

GOPB and Division of Finance Fee Report

November 2022



GOVERNOR'S OFFICE OF
Planning & Budget



Utah Department of
Government Operations

Purpose of This Report

HB 383, *Agency Fee Assessment Amendments* (K. Christofferson), which was passed during the 2022 General Session, requires the Governor's Office of Planning and Budget (GOPB) and the Division of Finance to submit a report that summarizes the following:

- (A) the types of service fees and regulatory fees included in the fee schedules of all fee agencies;
- (B) the methods used by fee agencies to determine the amount of fees;
- (C) each estimated agency's cost related to each fee;
- (D) whether a fee is intended to cover the agency's cost related to the fee;
- (E) whether the fee agency intends to subsidize the fee to cover the agency's cost related to the fee and, if so, the fee agency's justification for the subsidy; and
- (F) whether the fee agency set the fee at an amount that exceeds the agency's cost related to the fee and, if so, the fee agency's justification for the excess fee; and

Additionally, the report includes any GOPB and Finance's recommendations for improving the fee setting process outlined in the Budgetary Procedures Act. This report is required to be submitted to the Infrastructure and General Government Appropriations Subcommittee no later than Nov. 30, 2022.

Background on Fee Setting Procedures

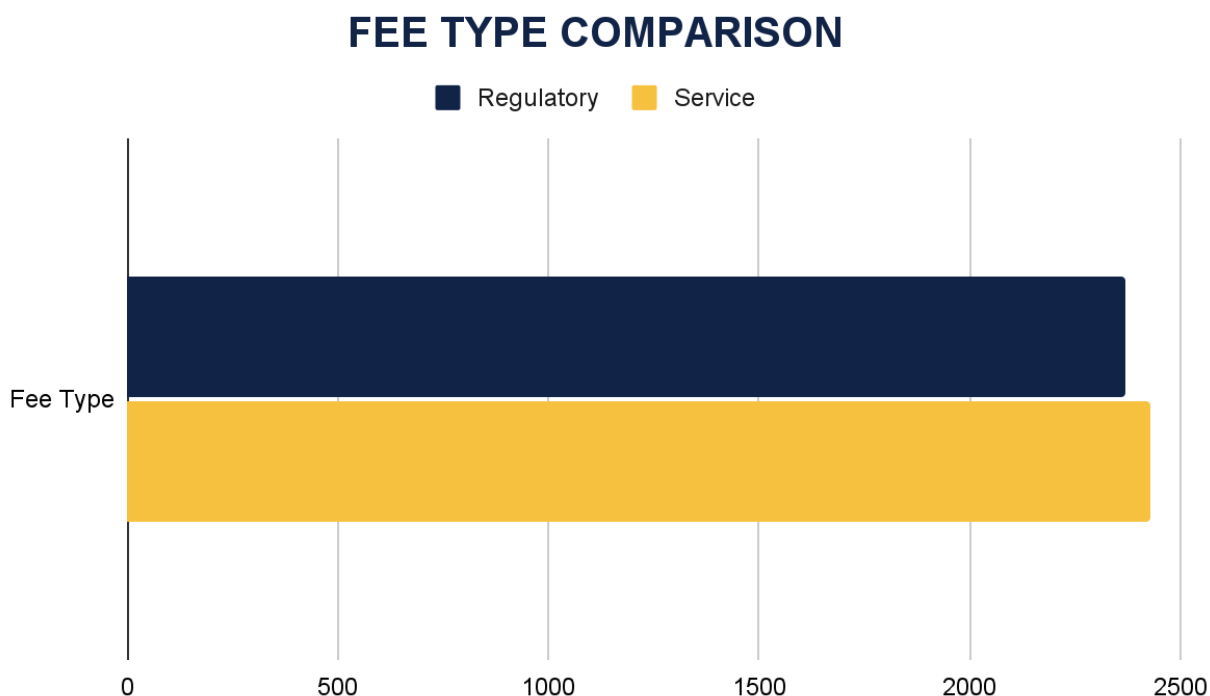
State agencies receive authority to charge fees either through specific statutes that establish fees or through the process outlined in [Utah Code 63J-1-504](#). Key components of the Utah Code 63J-1-504 fee setting process have included public hearings, review by the Governor's Office, and the listing of the fee schedule approved by the legislature in the annual fee bill. The fee statute has also included provisions requiring fees to be reasonable and reflective of the cost of services provided. HB 383 added new requirements regarding classifying fees as regulatory or services fees and how fees are set to recover agency costs.

Fee Types: Regulatory and Service

To comply with the new requirements, GOPB and the Office of the Legislative Fiscal Analyst (LFA) collected new information on the types of fees charged by agencies. These were divided into two categories: regulatory and service fees. Regulatory fees are defined as fees that are charged by an agency to cover the cost of regulating a certain industry, such as hunting permits and licensing fees. Service fees are defined as fees that cover an agency's cost of providing a service, such as copying a judicial document or a shipping fee. Fee information is collected in the Fee Prep application that tracks the approval status of fees and justifications for new or changed fees.

While the primary purpose of Fee Prep is to prepare the proposed fee schedule included in the fee bill, GOPB and LFA have also asked agencies to submit statutory fees in Fee Prep. As of Nov. 30, 2022, state agencies have entered a grand total of 4,800¹ established or proposed fees in Fee Prep, with 2,432 being identified as service fees and 2,368 being identified as regulatory fees. Looking at the data gathered this year, there is an almost even number of regulatory and service fees administered by the state.

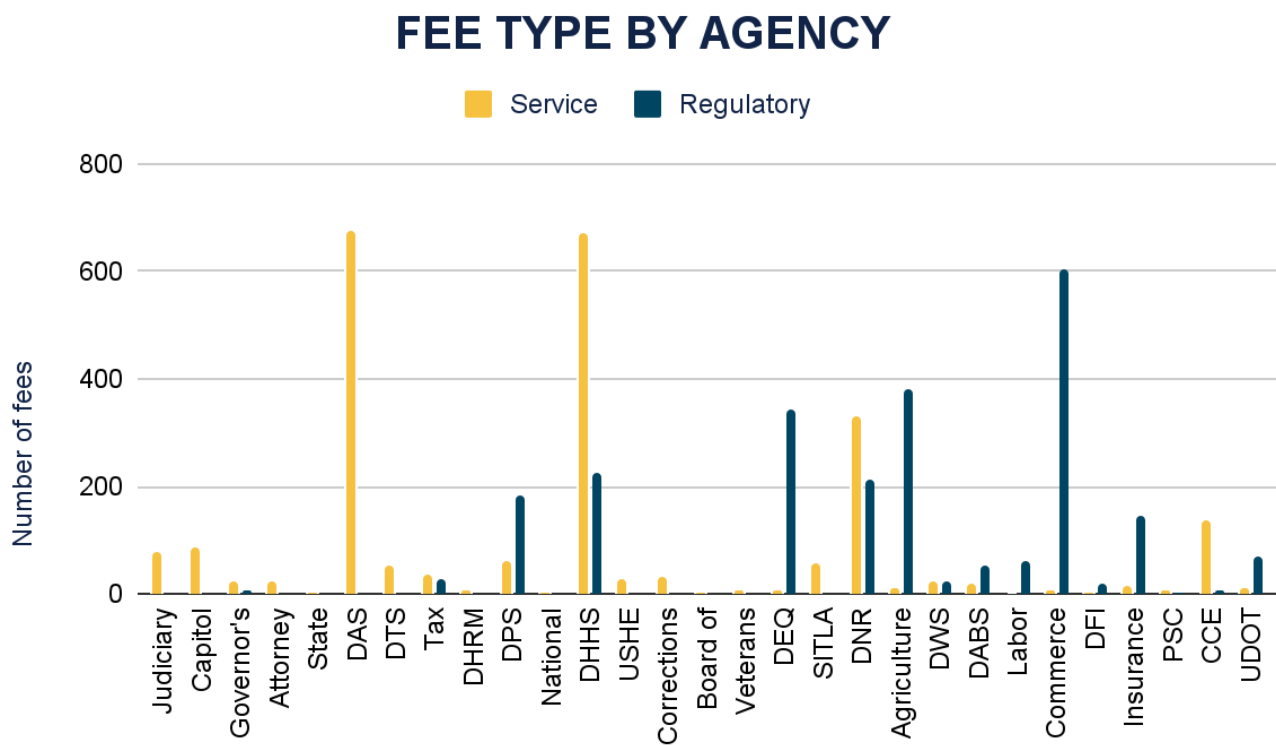
Figure 1: Fee type comparison



¹ This includes all registered fees (minus the State Board of Higher Education's fees). Fees that are set in the fee bill total 4,186, with a breakdown of 2,327 service fees and 1,859 regulatory fees. The remaining fees are set in statute and are not displayed in the fee bill.

