

**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:



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

29 **63-38-3.5. Internal service funds -- Governance and review.**

30 (1) For purposes of this section:

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

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

36 (c) "Revolving loan fund" means each of the revolving loan funds defined in Section
37 63A-3-205.

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

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

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

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

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

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

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

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

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

58 (5) The internal service fund agency budget request shall separately identify the capital

59 needs and the related capital budget.

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

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

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

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

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

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

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

77 (iii) last, from an appropriation.

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

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

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

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

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

93 (ii) Vehicles acquired by agencies[~~, or monies appropriated to agencies for vehicle~~
 94 ~~purchases, may be transferred to the Division of Fleet Operations and, when transferred,~~
 95 ~~become part of the Fleet Operations Internal Service Fund]~~ with funding from sources other
 96 than state appropriations or through the federal surplus property donation program, but
 97 operated and maintained with state funds, shall be monitored in the division's fleet
 98 management information system.

99 (iii) Unless otherwise approved by the Legislature, vehicles acquired from sources
 100 other than state appropriations or through the federal surplus property donation program that
 101 become part of the Fleet Operations Internal Service Fund or are monitored in the division's
 102 fleet management information system, shall be identified as "do not replace" vehicles.

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

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

107 **63A-1-109. Divisions of department -- Administration -- Utah Sports Authority.**

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

109 (a) administrative rules;

110 (b) archives and records;

111 (c) facilities construction and management;

112 (d) finance;

113 (e) fleet operations;

114 (f) [~~general~~] information technology services;

115 (g) [~~information technology services~~] office of state debt collection;

116 (h) state purchasing and general services; and

117 (i) risk management.

118 (2) Each division shall be administered and managed by a division director.

119 [~~(3) The Utah Sports Authority is also part of the department.~~]

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

121 **63A-9-301. Motor Vehicle Review Committee -- Composition.**

122 (1) There is created a Motor Vehicle Review Committee to advise the division.

123 (2) The committee shall be composed of [~~seven~~] nine members as follows:124 (a) the executive director of the Department of Administrative Services or [~~his~~] the
125 director's designee;126 (b) a member from a state agency other than higher education, the Department of
127 Transportation, the Department of Public Safety, or the Department of Natural Resources, who
128 uses the division's services;129 (c) the director of the Division of Purchasing and General Services or [~~his~~] the
130 director's designee; and131 (d) one member [~~designated annually by the executive director of the Department of~~
132 ~~Administrative Services~~] from:133 (i) higher education, designated annually by the executive director of the Department
134 of Administrative Services;135 (ii) the Department of Transportation, designated annually by the executive director of
136 the Department of Administrative Services;137 (iii) the Department of Public Safety, [~~or~~] designated annually by the executive director
138 of the Department of Administrative Services; and139 (iv) the Department of Natural Resources [~~so that each has a representative on the~~
140 ~~committee one year out of every four~~], designated annually by the executive director of the
141 Department of Administrative Services; and142 (e) [~~three~~] two public members [~~from the automotive industry~~] with [~~expertise~~]
143 experience in fleet operations and maintenance appointed by the governor.144 (3) (a) Except as required by Subsection (3)(b), the governor shall appoint each public
145 member to a four-year term.146 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the
147 time of appointment, adjust the length of terms to ensure that the terms of public members are
148 staggered so that [~~approximately one half~~] one of the public members [~~are~~] is appointed every
149 two years.150 (c) When a vacancy occurs in the membership for any reason, the replacement shall be
151 appointed for the unexpired term.

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

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

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

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

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

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

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

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

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

173 **63A-9-302. Committee duties.**

174 The committee shall:

175 (1) advise the director about carrying out the director’s responsibilities under this
176 chapter;

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

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

181 [~~(4)~~] (3) in conjunction with the director, make recommendations to the legislature
182 about any amendments to statute needed to allow the division to fulfill its responsibilities under

183 this chapter.

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

185 **63A-9-401. Division -- Duties.**

186 (1) The division shall:

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

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

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

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

193 (i) maintenance operations for state vehicles;

194 (ii) use requirements for state vehicles;

195 (iii) fleet safety and loss prevention programs;

196 (iv) preventative maintenance programs;

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

201 (vi) fuel management programs;

202 (vii) cost management programs;

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

204 (ix) cost recovery and billing procedures;

205 (x) disposal of state vehicles;

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

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

209 (xiii) insurance and risk management requirements;

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

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

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

214 employees; and

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

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

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

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

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

224 (d) where practicable, privatizes portions of the state's fuel dispensing system;

225 (e) provides central planning for fuel contingencies;

226 (f) establishes fuel dispensing sites that meet geographical distribution needs and that
227 reflect usage patterns;

228 (g) where practicable, uses alternative sources of energy; and

229 (h) provides safe, accessible fuel supplies in an emergency.

230 (3) The division shall:

231 (a) ensure that the state and each of its agencies comply with state and federal law and
232 state and federal rules and regulations governing underground storage tanks;

233 (b) coordinate the installation of new state-owned underground storage tanks and the
234 upgrading or retrofitting of existing underground storage tanks; and

235 (c) ensure that counties, municipalities, school districts, and special districts
236 subscribing to services provided by the division sign a contract that:

237 (i) establishes the duties and responsibilities of the parties;

238 (ii) establishes the cost for the services; and

239 (iii) defines the liability of the parties.

240 (4) The executive director of the Department of Administrative Services may make
241 rules governing fuel dispensing according to the procedures and requirements of Title 63,

242 Chapter 46a, Utah Administrative Rulemaking Act.

243 ~~[(2)]~~ (5) (a) (i) Each state agency and each higher education institution shall subscribe
244 to the fuel dispensing services provided by the division.

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

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

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

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

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

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

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

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

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

261 **63A-9-501. Complaints about misuse or illegal operation of state vehicles --**
262 **Disposition.**

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

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

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

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

275 Section 7. **Repealer.**

276 This act repeals:
277 Section **63A-2-201, Duties of the division -- Fuel dispensing.**

Legislative Review Note
as of 1-28-03 6:32 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0145

Department of Administrative Services Amendments

05-Feb-03

11:05 AM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst