

FACILITATION OF E-GOVERNMENT

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: David H. Steele

This act modifies the Uniform Electronic Transactions Act and construction statutes to facilitate government agencies providing services electronically and to make technical changes.

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

AMENDS:

46-4-502, as enacted by Chapter 138, Laws of Utah 2001

63D-1-301.5, as last amended by Chapters 12 and 346, Laws of Utah 2000

68-3-12, as last amended by Chapter 241, Laws of Utah 2001

RENUMBERS AND AMENDS:

46-4-503, (Renumbered from 63D-1-105, as enacted by Chapter 307, Laws of Utah 1999)

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

Section 1. Section **46-4-502** is amended to read:

46-4-502. Providing services or information electronically -- Interpretation of terms in Utah Code.

~~[For purposes of this part:]~~

(1) To provide services or information electronically, a state governmental entity may implement the terms listed in Subsection (2) in accordance with this section:

(a) when the term is used in the Utah Code; and

(b) if the implementation is not:

(i) inconsistent with the manifest intent of the Legislature; or

(ii) repugnant to the context of the statute.

(2) Subsection (1) applies to the terms listed in this Subsection (2).

~~[(1)]~~ (a) "Copy" may include an electronic version of a document.

~~[(2)]~~ (b) "Mail" may include sending a document electronically~~[-, provided that]~~ if the

recipient can accept and process the electronic writing.

~~[(3)]~~ (c) "Mailing address" may include an electronic mailing address capable of receiving and processing an electronic writing.

~~[(4)]~~ (d) "Sign" or "signature" may include any form of electronic signature authorized by the governmental agency.

~~[(5)]~~ (e) "Written" or "writing" ~~[means]~~ may include information that is:

~~[(a)]~~ (i) inscribed on a tangible medium; or

~~[(b)]~~ (ii) (A) stored in an electronic or other medium; and

(B) is retrievable in a perceivable form.

Section 2. Section **46-4-503**, which is renumbered from Section 63D-1-105 is renumbered and amended to read:

~~[63D-1-105].~~ 46-4-503. Government products and services provided electronically.

(1) ~~[The appropriate]~~ Notwithstanding Section 46-4-501, a state [entities] governmental agency that administers one or more of the following transactions shall allow [the following services to be transacted through the Internet by July 1, 2002] those transactions to be conducted electronically:

(a) an application for [and] or renewal of a professional [and] or occupational [licenses] license issued under Title 58, Occupations and Professions;

(b) the renewal of a drivers [licenses] license;

(c) an application for a hunting [and] or fishing [licenses] license;

(d) [filings for income tax, sales tax,] the filing of:

(i) a return under Title 59, Chapter 10 or 12;

(ii) a court [documents, and] document, as defined by the Judicial Council; or

(iii) a document under Title 70A, Uniform Commercial Code;

(e) ~~[registrations]~~ a registration for [products, brands, motor vehicles, corporations, and businesses; and];

(i) a product; or

- (ii) a brand;
- (f) a renewal of a registration of a motor vehicle;
- (g) a registration under:
 - (i) Title 16, Corporations;
 - (ii) Title 42, Names; or
 - (iii) Title 48, Partnerships; or
- ~~[(f)]~~ (h) submission of an application for [unemployment, welfare, and health] benefits;
 - (i) under Title 35A, Chapter 3, Employment Support Act;
 - (ii) under Title 35A, Chapter 4, Employment Security Act; or
 - (iii) related to accident and health insurance.

(2) The state system of public education, in coordination with the Utah Education Network, shall make reasonable progress toward making the following services available ~~[through the Internet by July 1, 2002;]~~ electronically:

- (a) secure access by parents and students to student grades and progress reports;
- (b) ~~[email]~~ e-mail communications with:
 - (i) teachers[;];
 - (ii) parent-teacher associations[;]; and
 - (iii) school administrators;
- (c) access to school calendars and schedules; and
- (d) teaching resources that may include:
 - (i) teaching plans[;];
 - (ii) curriculum guides[;]; and
 - (iii) media resources.

(3) ~~[State entities]~~ A state governmental agency shall:

(a) in carrying out the requirements of this section, take reasonable steps to ensure the security and privacy of records that are private or controlled as defined by Title 63, Chapter 2, Government Records Access and Management Act;

(b) in addition to those ~~[required services]~~ transactions listed in Subsections (1) ~~[through~~

(3)] and (2), determine any additional services [~~which~~] that may be made available to the public through electronic means[~~, including the Internet, by July 1, 2002~~]; and

(c) as part of [~~their~~] the state governmental agency's budget [~~reports~~] report to the Information Technology Commission prescribed by Section 63D-1-204, report on the progress of compliance with Subsections (1) through (3).