The state of Utah's fees are almost evenly split between the regulatory and service categories, reflecting a mixed fee system that flexibly adapts to the changing needs of Utahns. Regulatory fees were clustered mainly by agencies that specialize in regulating specific sectors of Utah's economy, such as agriculture, commerce, and insurance. Service fees were overwhelmingly found in agencies with a service-based orientation with Utahns, such as the Department of Health and Human Services, but also in agencies that work almost exclusively within state government, such as the Department of Government Operations (DGO).

Figure 2: Fee type by agency



**Note: DGO is shown as DAS, DHRM, and DTS in this graph*

Setting Fee Rates to Recover Costs

HB 383 also required agencies to provide cost calculations for their fees and demonstrate if the fee amount charged or being proposed to charge was enough to cover the costs associated with the fee. Costs included direct costs, meaning those attributable to the system itself like employees, cost of goods, travel, etc. Another cost for agencies to consider were indirect costs, or those that benefitted multiple systems within an entity, such as payroll processing, capital costs, and “overhead” current expenses. An agency that intends to change any fee under Utah Code 63J-1-504 is required to submit to the governor, as part of the agency's annual appropriation additional information justifying the fee and related costs.² Because the additional information is only required for new or changed fees, this report only covers information that was submitted for fees that have that additional requirement.

Prior to HB 383, Fee Prep was already collecting the following information for new and changed fees:

- The fee title
- The proposed amount
- The prior amount, which can be used to calculate a nominal or percentage change
- The prior and new estimated number of times the fee is collected each year, which can be used to estimate the annual revenue and any changes in revenue
- The account or fund into which the fee will be deposited
- The reason for the change in the fee
- The calculation methodology
- Information regarding the public hearing

In addition to the new regulatory and service fee type labels, Fee Prep was also expanded to collect the following information for new or changed fees:

- The estimated agency's cost related to the fee
- Whether the fee is intended to cover the agency's cost related to the fee
- Whether the agency intends to subsidize other costs with the fee or subsidizes fee-supported programs with other sources besides the fees

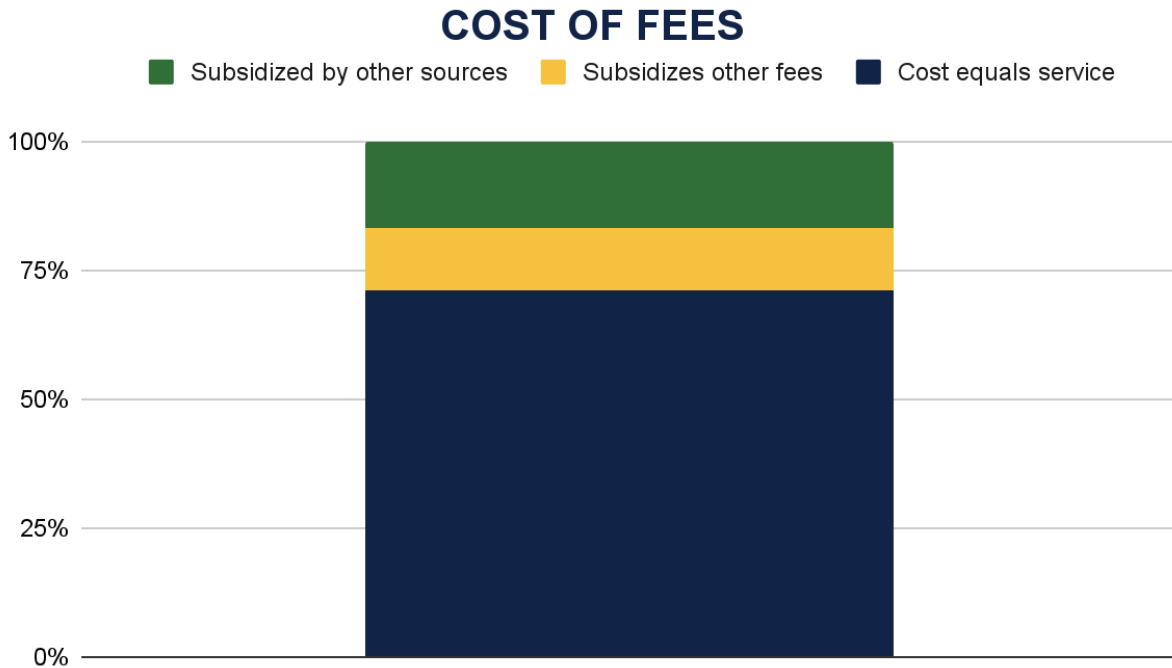
To accomplish this, all new or changed fees were required to identify the program that was being supported by the fees. Agencies were given discretion in determining what activities make up a

