



RESTRICTED REVENUE SOURCES IN BEDL

BUSINESS, ECONOMIC DEVELOPMENT AND LABOR APPROPRIATIONS SUBCOMMITTEE
STAFF: ANDREA WILKO AND CLARE TOBIN LENCE

ISSUE BRIEF

Summary

Several of the departments under the purview of the Business, Economic Development and Labor Appropriations Subcommittee operate partially or completely with restricted funds. In many cases, these restricted funds are collected from fees related to business-like activities, although there are other origins for these funds as well. Restricted funds are organized in many different accounts that are not all treated the same way. These restricted accounts fall into three main categories, one of which has three subcategories:

- 1) Restricted revenues that require an appropriation.
 - a. Funds that lapse to the General Fund at the end of the fiscal year.
 - b. Funds that lapse to the restricted fund at the end of the fiscal year.
 - c. Funds that have nonlapsing authority and carry forward in the department's budget.
- 2) Restricted revenues that can be expended by the departments without an appropriation, known as "expendable revenue funds."
- 3) Fiduciary funds that are overseen and managed by a department but may also be appropriated to the department for specific purposes.

The various funds and associated limitations are detailed in the following report.

Department of Commerce

Restricted Revenues Requiring Appropriation

Commerce Service Account:

The Commerce Service Fund consists of fees collected by each division and by the Department of Commerce. The Division of Finance transfers into the General Fund any fee collections that are greater than the legislative appropriations from the Commerce Service Account for that year. The department may not charge of collect a fee or expend money from the restricted account without approval by the Legislature. Fee revenue lapses to the General Fund but savings over appropriations lapse to the Commerce Service Fund by Division of Finance practice.

Commerce Service Account – Public Utilities Regulation Fee

The Public Utilities Regulation Fee (PURF) account is a subaccount within the Commerce Service Account that funds the Public Service Commission and the Division of Public Utilities at the Department of Commerce. It provides all the funding for the commission's main line item. The purpose of the PURF is to "defray the cost of regulation [of those] public utilities subject to the jurisdiction of the commission" ([UCA 54-5-1.5](#)). Appropriations from the account lapse to the account.

Factory Built Housing Restricted Account

The Factory Built Housing Restricted Account is a General Fund restricted account funded from fees dealers collected and remitted to The Division of Occupational Licensing for each factory built housing and modular housing unit sold. This fund is used to enforce building standards for factory built houses through investigation and education. At the end of each fiscal year, revenues over appropriation and expenditure savings lapse back to the restricted fund.

Secondhand Merchandise Operations Restricted Account

The Secondhand Merchandise Operations Restricted Account is a General Fund restricted account funded from the fees and administrative fines imposed and collected from pawnbrokers and secondhand merchant dealers. Funding is used to enforce and administer provisions related to the pawnbroker operations database by providing training and dedicated enforcement of the industry. At the end of each fiscal year, revenues over appropriation and expenditure savings lapse back to the restricted fund.

Nurse Education and Enforcement Fund

The Nurse Education and Enforcement Fund is a General Fund restricted account that provides funding through fines for reviewing and approving nurse education and medication aide certified education programs. This may include some nursing board and travel expenditures for education purposes. At the end of each fiscal year, revenues over appropriation and expenditure savings lapse back to the restricted fund.

Geologist Education and Enforcement Fund

The Geologist Education and Enforcement Fund is a General Fund restricted account that provides funding through a geologist licensing surcharge and scope of practice fines. Funding is used to enforce geologist licensing laws and rules and for industry education and outreach. This may include some geologist board and travel expenditures for education purposes. At the end of each fiscal year, revenues over appropriation and expenditure savings lapse back to the restricted fund.

Utah Housing Opportunity Restricted Account

The Utah Housing Opportunity Restricted Account is a General Fund restricted account to collect fees generated by Realtor license plates. The division distributes fund monies to one or more charitable organizations that have a primary mission to support organizations that create affordable housing. At the end of each fiscal year, revenues over appropriation and expenditure savings lapse back to the restricted fund.

Expendable Revenue Funds

Architecture Education and Enforcement Fund

The Architecture Education and Enforcement Fund is an expendable revenue fund established to provide funding for education and training of the public or other interested parties in matters concerning architectural laws and practices. Any balances in the fund over \$100,000 lapse to the General Fund at the end of the fiscal year. In recent years expenditures have been for board member registrations and industry education.