(4) [~~A~~] Notwithstanding the other provisions of this part, a state [entity] governmental agency is not required by this part to [provide] conduct a transaction [through the Internet that is] electronically if:

(a) conducting the transaction electronically is not required by federal law; and

(b) conducting the transaction electronically is:

(i) impractical[;];

(ii) unreasonable[;]; or

(iii) not permitted by laws pertaining to privacy or security.

Section 3. Section **63D-1-301.5** is amended to read:

63D-1-301.5. Chief information officer -- Duties.

(1) The chief information officer shall:

(a) develop specific information technology objectives, policies, procedures, and standards to guide the development of information systems within state government to achieve maximum economy and quality while preserving optimum user flexibility, including:

(i) policies, standards, and procedures for appropriate interchange of information, optimum service, and minimum costs;

(ii) policies for costing all information technology services performed by any state information technology cost recovery center so that every cost recovery center charges its users a rate for services that is both equitable and sufficient to recover all the costs of its operation, including the cost of capital equipment and facilities;

(iii) policies governing coordination, cooperation, joint efforts, working relationships, and cost accounting relative to the development and maintenance of information technology and information systems; and

(iv) policies to ensure the protection of individual privacy and guarantee the exclusive control to a user of its own data;

(b) coordinate the preparation of agency information technology plans within state government, encompassing both short-term and long-term needs that support the agency's and the state's strategic plans, including Utah Tomorrow;

(c) require each state agency to submit semiannually an agency information technology plan containing the information required by Subsection (2) before the legislative session in which the budget request will be heard and no later than the June 15 after the legislative session in which the budget request was authorized to the chief information officer;

(d) upon receipt of a state agency's information technology plan:

(i) provide a complete copy of that plan to the director of the Division of Information Technology Services;

(ii) review and approve or disapprove agency information technology plans to ensure that these plans are the most economically viable and are the best solution to the agency's needs and the state's needs; and

(iii) approve or disapprove of and coordinate the acquisition of information technology equipment, telecommunications equipment, and related services for all agencies of state government;

(e) facilitate the implementation of agency plans;

(f) establish priorities in terms of both importance and time sequencing for the development and implementation of information systems;

(g) monitor information systems development to promote maximum use of existing state information resources;

(h) advise the governor on information technology policy and make recommendations to the governor regarding requests for appropriations for information technology equipment and personnel;

(i) maintain liaison with the legislative and judicial branches, the Board of Regents, the State Board of Education, local government, federal government, business and industry, and

consumers to promote cooperation and make recommendations regarding information resources;

(j) conduct performance audits of state information technology management, planning, and the use of information technology resources and distribute copies of the audit reports as provided in Subsection (3);

(k) prepare an annual report to the governor and to the Legislature's Public Utilities and Technology Interim Committee and the Information Technology Commission that:

(i) summarizes the state's current and projected use of information technology; and

(ii) includes a description of major changes in state policy and a brief description of each state agency's plan;

(l) inform each state entity of the requirements of Section ~~[63D-1-105]~~ 46-4-503;

(m) as permitted by law, coordinate the efforts of state government to provide services and transactions through the Internet;

(n) coordinate the development of electronic authentication methods and technology needed to conduct electronic transactions between government and citizens or businesses, except that the Division of Corporations and Commercial Code shall have responsibility for regulatory activities in Title 46, Chapter 3, Utah Digital Signature Act;

(o) designate an existing state repository or create a new repository that is secure and central for the maintenance of any appropriate information relating to the issuance of digital certificates as provided in Section 46-3-601; and

(p) develop a digital certificate policy pursuant to Subsection (6).

(2) (a) Each state agency information technology plan shall include information about planned information technology objectives and expenditures for the next year in the level of detail and format specified by the chief information officer.

(b) The plans in Subsection (2)(a) shall include the progress of each state agency toward making the agency's services available ~~[on the Internet]~~ electronically as provided in Section ~~[63D-1-105]~~ 46-4-503.

