

1 **PUBLIC UTILITY REGULATORY RESTRICTED ACCOUNT**

2 **AMENDMENTS**

3 2016 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Dixon M. Pitcher**

6 Senate Sponsor: _____

7

8 **LONG TITLE**

9 **General Description:**

10 This bill creates a restricted account within the General Fund.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ creates a restricted account known as the Public Utility Regulatory Restricted
14 Account in the Department of Commerce;
- 15 ▶ provides that the Department of Commerce shall deposit special regulation fees into
16 the Public Utility Regulatory Restricted Account;
- 17 ▶ provides that funds in the Public Utility Regulatory Restricted Account may be used
18 to fund certain entities within the Department of Commerce;
- 19 ▶ designates funds in the Public Utility Regulatory Restricted Account as nonlapsing;
20 and
- 21 ▶ transfers public utility regulatory fees designated as nonlapsing into the Public
22 Utility Regulatory Restricted Account.

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 This bill provides a special effective date.

27 **Utah Code Sections Affected:**



28 AMENDS:

29 **54-5-1.5**, as last amended by Laws of Utah 2009, Chapter 183

30 **63J-1-602.3**, as last amended by Laws of Utah 2014, Chapters 189 and 304

31 **Uncodified Material Affected:**

32 ENACTS UNCODIFIED MATERIAL



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

35 Section 1. Section **54-5-1.5** is amended to read:

36 **54-5-1.5. Special regulation fee -- Supplemental Levy Committee -- Supplemental**
37 **fee -- Fee for electrical cooperatives.**

38 (1) (a) A special fee to defray the cost of regulation is imposed upon all public utilities
39 subject to the jurisdiction of the Public Service Commission.

40 (b) The special fee is in addition to any charge now assessed, levied, or required by
41 law.

42 (2) (a) The executive director of the Department of Commerce shall determine the
43 special fee for the Department of Commerce.

44 (b) The chair of the Public Service Commission shall determine the special fee for the
45 Public Service Commission.

46 (c) The fee shall be assessed as a uniform percentage of the gross operating revenue for
47 the preceding calendar year derived from each public utility's business and operations during
48 that period within this state, excluding income derived from interstate business. Gross
49 operating revenue shall not include income to a wholesale electric cooperative derived from the
50 sale of power to a rural electric cooperative which resells that power within the state.

51 (3) (a) The executive director of the Department of Commerce shall notify each public
52 utility subject to the provisions of this chapter of the amount of the fee.

53 (b) The fee is due and payable on or before July 1 of each year.

54 (4) (a) There is created a restricted account within the General Fund known as the
55 Public Utility Regulatory Restricted Account.

56 (b) Notwithstanding Subsection 13-1-2(3)(c), the Department of Commerce shall
57 deposit a fee assessed under this section into the Public Utility Regulatory Restricted Account.

58 (c) Within appropriations by the Legislature, the Department of Commerce may use the

59 funds in the Public Utility Regulatory Restricted Account to administer:

60 (i) the Division of Public Utilities;

61 (ii) the Office of Consumer Services; and

62 (iii) the Public Service Commission.

63 ~~[(4)]~~ (5) (a) ~~[It is the intent of the]~~ The Legislature intends that the public utilities
64 provide all of the funds for the administration, support, and maintenance of:

65 (i) the Public Service Commission;

66 (ii) state agencies within the Department of Commerce involved in the regulation of
67 public utilities; and

68 (iii) expenditures by the attorney general for utility regulation.

69 (b) Notwithstanding Subsection ~~[(4)]~~ (5)(a), the fee imposed by Subsection (1) shall
70 not exceed the greater of:

71 (i) (A) for a public utility other than an electrical cooperative, .3% of the public utility's
72 gross operating revenues for the preceding calendar year; or

73 (B) for an electrical cooperative, .15% of the electrical cooperative's gross operating
74 revenues for the preceding calendar year; or

75 (ii) \$50.

76 ~~[(5)]~~ (6) (a) There is created a Supplemental Levy Committee to levy additional
77 assessments on public utilities when unanticipated costs of regulation occur in any fiscal year.

78 (b) The Supplemental Levy Committee shall consist of:

79 (i) one member selected by the executive director of the Department of Commerce;

80 (ii) one member selected by the chairman of the Public Service Commission;

81 (iii) two members selected by the three public utilities that paid the largest percent of
82 the current regulatory fee; and

83 (iv) one member selected by the four appointed members.

84 (c) (i) The members of the Supplemental Levy Committee shall be selected within 10
85 working days after the executive director of the Department of Commerce gives written notice
86 to the Public Service Commission and the public utilities that a supplemental levy committee is
87 needed.

88 (ii) If the members of the Supplemental Levy Committee have not been appointed
89 within the time prescribed, the governor shall appoint the members of the Supplemental Levy

90 Committee.

91 (d) (i) During any state fiscal year, the Supplemental Levy Committee, by a majority
92 vote and subject to audit by the state auditor, may impose a supplemental fee on the regulated
93 utilities for the purpose of defraying any increased cost of regulation.