Consumer Protection Education and Training Fund

The Consumer Protection Education and Training Fund is an expendable revenue fund established to provide training for citizens on the purposes and processes related to charitable solicitation. Any balance over \$500,000 lapses to the General Fund at the end of the fiscal year.

Cosmetologist/Barber, Esthetician, Electrologist Fund

The Cosmetologist/Barber, Esthetician, Electrologist Fund is an expendable revenue fund established to provide the following: 1) education and training of cosmetologist/barber, esthetician and electrologist licensees and the public; 2) investigating unprofessional conduct, and 3) providing legal representation to licensees. Funding is generated through administrative penalties imposed under [UCA 58-11A](#).

Land Surveyor/Engineer Education and Enforcement Fund

The Land Surveyor/Engineer Education and Enforcement Fund is an expendable revenue fund established to enforce unlawful and unprofessional conduct in the land surveyor and engineering professions. Fund balances in excess of \$100,000 lapse to the General Fund at the end of the fiscal year.

Landscapes Architects Education and Enforcement

The Landscapes Architects Education and Enforcement Fund is an expendable revenue fund established to provide for the education and training of landscape architects licensees and the public. Funds are used to enforce and investigate unlawful and unprofessional practices. Fund balances in excess of \$100,000 lapse to the General Fund at the end of the fiscal year.

Physicians Education Fund

The Physicians Education Fund is an expendable revenue fund established to provide education and training for physicians, surgeons, and osteopathic physicians and surgeons. Fund balances over \$100,000 lapse to the General Fund at the end of the fiscal year.

Real Estate Education, Research and Recovery Fund

The Real Estate Education, Research, and Recovery Fund is an expendable revenue fund established to account for claims against business regulation for fraud and misrepresentation. Any balance over \$100,000 is used to fund real estate education and research programs.

Residence Lien Recovery Fund

The Residence Lien Recovery Fund is an expendable revenue fund established to protect homeowners from mechanics' liens (placed through no fault of the homeowner) by providing a resource for subcontractors to receive payment due them (which were uncollectible from the contractor) through claims to the fund.

Residential Mortgage Loan Education, Research and Recovery Fund

The Residential Mortgage Loan Education, Research and Recovery Fund is an expendable revenue fund established to satisfy claims against licensees under the Residential Mortgage Loan statutes for fraud, misrepresentation or deceit. The Division of Real Estate uses funds in excess of claims up to \$100,000 to advance education and research in the field of residential mortgage loans. The Residential Mortgage fund has a minimum balance requirement of at least \$100,000 to satisfy judgments ([UCA 61-2c-502](#)). If the balance in the fund that is available to satisfy a judgment against a licensee decreases to less than \$100,000, the division may make an additional assessment to a licensee to maintain the balance available at \$100,000 to satisfy judgments.

Securities Investor Education/Training/Enforcement Fund

The Securities Investor Education/Training/Enforcement Fund is an expendable revenue fund established to provide education and training to Utah residents in securities laws and investment decisions. Any balance over \$500,000 lapses to the General Fund at the end of the fiscal year.

Department of Alcoholic Beverage Control

Restricted Revenues Requiring Appropriation

Liquor Control Fund and Markup Holding Fund

The department may draw from the Liquor Control Fund only to the extent appropriated by the Legislature or provided for by statute, except that the department may draw by warrant without an appropriation from the Liquor Control Fund for an expenditure that is directly incurred by the department:

- 1) To purchase an alcoholic product;
- 2) To transport alcoholic product from the supplier to a warehouse of the department; and
- 3) For variances related to alcoholic product.

The department shall transfer annually from the Liquor Control Fund and the State Tax Commission shall transfer annually from the Markup Holding Fund to the General Fund a sum equal to the amount of net profit earned from the sale of liquor since the preceding transfer of money, per [UCA 32B-2-301](#). The transfers shall be calculated by no later than September 1 and made by no later than September 20 after a fiscal year.

