

**DEPARTMENT OF ADMINISTRATIVE  
SERVICES AMENDMENTS**

2003 GENERAL SESSION

STATE OF UTAH

**Sponsor: Loraine T. Pace**

**This act modifies provisions relating to the Department of Administrative Services. This act modifies provisions relating to the Division of Fleet Operations. This act allows vehicles to be acquired with funding from sources other than state appropriations or through federal surplus. This act changes the membership of the Motor Pool Review Committee. This act requires agencies to report the results of investigations of vehicle misuse to the Divisions of Fleet Operations and Risk Management. This act allows the director of the Division of Fleet Operations to delegate functions to other state agencies upon approval from the executive director of the Department of Administrative Services. This act eliminates the Utah Sports Authority from the Department of Administrative Services. This act modifies the names of the divisions within the Department of Administrative Services. This act makes technical changes.**

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

AMENDS:

**63-38-3.5**, as last amended by Chapter 175, Laws of Utah 2001

**63A-1-109**, as last amended by Chapter 334, Laws of Utah 1996

**63A-9-301**, as last amended by Chapters 85 and 252, Laws of Utah 1997

**63A-9-302**, as last amended by Chapter 85, Laws of Utah 1997

**63A-9-401**, as last amended by Chapter 85, Laws of Utah 1997

**63A-9-501**, as enacted by Chapter 334, Laws of Utah 1996

REPEALS:

**63A-2-201**, as renumbered and amended by Chapters 118 and 212, Laws of Utah 1993

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

Section 1. Section **63-38-3.5** is amended to read:

**63-38-3.5. Internal service funds -- Governance and review.**

(1) For purposes of this section:

(a) "Agency" means a department, division, office, bureau, or other unit of state government, and includes any subdivision of an agency.

(b) "Do not replace vehicles " means a vehicle accounted for in the Division of Fleet Operations for which charges to an agency for its use do not include amounts to cover depreciation or to accumulate assets to replace the vehicle at the end of its useful life.

~~[(b)]~~ (c) "Internal service fund agency" means an agency that provides goods or services to other agencies of state government or to other governmental units on a capital maintenance and cost reimbursement basis, and which recovers costs through interagency billings.

~~[(c)]~~ (d) "Revolving loan fund" means each of the revolving loan funds defined in Section 63A-3-205.

(2) An internal service fund agency is not subject to this section with respect to its administration of a revolving loan fund.

(3) An internal service fund agency may not bill another agency for services that it provides, unless the Legislature has:

(a) reviewed and approved the internal service fund agency's budget request;

(b) reviewed and approved the internal service fund agency's rates, fees, and other amounts that it charges those who use its services and included those rates, fees, and amounts in an appropriation act;

(c) approved the number of full-time, permanent positions of the internal service fund agency as part of the annual appropriation process; and

(d) appropriated to the internal service fund agency the internal service fund's estimated revenue based upon the rates and fee structure that are the basis for the estimate.

(4) (a) Except as provided in Subsection (4)(b), an internal service fund agency may not charge rates, fees, and other amounts that exceed the rates, fees, and amounts established by the Legislature in the appropriations act.

(b) (i) An internal service fund agency that begins a new service or introduces a new product between annual general sessions of the Legislature may establish and charge an interim

rate or amount for that service or product.

(ii) The internal service fund agency shall submit that interim rate or amount to the Legislature for approval at the next annual general session.

(5) The internal service fund agency budget request shall separately identify the capital needs and the related capital budget.

(6) In the fiscal year that the accounting change referred to in Subsection 51-5-6(2) is implemented by the Division of Finance, the Division of Finance shall transfer equity created by that accounting change to any internal service fund agency up to the amount needed to eliminate any long-term debt and deficit working capital in the fund.

(7) No new internal service fund agency may be established unless reviewed and approved by the Legislature.

(8) (a) ~~[An]~~ Except as provided in Subsection (8)(f), an internal service fund agency may not acquire capital assets unless legislative approval for acquisition of the assets has been included in an appropriations act for the internal service fund agency.

(b) An internal service fund agency may not acquire capital assets after the transfer mandated by Subsection ~~[(4)]~~ (6) has occurred unless the internal service fund agency has adequate working capital.

(c) The internal service fund agency shall provide working capital from the following sources in the following order:

(i) first, from operating revenues to the extent allowed by state rules and federal regulations;

(ii) second, from long-term debt, subject to the restrictions of this section; and

(iii) last, from an appropriation.

(d) (i) To eliminate negative working capital, an internal service fund agency may incur long-term debt from the General Fund or Special Revenue Funds to acquire capital assets.

(ii) The internal service fund agency shall repay all long-term debt borrowed from the General Fund or Special Revenue Funds by making regular payments over the useful life of the asset according to the asset's depreciation schedule.

