Consumer Interest Rate Deregulation on Credit Card Volumes, Charge-Offs, and the Personal Bankruptcy Rate." *Bank Trends:* Number 98-05, 9

[12] Aizcorbe, Ana M., Kennickell, Arthur B. and Kevin B. Moore. "Recent Changes in Family Consumer Finances: Evidence from 1998 and 2001 Survey of Consumer Finances." Federal Reserve Bulletin January 25th, 2003, p. 25 Available from: http://www.federalreserve.gov/pubs/bulletin/2003/0103lead.pdf. Retrieved 10/13/2004

[13] Federal Reserve Bank. Flow of Funds Accounts. Table L.218. Release Date September 16, 2004.

[14] Bureau of Economic Analysis. Regional Economic Accounts.

[15] At the end of the Second Quarter 2004, the Debt Service Ratio (the percentage of disposable personal income that is devoted to repaying debts) fell to 15.76%, down from 16.09% during the same period the previous year. Federal Reserve Board. 2004. "Household Debt Service and Financial Obligation Ratios." Available from: http://www.federalreserve.gov/releases/housedebt/default.htm#n_1. Retrieved 10/23/04

[16] Sullivan, Teresa, Elizabeth Warren and Jay Lawrence Westbrook. 2000. *The Fragile Middle Class: Americans Deeper in Debt* New Haven, CT: Yale University Press, 110

[17] Card Issuers such as Visa and American Express specifically target small business owners and offer a variety of incentives to encourage entrepreneurs to finance their operations with unsecured credit.

[18] Sullivan, Teresa, Elizabeth Warren and Jay Lawrence Westbrook. 2000. *The Fragile Middle Class: Americans Deeper in Debt* New Haven, CT: Yale University Press, 115

[19] As Cited in Sullivan, Teresa, Elizabeth Warren and Jay Lawrence Westbrook. 2000. The Fragile Middle Class: Americans Deeper in Debt New Haven, CT: Yale University Press, 116

[20] The Federal Reserve also charts the savings rate using different data sets. While Federal Reserve numbers reveal that the savings rate is slightly higher than estimates by the Commerce Department, those numbers still demonstrate a sharp decline in overall savings.

[21] Fay, Hurst and White "The Household Bankruptcy Decision" was a long-term study of financial finances that reported half of all bankrupt individuals were unwilling to anonymously admit it. Further research by Michelle White in "Why it Pays to File for Bankruptcy: A Critical Look at the Incentives Under U.S. Personal Bankruptcy Law" argues that the 17% of households that would benefit from filing but don't are most likely too embarrassed to do so. This 17% represents approximately 18 million households.

[22] Several prominent bankruptcy attorneys in Salt Lake City also expressed the belief that many of their bankrupt clients were in serious financial difficulties partly due to their hesitation of seeking assistance or filing for bankruptcy at an earlier date.

[23] Warren, Elizabeth and Amelia Warren Tyagi. 2003. *The Two Income Trap* NY: Basic Books, 18

[24] Ibid., 22

[25] Ibid., 104

[26] Warren and Tyagi argue that 52% of all single mothers who file for bankruptcy own their home while it is estimated that only 36% of single parents in the general population have obtained home ownership status.

[27] Sullivan, Teresa, Elizabeth Warren and Jay Lawrence Westbrook. 2000. *The Fragile Middle Class: Americans Deeper in Debt* New Haven, CT: Yale University Press, 173

[28] Ibid., 183-184

[29] Warren, Elizabeth and Amelia Warren Tyagi. 2003. *The Two Income Trap* NY: Basic Books, 116-118

[30] Sullivan, Teresa, Elizabeth Warren and Jay Lawrence Westbrook. 2000. *The Fragile Middle Class: Americans Deeper in Debt* New Haven, CT: Yale University Press, 142

[31] Center on Budget and Policy Priorities. 2004. "Number of Americans without Insurance Reaches Highest Record Levels." Available from: http://www.cbpp.org/8-26-04health.htm. Retrieved 11/01/04

[32] U.S. Census. "Income, Poverty & Health Insurance Coverage in the United States." Released August 2004. Statistics are calculated using a 3 Year Average from 2001-2003

[33] Sullivan, Teresa, Elizabeth Warren and Jay Lawrence Westbrook. 2000. *The Fragile Middle Class: Americans Deeper in Debt* New Haven, CT: Yale University Press, *152*

[34] Ibid., 153

[35] Ibid., 75

[36] Sullivan, Teresa & Elizabeth Warren. "The Persistence of Local Legal Culture: Twenty Years of Evidence from the Federal Bankruptcy Courts." *Harvard Journal of Law & Public Policy* Summer 94, Vol. 1:3, 2-3

[37] Ibid., 9

[38] Ibid., 8

[39] Evans, David A. "Predictors of 1997 Chapter 13 Bankruptcy Completion and Dismissal Rates in Utah." Utah State University: Master's Thesis, 2004, iv.

[40] Lown, Jean M. and Bonny Llewellyn. 2004. "Do Chapter 13 Bankruptcy Filers Really Have a Choice of Chapter?" Eastern Family Economics and Resource Management Association, 2

[41] Ibid., 2

[42] Evans, David A. and Jean M. Lown. "Chapter 13 Bankruptcy: Successful versus Unsuccessful Debtors" *Papers of the Western Family Economics Association* Vol. 18, 2003, 33, 36.

[43] Tennessee, Georgia, Alabama, Arkansas and Mississippi in particular. Sullivan, Teresa & Elizabeth Warren. "The Persistence of Local Legal Culture: Twenty Years of Evidence from the Federal Bankruptcy Courts." *Harvard Journal of Law & Public Policy* Summer 94, Vol. 1:3, 9

[44] U.S. Census 2000. Select Demographic profiles.

[45] U.S. Census Bureau. American Community Survey. Table 4: "Selected Housing Characteristics." Available from: http://www.census.gov/acs/www/ Retrieved: 10/8/2003

[46] US Census. 2000. Select Demographic Profiles.

[47] Governor's Office of Planning and Budget. Demographic and Economic Analysis. 2003. "Home Values in Utah." Available from: http://www.governor.utah.gov/dea/DataGuide/03HomeValues07.pdf. Retrieved 11/15/04

[48] 36% of working Utah women are employed part-time as compared to 27% nationally. Cornwall, M. 1996. "Beyond fertility: What we don't know about Utah women." In Utah in the 1990s: A demographic perspective. Eds. T. B. Heaton, T. A. Hirschl, & B. A. Chadwick. Salt Lake City: Signature Books. And Utah Department of Workforce Services. 2001. Hard at work: Women in the Utah labor force.

[49] Institute for Women's Policy Research. 2004. "State-by-state rankings on women's economic status: Data on the wage gap and women's poverty." Fact Sheet # C358. Available from: http://www.iwpr.org/pdf/C358.pdf. Retrieved 11/10/04

[50] U.S. Census. 2000. Selected Economic Characteristics for Utah

[51] U.S. Census. 2000. Selected Social Characteristics for Utah

[52] Catalogue for Philanthropy uses IRS data on Average Adjusted Gross Income and Average Itemized Charitable Contributions to rank a state's generosity. Available from: http://www.catalogueforphilanthropy.org/cfp/db/generosity.php?year=2004. Retrieved 11/15/04

This research report was written by Research Analyst Holly Farnsworth. Ms. Farnsworth and Executive Director Steve Kroes may be reached for comment at (801) 355-1400. They may also be contacted by email at: holly@utahfoundation.org or steve@utahfoundation.org. For more information about Utah Foundation, please visit our website: www.utahfoundation.org