94 (ii) The supplemental fee imposed upon the utilities shall equal a percentage of their
95 gross operating revenue for the preceding calendar year.

96 (iii) The aggregate of all fees, including any supplemental fees assessed, shall not
97 exceed .3% of the gross operating revenue of the utilities assessed for the preceding calendar
98 year.

99 (iv) Payment of the supplemental fee is due within 30 days after receipt of the
100 assessment.

101 (v) The utility may, within 10 days after receipt of assessment, request a hearing before
102 the Public Service Commission if it questions the need for, or the reasonableness of, the
103 supplemental fee.

104 (e) (i) Any supplemental fee collected to defray the cost of regulation shall be
105 transferred to the state treasurer as a departmental collection according to the provisions of
106 Section 63J-1-104.

107 (ii) Supplemental fees are excess collections, credited according to the procedures of
108 Section 63J-1-104.

109 (iii) Charges billed to the Department of Commerce by any other state department,
110 institution, or agency for services rendered in connection with regulation of a utility shall be
111 credited by the state treasurer from the special or supplemental fees collected to the
112 appropriations account of the entity providing that service according to the procedures provided
113 in Title 63J, Chapter 1, Budgetary Procedures Act.

114 ~~[(6)]~~ (7) (a) For purposes of this section, "electrical cooperative" means:

115 (i) a distribution electrical cooperative; or

116 (ii) a wholesale electrical cooperative.

117 (b) Subject to Subsection ~~[(6)]~~ (7)(c), if the regulation of one or more electrical
118 cooperatives causes unanticipated costs of regulation in a fiscal year, the commission may
119 impose a supplemental fee on the one or more electrical cooperatives in this state responsible
120 for the increased cost of regulation.

121 (c) The aggregate of all fees imposed under this section on an electrical cooperative in
122 a calendar year shall not exceed the greater of:

123 (i) .3% of the electrical cooperative's gross operating revenues for the preceding
124 calendar year; or

125 (ii) \$50.

126 Section 2. Section **63J-1-602.3** is amended to read:

127 **63J-1-602.3. List of nonlapsing funds and accounts -- Title 46 through Title 60.**

128 (1) Funding for the Search and Rescue Financial Assistance Program, as provided in
129 Section [53-2a-1102](#).

130 (2) Appropriations made to the Division of Emergency Management from the State
131 Disaster Recovery Restricted Account, as provided in Section [53-2a-603](#).

132 (3) Appropriations made to the Department of Public Safety from the Department of
133 Public Safety Restricted Account, as provided in Section [53-3-106](#).

134 (4) Appropriations to the Motorcycle Rider Education Program, as provided in Section
135 [53-3-905](#).

136 (5) Appropriations from the Utah Highway Patrol Aero Bureau Restricted Account
137 created in Section [53-8-303](#).

138 (6) Appropriations from the DNA Specimen Restricted Account created in Section
139 [53-10-407](#).

140 (7) The Canine Body Armor Restricted Account created in Section [53-16-201](#).

141 (8) The School Readiness Restricted Account created in Section [53A-1b-104](#).

142 (9) Appropriations to the State Board of Education, as provided in Section
143 [53A-17a-105](#).

144 (10) Money received by the State Office of Rehabilitation for the sale of certain
145 products or services, as provided in Section [53A-24-105](#).

146 (11) Certain funds appropriated from the General Fund to the State Board of Regents
147 for teacher preparation programs, as provided in Section [53B-6-104](#).

148 (12) Funding for the Medical Education Program administered by the Medical
149 Education Council, as provided in Section [53B-24-202](#).

150 (13) A certain portion of money collected for administrative costs under the School
151 Institutional Trust Lands Management Act, as provided under Section [53C-3-202](#).

152 (14) Funds deposited into the Public Utility Regulatory Restricted Account created in
153 Section 54-5-1.5.

154 ~~[(14)]~~ (15) Certain surcharges on residential and business telephone numbers imposed
155 by the Public Service Commission, as provided in Section 54-8b-10.

156 ~~[(15)]~~ (16) Certain fines collected by the Division of Occupational and Professional
157 Licensing for violation of unlawful or unprofessional conduct that are used for education and
158 enforcement purposes, as provided in Section 58-17b-505.

159 ~~[(16)]~~ (17) Certain fines collected by the Division of Occupational and Professional
160 Licensing for use in education and enforcement of the Security Personnel Licensing Act, as
161 provided in Section 58-63-103.

162 ~~[(17)]~~ (18) Appropriations from the Relative Value Study Restricted Account created
163 in Section 59-9-105.

164 ~~[(18)]~~ (19) The Cigarette Tax Restricted Account created in Section 59-14-204.
165 Section 3. **Legislative intent.**

166 The Legislature intends that public utility regulatory fee balances designated as
167 nonlapsing at the close of fiscal year 2016 for the Division of Public Utilities, the Office of
168 Consumer Services, and the Public Service Commission be transferred to the newly created
169 Public Utility Regulatory Restricted Account.

170 Section 4. **Effective date.**

171 This bill takes effect on July 1, 2016.

Legislative Review Note
Office of Legislative Research and General Counsel