

**Senator Jacob L. Anderegg** proposes the following substitute bill:

**PUBLIC UTILITY REGULATORY RESTRICTED ACCOUNT**

**AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Dixon M. Pitcher**

Senate Sponsor: Brian E. Shiozawa

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**LONG TITLE**

**General Description:**

This bill creates a restricted account within the General Fund.

**Highlighted Provisions:**

This bill:

- ▶ creates a restricted account known as the Public Utility Regulatory Restricted Account in the Department of Commerce;
- ▶ provides that the Department of Commerce shall deposit special regulation fees into the Public Utility Regulatory Restricted Account;
- ▶ provides that funds in the Public Utility Regulatory Restricted Account may be used to fund the Division of Public Utilities, the Office of Consumer Services, and the Public Service Commission;
- ▶ designates appropriations from the Public Utility Regulatory Restricted Account as nonlapsing; and
- ▶ transfers public utility regulatory fees designated as nonlapsing into the Public Utility Regulatory Restricted Account.

**Money Appropriated in this Bill:**

None



26 **Other Special Clauses:**

27 This bill provides a special effective date.

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **54-5-1.5**, as last amended by Laws of Utah 2009, Chapter 183

31 **63J-1-602.3**, as last amended by Laws of Utah 2016, Chapters 52 and 271

32 **Uncodified Material Affected:**

33 ENACTS UNCODIFIED MATERIAL



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

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

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

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

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

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

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

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

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

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

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

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

59 (c) Within appropriations by the Legislature:

60 (i) the Department of Commerce may use the funds in the Public Utility Regulatory  
61 Restricted Account to administer:

62 (A) the Division of Public Utilities; and

63 (B) the Office of Consumer Services; and

64 (ii) the Public Service Commission may use the funds in the Public Utility Regulatory  
65 Restricted Account to administer the Public Service Commission.

66 (d) At the end of each fiscal year, the director of the Division of Finance shall transfer  
67 into the General Fund any balance in the Public Utility Regulatory Restricted Account in  
68 excess of \$3,000,000.

69 ~~[(4)]~~ (5) (a) [It is the intent of the] The Legislature intends that the public utilities  
70 provide all of the funds for the administration, support, and maintenance of:

71 (i) the Public Service Commission;

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

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

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

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

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

81 (ii) \$50.

82 ~~[(5)]~~ (6) (a) There is created a Supplemental Levy Committee to levy additional  
83 assessments on public utilities when unanticipated costs of regulation occur in any fiscal year.

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

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

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

87 (iii) two members selected by the three public utilities that paid the largest percent of

88 the current regulatory fee; and

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

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

94 (ii) If the members of the Supplemental Levy Committee have not been appointed  
95 within the time prescribed, the governor shall appoint the members of the Supplemental Levy  
96 Committee.

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

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

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

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

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

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

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

115 (iii) Charges billed to the Department of Commerce by any other state department,  
116 institution, or agency for services rendered in connection with regulation of a utility shall be  
117 credited by the state treasurer from the special or supplemental fees collected to the  
118 appropriations account of the entity providing that service according to the procedures provided

119 in Title 63J, Chapter 1, Budgetary Procedures Act.

120 [~~(6)~~] (7) (a) For purposes of this section, "electrical cooperative" means:

121 (i) a distribution electrical cooperative; or

122 (ii) a wholesale electrical cooperative.

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

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

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

131 (ii) \$50.

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

133 **63J-1-602.3. List of nonlapsing funds and accounts -- Title 46 through Title 60.**

134 (1) The Utah Law Enforcement Memorial Support Restricted Account created in  
135 Section [53-1-120](#).

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

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

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

142 (5) Appropriations to the Motorcycle Rider Education Program, as provided in Section  
143 [53-3-905](#).

144 (6) Appropriations from the Utah Highway Patrol Aero Bureau Restricted Account  
145 created in Section [53-8-303](#).

146 (7) Appropriations from the DNA Specimen Restricted Account created in Section  
147 [53-10-407](#).

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

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

150 (10) Appropriations to the State Board of Education, as provided in Section  
151 [53A-17a-105](#).

152 (11) Money received by the Utah State Office of Rehabilitation for the sale of certain  
153 products or services, as provided in Section [35A-13-202](#).

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

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

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

160 (15) Subject to Subsection [54-5-1.5\(4\)\(d\)](#), appropriations from the Public Utility  
161 Regulatory Restricted Account created in Section [54-5-1.5](#).

162 [~~15~~] (16) Certain surcharges on residential and business telephone numbers imposed  
163 by the Public Service Commission, as provided in Section [54-8b-10](#).

164 [~~16~~] (17) Certain fines collected by the Division of Occupational and Professional  
165 Licensing for violation of unlawful or unprofessional conduct that are used for education and  
166 enforcement purposes, as provided in Section [58-17b-505](#).

167 [~~17~~] (18) Certain fines collected by the Division of Occupational and Professional  
168 Licensing for use in education and enforcement of the Security Personnel Licensing Act, as  
169 provided in Section [58-63-103](#).

170 [~~18~~] (19) Appropriations from the Relative Value Study Restricted Account created  
171 in Section [59-9-105](#).

172 [~~19~~] (20) The Cigarette Tax Restricted Account created in Section [59-14-204](#).

173 Section 3. **Legislative intent.**

174 The Legislature intends that:

175 (1) public utility regulatory fee balances designated as nonlapsing at the close of fiscal  
176 year 2017 for the Division of Public Utilities, the Office of Consumer Services, and the Public  
177 Service Commission be transferred to the newly created Public Utility Regulatory Restricted  
178 Account; and

179 (2) the Division of Finance transfer any fees assessed under Section [54-5-1.5](#) that are  
180 recorded as revenue in fiscal year 2018 in the Commerce Service Fund to the newly created

181 Public Utility Regulatory Restricted Account.

182 Section 4. **Effective date.**

183 This bill takes effect on July 1, 2017.