² The State Board of Higher Education, under [Utah Code 53B-7-101](#), has the authority to set and establish their own fee structure and is not subject to provisions under Utah Code 63J-1-504.

program. In some cases programs align with line items or programs identified in appropriations bills, and in other cases they do not. In many cases, multiple fees support one program. For example, various wildlife conservation fees contributing to the operations at the Division of Wildlife Resources. After programs were identified, agencies were required to provide cost information for the fee-supported programs. Relating this process to the example of wildlife conservation fees, the Department of Natural Resources was required to identify the full cost of that program and whether or not fees were set to recovery costs, over collect, or be subsidized by other funding sources. For 991 new or changed fees during the current budget cycle, 72% of the fees were set to recover the cost of administering the service or regulatory program supported by the fees. Of the new or changed fees, 11% subsidize other programs in state government. The remaining 17% are subsidized by other funding sources.

The data collected clearly shows that a vast majority of state fees are operating under the notion of creating a fee that equals the service provided. This is good, and what we should aim for with our fee rates (which are already some of the lowest nationwide when examined with comparable fees in neighboring states). Instances where the fee amount is either not sufficient or is generating excess revenue can be attributed to several reasons, with many being subsidized by federal grant dollars that assist in many of these program areas, especially in natural resources, agriculture, and healthcare. Another reason is simply economic growth driving a higher volume of fee revenue despite being set at a low rate amount. However, in spite of this, there are still areas of state government where fee revenue is not sufficient to cover the full cost of the program because of various reasons, one of the biggest being agency concerns for the fee payer having to pay a disproportionately large amount if the exact cost of the fee was used. In these instances, agencies subsidize their fees with general fund appropriations. In consultation with GOPB and LFA, these agencies are working on proposing newer, more accurate rates that fully capture the cost of the service provided to reduce reliance on general fund subsidization.

Figure 3 - Cost of fees



When fee-supported programs under or over collected fees, the agency was required to provide an explanation. Appendix A of this report provides the justifications provided for new or changed fees that were not set to break even.

Recommendations

GOPB and the Division of Finance are encouraged by the steps that several agencies have made this year and in recent years to adjust their fees to help pay for their costs. While the Division of Finance was asked to collaborate with GOPB on this report, the review of fees primarily falls within the purview of GOPB and LFA. In order to provide agencies with the most time possible, GOPB, in conjunction with LFA, opened Fee Prep earlier in the summer for data entry. This extra time cushion allowed for a more thorough evaluation of existing fees and integrating new information requirements from HB 383. Encouraged by these results, GOPB intends to open Fee Prep for agency data entry early again next year.

Since the more detailed information about cost recovery is only required for new or changed fees, GOPB will evaluate the percentage of fees that are required to report to determine if it will issue guidance for additional fees to report even if they have not changed. Additional data collection over another budget cycle is likely required before making recommendations concerning additional changes to fee setting statutes.

GOPB will also further examine fees that either fail to fully capture the full cost of the service provided or subsidize other fees in next year's budget cycle to determine if fees should be reduced or if additional funding should be budgeted to support the services or regulatory activities provided to fee payers.

Appendix A

Fee-supported Programs Subsidized by Other Sources

AGENCY	NAME	DESCRIPTION	COST	EXPLANATION
Environmental Quality	New Source Review Permit	Fees used for any approval orders, permits, and technical work	\$2,870,996	The overall program is funded by fees but also with EPA funds from the Air Pollution Grant
Environmental Quality	Pretreatment Program	Application and cost recovery fees associated with Utah Pollution Discharge Elimination System (UPDES)	\$106,600	This program is subsidized by the Water Quality federal grant. Program administration is supported by permittees.
SITLA	Operational Fees	All revenue is used to fund agency operations. Fees collected are intended to recoup basic administrative costs	\$11,000,000	Overall, SITLA is funded primarily by revenue generated by trusts lands, with fees collected contributing a very minor (.1080%) of total revenue
DHHS	State Laboratory	Fees used for the upkeep and operation of the State Laboratory	\$12,612,720	For FY 22, fees charged by the Utah Public Health Laboratory were not enough to cover all expenses from running the program. Subsidies came in the form of non-lapsing funds from the prior year
DHHS	Data, Systems, and Evaluation	Fees used for health data information and analysis	\$1,660,630	Current fee revenue is not sufficient to fully support the program. Additional sources of funding include general fund, revenue transfers from the Medicaid program, and private payments.

