

**REVENUE PROCEDURES AND CONTROL ACT
AMENDMENTS**

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Curtis S. Bramble

This act modifies the Utah Code sections governing accounting for revenues. This act authorizes state agencies to collect fees or other revenues via credit cards or other electronic means. This act authorizes state agencies to increase their fees to reimburse the agency for the cost charged by third parties to process those electronic payments and establishes requirements for accounting for those fees. This act requires the Office of the Legislative Fiscal Analyst to study the process established in this act and make recommendations to the Legislature. This act takes effect on July 1, 2003. Section 63-38a-105 is repealed July 1, 2007.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

41-1a-1201, as last amended by Chapter 1, Laws of Utah 2003

41-22-19, as last amended by Chapter 73, Laws of Utah 1999

63-55b-163, as last amended by Chapter 49, Laws of Utah 2002

73-18-22, as last amended by Chapter 205, Laws of Utah 1998

ENACTS:

41-1a-1221, Utah Code Annotated 1953

41-22-36, Utah Code Annotated 1953

63-38a-105, Utah Code Annotated 1953

73-18-25, Utah Code Annotated 1953

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

Section 1. Section **41-1a-1201** is amended to read:

41-1a-1201. Disposition of fees.

(1) All fees received and collected under this part shall be transmitted daily to the state treasurer.

(2) Except as provided in Subsections (3), (4), and (6), and ~~[Section]~~ Sections 41-1a-422, [and in Section] 41-1a-1220, and 41-1a-1221, all fees collected under this part shall be deposited in the Transportation Fund.

(3) (a) Funds generated under Subsections 41-1a-1211(1)(a), (6)(a), and (7) and Section 41-1a-1212 may be used by the commission as a dedicated credit to cover the costs incurred in issuing license plates under Part 4, License Plates and Registration Indicia.

(b) Fees for statehood centennial license plates shall be collected and deposited in the Transportation Fund, less production and administrative costs incurred by the commission.

(4) All funds available to the commission for purchase and distribution of license plates and decals are nonlapsing.

(5) Except as provided in Subsection (3) and Section 41-1a-1205, the expenses of the commission in enforcing and administering this part shall be provided for by legislative appropriation from the revenues of the Transportation Fund.

(6) The following portions of the registration fees imposed under Section 41-1a-1206 for each vehicle shall be deposited in the Centennial Highway Fund created under Section 72-2-118:

(a) \$10 of the registration fees imposed under Subsections 41-1a-1206(1)(a), (1)(b), (2), and (5);

(b) \$1 of the registration fees imposed under Subsections 41-1a-1206(1)(c)(i), (1)(c)(ii), and (1)(d)(ii);

(c) \$2 of the registration fee imposed under Subsection 41-1a-1206(1)(e)(ii);

(d) \$3 of the registration fee imposed under Subsection 41-1a-1206(1)(d)(i); and

(e) \$4.50 of the registration fee imposed under Subsection 41-1a-1206(1)(e)(i).

Section 2. Section **41-1a-1221** is enacted to read:

41-1a-1221. Fees to cover the cost of electronic payments.

(1) In accordance with Section 63-38a-105, the Division of Motor Vehicles may collect an electronic payment fee on all registrations and renewals of registration under Subsections 41-1a-1206(1)(a), 41-1a-1206(1)(b), and 41-1a-1206(2).

(2) The division shall establish the fee according to the procedures and requirements of

Section 63-38-3.2.

Section 3. Section **41-22-19** is amended to read:

41-22-19. Deposit of fees and related moneys in Off-highway Vehicle Account -- Use for facilities, costs and expenses of division, and education -- Request for matching funds.

(1) Except as provided under ~~[Section]~~ Sections 41-22-34 and 41-22-36, all registration fees and related moneys collected by the Motor Vehicle Division or any agencies designated to act for the Motor Vehicle Division under this chapter shall be deposited as restricted revenue in the Off-highway Vehicle Account in the General Fund less the costs of collecting off-highway vehicle registration fees by the Motor Vehicle Division. The balance of the monies may be used by the division as follows:

(a) for the construction, improvement, operation, or maintenance of publicly owned or administered off-highway vehicle facilities;

(b) as grants or as matching funds with any federal agency, political subdivision of the state, or organized user group for the construction, improvement, operation, acquisition, or maintenance of publicly owned or administered off-highway vehicle facilities including public access facilities;

(c) for the administration and enforcement of the provisions of this chapter; and

(d) for the education of off-highway vehicle users.

(2) All agencies or political subdivisions requesting matching funds shall submit plans for proposed off-highway vehicle facilities to the division for review and approval.

Section 4. Section **41-22-36** is enacted to read:

41-22-36. Fees to cover the costs of electronic payments.

(1) In accordance with Section 63-38a-105, the Division of Motor Vehicles may collect an electronic payment fee on all registrations and renewals of registration under Section 41-22-8.

(2) The division shall establish the fee according to the procedures and requirements of Section 63-38-3.2.

Section 5. Section **63-38a-105** is enacted to read:

63-38a-105. Electronic Revenue Collections.

(1) As used in this section:

(a) "Agency" means any legislative, executive, judicial, or other entity of state government that receives appropriations or charges fees and whose budget is accounted for by the Division of Finance.

(b) "Electronic payment" means use of any form of payment processed through electronic means, including credit cards, debit cards, and automatic clearinghouse transactions.

(c) "Electronic payment fee" means the fee assessed by an agency under the authority of this section to defray the charge, discount fee, or processing fee charged by credit card companies or processing agents to process an electronic payment.

(d) "Processing agent" means a bank, transaction clearing business, or other third-party system provider that charges a fee to process an electronic payment.

(2) An agency may accept electronic payments by following the procedures and requirements of this section.

(3) (a) If an agency chooses to accept electronic payments for a transaction, the agency may charge an electronic payment fee.

(b) Each agency that charges an electronic payment fee shall include in its budget an estimated total amount of revenue expected from electronic payment fees.

(c) If an agency chooses to charge an electronic payment fee, for fiscal year 2003-04 only, the agency need not comply with the procedures and requirements of Section 63-38-3.2 in setting that fee.

(4) (a) Except as provided in Subsection (4)(d), each agency that chooses to charge an electronic payment fee under Subsection (3) shall:

(i) determine the amount of the electronic payment fee; and

(ii) deposit electronic payment fees collected by it as dedicated credits under a separate identification established for electronic payment fees by the Division of Finance.

(b) (i) An agency shall:

(A) include the cost of the electronic payment fee as a component of any other fee,

regulatory fee, or other charge collected by the agency; and

(B) ensure that the fee, regulatory fee, or other charge for a transaction includes the electronic payment fee regardless of the method of payment.

(ii) (A) The agency may not separately identify the electronic payment fee from the rest of the fee, regulatory fee, or other charge in the fee schedule provided to the Legislature as required by Section 63-38-3.2.

(B) Notwithstanding the provisions of Subsection (4)(b)(ii)(A), if a fee or charge is set forth in statute, an agency may include a separate electronic payment fee in the fee schedule required by Section 63-38-3.2.

(c) Except as provided in Subsection (8), an agency may not separately identify a charge assessed to cover the cost of an electronic payment as a convenience fee or a surcharge on an electronic payment.

(d) The Division of Finance may grant a whole or partial waiver from the requirements of this Subsection (4) to any agency that is currently charging an electronic payment fee if the agency demonstrates that complying with this Subsection (4) would be unduly burdensome or expensive.

(5) (a) The amount collected by an agency as dedicated credits from the electronic payment fee portion of a fee, regulatory fee, or charge:

(i) may be expended by the agency to cover the cost of electronic payments; and

(ii) is not subject to the expenditure limits or lapsing requirements of Subsection 63-38a-104(2).

(b) The amount collected for electronic payment fees that exceeds the amount necessary to pay the cost of electronic payments does not lapse to any fund at the end of any fiscal year.

(c) An agency may use any nonlapsing balance authorized by this Subsection (5) only to offset any subsequent shortages in electronic payment fee collections.

(6) (a) In accounting for electronic payment fees, the Division of Finance shall:

(i) establish a separate identification for electronic payment fees;

(ii) ensure that the identification is different from the revenue type identification;

(iii) treat the cost of electronic payments as an administrative expense of the agency accepting the electronic payment; and

(iv) account for electronic payment fees as dedicated credits to be used to pay the cost of electronic payments.

(b) In accounting for electronic payment fees, the Division of Finance may not apply to the electronic payment fee the same identification as to revenue type or use restriction as the fee to which it applies.

(7) In preparing the annual appropriations act, the Office of the Legislative Fiscal Analyst shall, if directed to do so by the Legislature, fund electronic payment fees as part of the agency's appropriation as:

(a) dedicated credits, if the agency has increased fees, regulatory fees, or other charges as authorized by Subsection (4)(b); or

(b) an appropriation from free revenues or restricted accounts.

(8) (a) If the cost of processing electronic payments as required in Subsections (4) through (7) is excessive for large dollar items such as taxes or other large regulatory fees, an agency may establish an alternate method for recovering those costs, including:

(i) imposing an additional convenience fee charged to the payee;

(ii) imposing restrictions on the type of electronic payments accepted; or

(iii) other variations to recover the cost of processing electronic payments.

(b) An agency may not implement an alternative method of cost recovery under this Subsection (8) until it is approved by the director of the Division of Finance and the director of the Governor's Office of Planning and Budget.

(c) If an agency is authorized to charge an additional convenience fee or surcharge for processing these large dollar electronic payments, the agency and the Division of Finance shall:

(i) account for those fees as dedicated credits; and

(ii) comply with the requirements of this section in depositing and accounting for those fees.

(d) If an agency is authorized to charge an additional convenience fee or surcharge for

processing these large dollar electronic payments, the agency shall determine the amount of the convenience fee or surcharge.

(9) (a) Notwithstanding the provisions of Section 63-38-3.2, an agency may increase the fees identified in the fee schedule passed in the 2003 Annual General Session of the Legislature by the amount of the electronic payment fee authorized by this section.

(b) In the 2004 Annual General Session, each agency that is required to submit a fee schedule under Section 63-38-3.2 shall submit a report that identifies:

(i) the fee amount that was approved by the Legislature in the 2003 Annual General Session; and

(ii) the specific electronic payment fee amount added to that fee by the agency under authority of this section.

(c) In submitting the fee schedule required by Section 63-38-3.2 for the 2004 Annual General Session, the agency shall identify the new fee amount, which shall include the electronic payment fee, to be approved by the Legislature in the 2004 Annual General Session.

(10) (a) After July 1, 2004, an agency may not charge, assess, or establish any fee, convenience fee, or surcharge to cover the cost of electronic payments except as provided in this section.

(b) The fees or charges established in the following sections are subject to this section:

(i) Section 41-1a-1221;

(ii) Section 41-22-36; and

(iii) Section 73-18-25.

(11) During the 2006 interim, the Office of the Legislative Fiscal Analyst shall:

(a) analyze the process established by this section to determine its strengths and weaknesses;

(b) specifically evaluate the advantages and disadvantages of shifting funding of electronic processing fees from dedicated credits to each agency's base budget; and

(c) by November 1, 2006, make recommendations to the Executive Appropriations Committee about:

- (i) whether the process established by this section should be reauthorized or sunsetted;
- (ii) improvements or modifications to the process established by this section; and
- (iii) whether or not to continue funding electronic payment fees through dedicated credits.

Section 6. Section **63-55b-163** is amended to read:

63-55b-163. Repeal dates, Title 63.

(1) Section 63-38a-105 is repealed July 1, 2007.

~~[(3)]~~ (2) Section 63-56-35.9 is repealed July 1, 2005.

~~[(2)]~~ (3) Sections 63-63b-101 and 63-63b-102 are repealed on July 1, 2007.

~~[(4)]~~ (4) Title 63, Chapter 95, Parts 2 and 3 are repealed July 1, 2004.

Section 7. Section **73-18-22** is amended to read:

73-18-22. Boating Account created -- Contents -- Use of money.

(1) There is created within the General Fund a restricted account known as the Boating Account.

(2) Except as provided under ~~[Section]~~ Sections 73-18-24 and 73-18-25, all registration fees and related moneys collected by the division or any authorized agent, less the costs of collecting motorboat and sailboat registration fees by an authorized agent, shall be deposited into the Boating Account.

(3) The amount retained by an authorized agent may not exceed 20% of the fees charged in Section 73-18-7.

(4) Money in the Boating Account may be used for:

(a) the construction, improvement, operation, and maintenance of publicly owned boating facilities;

(b) boater education; and

(c) the payment of the costs and expenses of the division in administering and enforcing this chapter.

Section 8. Section **73-18-25** is enacted to read:

73-18-25. Fees to cover the costs of electronic payments.

(1) In accordance with Section 63-38a-105, the Division of Motor Vehicles may collect an electronic payment fee on all registrations and renewals of registration under Section 73-18-7.

(2) The division shall establish the fee according to the procedures and requirements of Section 63-38-3.2.

Section 9. **Effective date.**

This act takes effect on July 1, 2003.