(e) (i) The Division of Finance may not allow an internal service fund agency's borrowing to exceed 90% of the net book value of the agency's capital assets as of the end of the fiscal year.

(ii) If an internal service fund agency wishes to purchase authorized assets or enter into equipment leases that would increase its borrowing beyond 90% of the net book value of the agency's capital assets, the agency may purchase those assets only with monies appropriated from another fund, such as the General Fund or a special revenue fund.

(f) (i) Except as provided in Subsection (8)(f)(ii), capital assets acquired through agency appropriation may not be transferred to any internal service fund agency without legislative approval.

(ii) Vehicles acquired by agencies[;] from appropriated funds or monies appropriated to agencies to be used for vehicle purchases[;] may be transferred to the Division of Fleet Operations and, when transferred, become part of the Fleet Operations Internal Service Fund.

(iii) Vehicles acquired with funding from sources other than state appropriations or acquired through the federal surplus property donation program may be transferred to the Division of Fleet Operations and, when transferred, become part of the Fleet Operations Internal Service Fund.

(iv) Unless otherwise approved by the Legislature, vehicles acquired under Subsection (8)(f)(iii) shall be accounted for as "do not replace" vehicles.

(9) The Division of Finance shall adopt policies and procedures related to the accounting for assets, liabilities, equity, revenues, expenditures, and transfers of internal service funds agencies.

Section 2. Section **63A-1-109** is amended to read:

**63A-1-109. Divisions of department -- Administration.**

(1) The department shall be composed of the following divisions:

- (a) administrative rules;
- (b) archives and records;
- (c) facilities construction and management;

- (d) finance;
  - (e) fleet operations;
  - (f) ~~[general]~~ information technology services;
  - (g) ~~[information technology services]~~ office of state debt collection;
  - (h) state purchasing and general services; and
  - (i) risk management.
- (2) Each division shall be administered and managed by a division director.
- ~~[(3) The Utah Sports Authority is also part of the department.]~~

Section 3. Section **63A-9-301** is amended to read:

**63A-9-301. Motor Vehicle Review Committee -- Composition.**

- (1) There is created a Motor Vehicle Review Committee to advise the division.
- (2) The committee shall be composed of ~~[seven]~~ nine members as follows:
  - (a) the executive director of the Department of Administrative Services or ~~[his]~~ the director's designee;
  - (b) a member from a state agency other than higher education, the Department of Transportation, the Department of Public Safety, or the Department of Natural Resources, who uses the division's services;
  - (c) the director of the Division of Purchasing and General Services or ~~[his]~~ the director's designee; and
  - (d) one member ~~[designated annually by the executive director of the Department of Administrative Services]~~ from:
    - (i) higher education, designated annually by the executive director of the Department of Administrative Services;
    - (ii) the Department of Transportation, designated annually by the executive director of the Department of Administrative Services;
    - (iii) the Department of Public Safety, ~~[or]~~ designated annually by the executive director of the Department of Administrative Services; and
    - (iv) the Department of Natural Resources ~~[so that each has a representative on the~~

committee one year out of every four], designated annually by the executive director of the Department of Administrative Services; and

(e) [~~three~~] two public members [~~from the automotive industry~~] with [~~expertise~~] experience in fleet operations and maintenance appointed by the governor.

(3) (a) Except as required by Subsection (3)(b), the governor shall appoint each public member to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment, adjust the length of terms to ensure that the terms of public members are staggered so that [~~approximately one half~~] one of the public members [~~are~~] is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(4) (a) (i) Members who are not government employees shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Members may decline to receive per diem and expenses for their service.

(b) (i) State government members who do not receive salary, per diem, or expenses from their agency for their service may receive per diem and expenses incurred in the performance of their official duties from the committee at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) State government members may decline to receive per diem and expenses for their service.

(c) (i) Higher education members who do not receive salary, per diem, or expenses from the entity that they represent for their service may receive per diem and expenses incurred in the performance of their official duties from the committee at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Higher education members may decline to receive per diem and expenses for their

service.

(5) Five members of the committee are a quorum.

(6) The executive director of the Department of Administrative Services is chair of the committee.

Section 4. Section **63A-9-302** is amended to read:

**63A-9-302. Committee duties.**

The committee shall:

(1) advise the director about carrying out the director's responsibilities under this chapter;

(2) review each administrative rule proposed by the division and make recommendations to the director about those rules; and

~~[(3) review the process mapping report and make recommendations to the director and legislature about how to implement its recommendations; and]~~

~~[(4)]~~ (3) in conjunction with the director, make recommendations to the legislature about any amendments to statute needed to allow the division to fulfill its responsibilities under this chapter.

Section 5. Section **63A-9-401** is amended to read:

**63A-9-401. Division -- Duties.**

(1) The division shall:

(a) perform all administrative duties and functions related to management of state vehicles;

~~[(a)]~~ (b) coordinate all purchases of state vehicles;

~~[(b)]~~ (c) establish one or more fleet automation and information systems for state vehicles;

~~[(c)]~~ (d) make rules establishing requirements for:

(i) maintenance operations for state vehicles;

(ii) use requirements for state vehicles;

(iii) fleet safety and loss prevention programs;

(iv) preventative maintenance programs;  
(v) procurement of state vehicles, including ~~[authorization requirements for fleet expansion and]~~ vehicle standards ~~[for vehicle sizing]~~, alternative fuel ~~[vehicles]~~ vehicle requirements, short-term lease programs, equipment installation, and warranty recovery programs;

(vi) fuel management programs;

(vii) cost management programs;

(viii) business and personal use practices, including commute standards;

(ix) cost recovery and billing procedures;

(x) disposal of state vehicles;

(xi) reassignment of state vehicles and reallocation of vehicles ~~[to other fleets]~~ throughout the fleet;

(xii) standard use and rate structures for state vehicles; and

(xiii) insurance and risk management requirements;

~~[(d)]~~ (e) establish a parts inventory;

~~[(e)]~~ (f) create and administer a fuel dispensing services program that meets the requirements of Subsection (2);

~~[(f)]~~ (g) emphasize customer service when dealing with agencies and agency employees;

and

~~[(g)]~~ (h) conduct an annual audit of all state vehicles for compliance with division requirements.

(2) The division shall operate a fuel dispensing services program in a manner that:

(a) reduces the risk of environmental damage and subsequent liability for leaks involving state-owned underground storage tanks;

(b) eliminates fuel site duplication and reduces overall costs associated with fuel dispensing;

(c) provides efficient fuel management and efficient and accurate accounting of fuel-related expenses;



- (d) where practicable, privatizes portions of the state's fuel dispensing system;
- (e) provides central planning for fuel contingencies;
- (f) establishes fuel dispensing sites that meet geographical distribution needs and that reflect usage patterns;
- (g) where practicable, uses alternative sources of energy; and
- (h) provides safe, accessible fuel supplies in an emergency.
- (3) The division shall:
  - (a) ensure that the state and each of its agencies comply with state and federal law and state and federal rules and regulations governing underground storage tanks;
  - (b) coordinate the installation of new state-owned underground storage tanks and the upgrading or retrofitting of existing underground storage tanks; and
  - (c) ensure that counties, municipalities, school districts, and special districts subscribing to services provided by the division sign a contract that:
    - (i) establishes the duties and responsibilities of the parties;
    - (ii) establishes the cost for the services; and
    - (iii) defines the liability of the parties.
- (4) The executive director of the Department of Administrative Services may make rules governing fuel dispensing according to the procedures and requirements of Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

~~[(2)]~~ (5) (a) (i) Each state agency and each higher education institution shall subscribe to the fuel dispensing services provided by the division.

(ii) A state agency may not provide or subscribe to any other fuel dispensing services, systems, or products other than those provided by the division.

(b) Counties, municipalities, school districts, special districts, and federal agencies may subscribe to the fuel dispensing services provided by the division if:

(i) the county or municipal legislative body, the school district, or the special district board recommends that the county, municipality, school district, or special district subscribe to the fuel dispensing services of the division; and

(ii) the division approves participation in the program by that government unit.

(6) The director, with the approval of the executive director, may delegate functions to institutions of higher education, by contract or other means authorized by law, if:

(a) the agency or institution of higher education has requested the authority;

(b) in the judgment of the director, the state agency or institution has the necessary resources and skills to perform the delegated responsibilities; and

(c) the delegation of authority is in the best interest of the state and the function delegated is accomplished according to provisions contained in law or rule.

Section 6. Section **63A-9-501** is amended to read:

**63A-9-501. Complaints about misuse or illegal operation of state vehicles --**

**Disposition.**

(1) The division shall refer complaints from the public about misuse or illegal operation of state vehicles to the agency that is the owner or lessor of the vehicle.

(2) Each agency head or his designee shall investigate all complaints about misuse or illegal operation of state vehicles and shall discipline each employee that is found to have misused or illegally operated a vehicle by following the procedures set forth in the rules adopted by the [~~Division of Personnel Management~~] Department of Human Resource Management as authorized by Section 67-19-18.

(3) (a) Each agency shall report the findings of each investigation conducted as well as any action taken as a result of the investigation to the directors of the Divisions of Fleet Operations and Risk Management.

(b) Misuse or illegal operation of state vehicles may result in suspension or revocation of state vehicle driving privileges as governed in rule.

**Section 7. Repealer.**

This act repeals:

**Section 63A-2-201, Duties of the division -- Fuel dispensing.**