AGENCY	NAME	DESCRIPTION	COST	EXPLANATION
DHHS	Licensing	Fees related to licensing and background checks	\$9,400,000	This program is subsidized by general fund appropriations, with Child Care Licensing receiving funding from DWS that covers 60% of personnel costs
Agriculture	Food Compliance	Kratom product registration fees and the separate process fees are being combined.	\$2,000,000	The Food Compliance program is subsidized by a federal grant.
Agriculture	Grain	Fees for grain inspection services (USDA/FGIS Certified)	\$300,000	Grain inspection is subsidized by general fund. The current fee structure is recommended and requires approval by the Federal Grain Inspection Service. Increasing the fee could result in loss of certification or customers would look elsewhere.
Agriculture	Organic	Fees related for overseeing the certification of organic products	\$492,700	The current fee structure is not enough to fully fund the program, and Agriculture has proposed an additional fee for larger producers to help the program be fully funded.
Agriculture	Horse Racing	Fees related to the administration of Utah Horse Racing	\$164,000	The current fee structure is not adequate to fully fund the program. Agriculture has proposed fee increases to help correct this. Currently, the agency uses existing balances including general fund and other fee revenue from outside sources

AGENCY	NAME	DESCRIPTION	COST	EXPLANATION
Agriculture	Analytical Laboratory	These fees go towards testing of agricultural products (dairy, meat, grain, fertilizer).	\$1,366,900	The current fee structure is not adequate to fully fund the program. Agriculture subsidizes the program with general fund
DFI	Commercial Financing	Registration fees for commercial financing entities	\$5,000	Registration fees will cover more normal administration costs of the program. If more than the normal cost of administering the entity is needed, then the per entity examination fee of \$55.00 would be charged
Go Utah	Search Services	Fees charged for search services through Go Utah's Innovation Center	\$22,987	Search fees are subsidized with general fund. In order for Go Utah to adequately capture the full cost of the fee, they would have to charge an amount they believe would be too restrictive
CCE	Pete Suazo	These fees come from licensing for promoters, managers, contestants, judges, and referees for professional unarmed combat sports	\$193,807	There is an existing general fund appropriation for this program that provides funding, along with fee revenue.
DGO - Finance	Financial Information Systems	These fees help cover the costs of operating and maintaining the state's financial accounting system.	\$11,354,000	The fee collected is a rebate provided by a bank for vendors that select Payment Plus as a payment option rather than warrant or eft. This was not intended to cover the entire cost of the program, but rather supplement the other state funding appropriation.

Fees that Subsidize Other Programs

AGENCY	NAME	DESCRIPTION	COST	EXPLANATION
Agriculture	Feed	Fees related to the inspection, registration, and sampling of commercial feed products	\$224,400	In addition to funding this program, fee revenue also helps subsidize the seed program, the hay program, organic program, nursery program, and plant commodity and grading shipping program
Agriculture	Fertilizer	Fees related to the registration, distribution, sale, use, and storage of fertilizer products	\$186,900	In addition to funding this program, fee revenue also helps subsidize the seed program, the hay program, organic program, nursery program, and plant commodity and grading shipping program
Agriculture	Pesticide	Fees related to the registration, distribution, sale, use, and storage of pesticide products	\$2,494,300	In addition to funding this program, fee revenue also helps subsidize the insect infestation program as well as the invasive species program
Commerce	Dispensing Practice	Fees that support the new licensing classification that will reclassify dispensing medical practitioners as dispensing medical clinicians	\$3,700	The cost to implement this program is minimal compared to the total revenue, and will supplement the total cost by a few thousand dollars
DGO - Finance	Out of State Employees	Fees paid here ensure that the state properly withholds	\$4,600	These fees were originally set to reflect estimated costs and to encourage

		state and local taxes for state employees working outside of Utah		agencies to consider the need to allow state employees to work out of state
DGO - Finance	Office of State Debt Collection	Fees paid here help the Office collect amounts owed to the state, amounts owed to victims of crime, and to monitor the state's accounts receivable	\$5,387,876	Fees that pay into this program are set to allow room to negotiate with debtors to settle debts. By statute, excess collections are transferred to the General Fund