Underage Drinking Prevention Fund

The Underage Drinking Prevention Fund revenue stream comes from a 0.6 percent diversion from gross revenue from the sales of liquor. Funds are used for media and education campaigns targeted at reducing underage drinking in the State. At the end of each fiscal year, revenues over appropriation and expenditure savings lapse back to the restricted fund.

Department of Insurance

Restricted Revenues Requiring Appropriation

Insurance Department Restricted Account

The Insurance Department Restricted Account is established in [UCA 31A-3-103](#). Funding is through fees assessed on insurance agents and the insurance industry. Funding is used for overall administration of the Department of Insurance. At the end of each fiscal year, the director of the Division of Finance transfers into the General Fund any money deposited into the Insurance Department Restricted Account that exceeds the legislative appropriations from the Insurance Department Restricted Account for that year.

Technology Development Restricted Account

The Technology Development Restricted Account is funded through fees on requests for information: obtained from an electronic database of the commissioner; or derived from data that is generated by electronic means. The Insurance Department can also impose a supplemental fee on the issuance or renewal of any of the following issued by the department: (a) a license; (b) a registration; or a certificate of authority. Funding is used to provide services through use of electronic commerce or other similar technology. At the end of each fiscal year, revenues over appropriation and expenditure savings lapse back to the restricted fund. Fees are used to provide services through the use of electronic commerce or other similar technology.

Bail Bond Surety Administration Account

The Bail Bond Surety Administration Account is funded by fees established in the Bail Bond Act. Funding is used for administration of the act ([UCA 31A-35-407](#)). At the end of each fiscal year, revenues over appropriation and expenditure savings lapse back to the restricted fund.

Guaranteed Asset Protection Waiver Restricted Account

The Guaranteed Asset Protection Waiver Restricted Account funds are derived from fees established under [UCA 31A-6b-201](#), [202](#), and [204](#). Funding is used to pay for costs or expenses incurred in the administration, investigation, and enforcement of the Guaranteed Asset Protection Waiver Act. At the end of each fiscal year, revenues over appropriation and expenditure savings lapse back to the restricted fund.

Insurance Fraud Investigation Account

The Insurance Fraud Investigation Restricted Account is funded by assessments made under [UCA 31A-31-108](#) and [109](#). Funds are used pay for a cost or expense incurred in the administration, investigation, and enforcement of the Insurance Fraud Act. At the end of each fiscal year, revenues over appropriation and expenditure savings lapse back to the restricted fund.

Relative Value Study Restricted Account

The Relative Value Study Restricted Account is established in [UCA 59-9-105](#) and [UCA 31A-2-208](#). Funds are used to pay for expenses incurred by the department in conducting, maintaining, and administering the relative value study. At the end of each fiscal year, revenues over appropriation and expenditure savings lapse back to the restricted fund.

Health Insurance Actuarial Review Restricted Account

The Health Insurance Actuarial Review Restricted Account is established in [UCA 31A-30-115](#). Funds are used to pay for the actuarial review conducted by the department under the Individual, Small Employer, and Group Health Insurance Act. At the end of each fiscal year, revenues over appropriation and expenditure savings lapse back to the restricted fund.

Criminal Background Check Restricted Account

The Criminal Background Check Restricted Account is funded through fees established under [UCA 31A-3-105](#); [31A-16-103](#); [31A-23a-105\(3\)](#); [31A-25-203\(3\)](#); and [31A-26-203\(3\)](#). Funds are used to defray the required costs related to obtaining criminal background information. At the end of each fiscal year, revenues over appropriation and expenditure savings lapse back to the restricted fund.

Captive Insurance Restricted Account

The Captive Insurance Restricted Account is funded through fees imposed on captive insurance companies and certificates of authority. Funds are used to administer the Captive Insurance Companies Act ([UCA 31A-37](#)) and the Special Purpose Financial Captive Insurance Company Act, and to promote captive insurance in the state ([UCA 31A-3-304](#)). At the end of each fiscal year, the director of the Division of Finance transfers into the General Fund any money deposited into the Captive Insurance Restricted Account that exceeds \$1,850,000 beginning in FY 2018.

Title Licensee Enforcement Restricted Account

The Title Licensee Enforcement Restricted Account consists of assessments on title insurer and each title insurance agency to cover the costs of administration, investigation, and enforcement of the Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries Act. Funding cannot exceed \$100,000 ([UCA 31A-23a-415](#)). At the end of each fiscal year, revenues over appropriation and expenditure savings lapse back to the restricted fund.

Expendable Revenue Funds

Insurance Fraud Victim Restitution Account

The Insurance Fraud Victim Restitution Account is earmarked for the sole benefit of insurance fraud victims. Funds are the result of court orders related to insurance fraud. At the end of each fiscal year, revenues over appropriation and expenditure savings lapse back to the restricted fund.

Title Insurance Recovery, Education and Research Fund

The Title Insurance Recovery, Education and Research Fund was established to investigate violations of the insurance statute, conduct education and research in the field of title insurance or to pay for costs of a title insurance financial records examination. Funds may also be used to pay title insurance claims. At the end of each fiscal year, revenues over appropriation and expenditure savings lapse back to the restricted fund.

Individual & Small Employer Risk Adjustment Enterprise Fund

The Individual & Small Employer Risk Adjustment Enterprise Fund contains funds mainly from payments received from insurers participating in the program. The program is designed to administer the state-based risk adjustment program for the individual and small employer market in the state. At the end of each fiscal year, revenues over appropriation and expenditure savings lapse back to the restricted fund.

Tax Commission

Restricted Revenues Requiring Appropriation

Alcoholic Beverage Enforcement and Treatment Restricted Account

Beer tax revenues are deposited into the account in accordance with a formula set in [UCA 59-15-109\(1\)](#). The Tax Commission distributes the total revenue amount each year to cities and counties, based on formulas in [UCA 32B-2-404](#), for the purpose of funding "a balanced approach to reducing the harmful effects of substance abuse, overconsumption of alcoholic products by adults, and alcohol consumption by minors."

Electronic Payment Fee Restricted Account

The commission charges a flat fee on vehicle registrations to cover the costs of providing electronic payment options. Fees are held in this account until the commission remits them to third party electronic payment providers – such as banks and credit card companies – according to their percentage rate structure ([UCA 41-1a-121](#)). The account is not used for state operations. Appropriations from the account are nonlapsing.

Motor Vehicle Enforcement Temporary Permit Restricted Account

The largest portion of the Motor Vehicle Enforcement Division's funding is from a temporary permit fee issued by vehicle dealers upon sale of a vehicle. Prior to FY 2016, the proceeds from these fees were appropriated to the division as dedicated credits; as of FY 2016, the fees are held in and appropriated from the restricted account. Appropriations from the account are nonlapsing.

Rural Health Care Facilities Restricted Account

In accordance with [UCA 26-9-4](#), \$555,000 is transferred each fiscal year from the General Fund to the Rural Health Care Facilities Account. The Tax Commission distributes funds in the account to certain rural

hospitals for operating expenses. In recent years, four counties – Beaver, Daggett, Garfield, and Kane – have received a total of \$218,800 annually. Appropriations from the account lapse to the General Fund.

Sales and Use Tax Administrative Fees Restricted Account

This account, also called the State Tax Commission Administrative Charge Account, is funded with a percentage of revenues collected by the commission from each qualifying tax, fee, or charge. The total percentage remitted to the account is the lesser of either 1.5 percent of taxes and fees collected, or a percentage sufficient to cover the costs of administering the qualifying taxes, fees, and charges ([UCA 59-1-306](#)). According to Division of Finance rules, appropriations from the account lapse to the account.

Tobacco Settlement Restricted Account

The account holds 60 percent of all funds obtained as part of a settlement agreement with tobacco manufacturers in 1998 as well as any earned interest. [UCA 51-9-201](#) appropriates \$18,500 annually to the Tax Commission for enforcement of business compliance with the settlement. Although revenues to the fund have declined in recent years, the commission is listed in statute as having second priority for its appropriation and as such no reduction has been necessary. According to Division of Finance rules, appropriations from the account lapse to the account.

Uninsured Motorist Identification Restricted Account

This account, which is organized within the Transportation Fund, consists of a \$1 uninsured motorist identification charge that is included in each motor vehicle registration fee; a \$100 registration reinstatement fee for each vehicle with a previously revoked registration; appropriations made by the Legislature; and interest earned on account funds ([UCA 41-12a-806](#)). A portion of the funds going into this account – \$133,800 for the past several years – is appropriated to the Motor Vehicle Division for their costs related to revocations and reinstatements. According to Division of Finance rules, appropriations from the account lapse to the account.

Department of Financial Institutions

Restricted Revenues Requiring Appropriation

Department of Financial Institutions Restricted Account

The department is funded entirely with restricted revenue from the account, which is collected from assessments on the financial institutions it regulates ([UCA 7-1-4](#)). The department periodically requests changes to the fee amounts, which are set in statute, to align fees with costs. Appropriations from the account lapse to the account.

Public Service Commission

Restricted Revenues Requiring Appropriation

Commerce Service Account – Public Utilities Regulation Fee

The Public Utilities Regulation Fee (PURF) account is a subaccount within the Commerce Service Account that funds the Public Service Commission and the Division of Public Utilities at the Department of Commerce. It provides all the funding for the commission's main line item. The purpose of the PURF is to "defray the cost of regulation [of those] public utilities subject to the jurisdiction of the commission" ([UCA 54-5-1.5](#)). Appropriations from the account lapse to the account.

Expendable Revenue Funds

Universal Telecommunications Support Fund

The purpose of the fund is to provide affordable basic telephone service to all areas of the State by defraying the additional costs for rural customers ([UCA 54-8b-15](#)). The fund is supported by a surcharge on intrastate telecommunications retail revenue, paid by end users. The surcharge is currently 1.00 percent but will increase to 1.65 percent, effective October 1, 2016. Although included in appropriations acts for transparency, the commission has authority to access funds as needed, in accordance with statute, without legislative approval.

Labor Commission

Restricted Revenues Requiring Appropriation

Industrial Accidents Restricted Account

This account supports the Industrial Accidents and Adjudication Divisions of the commission. The Legislature makes annual appropriations from this fund to the Labor Commission, per [UCA 34A-2-705](#). It is supported by an assessment on worker's compensation premiums; the current assessment is 0.5 percent, as set in statute. Appropriations from the account lapse to the account.

Workplace Safety Restricted Account

This account is used for workplace safety education, training, and other support. The Legislature makes annual appropriations from this fund to the Labor Commission and to the Rocky Mountain Center for Occupational and Environmental Health at the University of Utah, per [UCA 34A-2-701](#). It is supported by an assessment on worker's compensation premiums; the current assessment is 0.25 percent, as set in statute. Appropriations from the account lapse to the account.

Fiduciary Funds

Wage Claim Agency Fund

This fund is primarily a holding account for wage claims that will be paid out to claimants. Claimants are generally employees who left or were fired from a job and were not paid their full wages ([UCA 34-28-9](#)). The commission also collects penalty fees related to wage claim cases: a portion of penalties is paid to claimants and another portion of penalties is appropriated to the Antidiscrimination and Labor Division as dedicated credits. Appropriations from the account lapse to the account. If the commission collects more in penalties than what was appropriated, that amount lapses to the General Fund.

Employers' Reinsurance Fund

The Employers' Reinsurance Fund (ERF) pays certain workers, and their dependents, compensation benefits from work accidents that occurred prior to July 1994. The fund acts as a reinsurer to the commercial insurance market, 1) for claimants that exceed a specific period of benefits with the private insurer, or 2) to pay the liability for pre-existing impairment of workers rendered disabled by an industrial accident ([UCA 34A-2-702](#), [UCA 34A-2-703](#)). Some funds – currently \$77,500 – are appropriated by the Legislature to the Administration and the Industrial Accidents Divisions of the commission. The fund is supported by an assessment on worker's compensation premiums; the current assessment is 3 percent. The commission manages the fund as a fiscal agent and works with actuaries and the Workers' Compensation Advisory Council each year to set the assessment rate at a level that will ensure fund solvency.

Uninsured Employers' Fund (UEF)

This fund provides benefits to injured workers whose employers could not pay claims because the employers, 1) did not maintain statutorily-required workers' compensation insurance, or 2) were insolvent ([UCA 34A-2-704](#)). The fund is supported by an assessment on worker's compensation premiums; the current assessment is 0.35 percent. The commission manages the fund as a fiscal agent and works with actuaries and the Workers' Compensation Advisory Council each year to set the assessment rate at a level that will ensure fund solvency.