(3) (a) Upon completion of an audit report produced under authority of Subsection (1)(j), the chief information officer shall:

- (i) provide copies of all audit reports to:
 - (A) the agency audited;
 - (B) the governor;
 - (C) the Office of Legislative Fiscal Analyst;
 - (D) the Public Utilities and Technology Interim Committee; and
 - (E) the Information Technology Commission; and
 - (ii) present the performance audit findings to the Information Technology Policy and Strategy Committee at their next meeting.
- (b) Each state agency shall provide the chief information officer with complete access to all information technology records, documents, and reports, including electronic, analog, or digital, when requested for the purpose of a performance audit.
- (4) The rate for services established by an information technology cost recovery center, and reviewed by the chief information officer, may be lowered if the Legislature appropriates monies to the cost recovery center for the specific purpose of lowering rates.
- (5) (a) The chief information officer shall receive reports from the director of the Division of Information Technology Services regarding the division's:
- (i) budget;
 - (ii) strategic plans, including services the division is or plans to offer agencies;
 - (iii) major expenditure plans; and
 - (iv) any other items determined jointly by the executive director and the chief information officer.
- (b) The chief information officer shall have authority to approve or disapprove any of the items listed in Subsection (5)(a).
- (6) The chief information officer shall:
- (a) develop a digital certificate policy which includes:
 - (i) indicating the level of identity verification necessary for digital certificates issued by any governmental entity to be valid for transacting business online with state agencies and political subdivisions;

(ii) requiring any certification authority from which the digital certificates are acquired to be licensed in the state pursuant to Title 46, Chapter 3, Utah Digital Signature Act;

(iii) providing for the security of the information in the repository, including who is permitted access to the information; and

(iv) indicating the appropriate use and retention of the information in the repository;

(b) assist governmental entities desiring to transact business with citizens electronically to develop programs using digital certificates; and

(c) designate the state repository pursuant to Section 46-3-601.

Section 4. Section **68-3-12** is amended to read:

68-3-12. Rules of construction.

(1) (a) In the construction of these statutes, the ~~[following]~~ general rules listed in this Subsection (1) shall be observed, unless ~~[such]~~ the construction would be:

(i) inconsistent with the manifest intent of the Legislature; or

(ii) repugnant to the context of the statute[⁺].

~~[(a)]~~ (b) The singular number includes the plural, and the plural the singular.

~~[(b)]~~ (c) Words used in one gender comprehend the other gender.

~~[(c)]~~ (d) Words used in the present tense include the future tense.

(e) In accordance with Title 46, Chapter 4, Part 5, Electronic Records in Government Agencies, words related to the medium used in the provision of government services may include electronic or other mediums.

(2) In the construction of these statutes, the ~~[following]~~ definitions listed in this Subsection (2) shall be observed, unless the definition would be inconsistent with the manifest intent of the Legislature, or repugnant to the context of the statute[⁺].

(a) "Adjudicative proceeding" means:

(i) all actions by a board, commission, department, officer, or other administrative unit of the state that determine the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including all actions to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license; and

(ii) judicial review of all such actions.

(b) "Advisory board," "advisory commission," and "advisory council" means a board, commission, or council that:

(i) provides advice and makes recommendations to another person or entity who makes policy for the benefit of the general public;

(ii) is created by and whose duties are provided by statute or by executive order; and

(iii) performs its duties only under the supervision of another person as provided by statute.

(c) "Councilman" includes a town trustee or a city commissioner, and "city commissioner" includes a councilman.

(d) "County executive" means:

(i) the county commission in the county commission or expanded county commission form of government established under Title 17, Chapter 52, Forms of County Government;

(ii) the county executive in the "county executive-council" optional form of government authorized by Section 17-52-504; and

(iii) the county manager in the "council-manager" optional form of government authorized by Section 17-52-505.

(e) "County legislative body" means:

(i) the county commission in the county commission or expanded county commission form of government established under Title 17, Chapter 52, Forms of County Government;

(ii) the county council in the "county executive-council" optional form of government authorized by Section 17-52-504; and

(iii) the county council in the "council-manager" optional form of government authorized by Section 17-52-505.

(f) "Executor" includes administrator, and the term "administrator" includes executor, when the subject matter justifies such use.

(g) "Guardian" includes a person who has qualified as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment and a person who is

appointed by a court to manage the estate of a minor or incapacitated person.

(h) "Highway" and "road" include public bridges and may be held equivalent to the words "county way," "county road," "common road," and "state road."

(i) "Him," "his," and other masculine pronouns include "her," "hers," and similar feminine pronouns unless the context clearly indicates a contrary intent or the subject matter relates clearly and necessarily to the male sex only.

(j) "Insane person" include idiots, lunatics, distracted persons, and persons of unsound mind.

(k) "Land," "real estate," and "real property" include land, tenements, hereditaments, water rights, possessory rights, and claims.

(l) "Man" or "men" when used alone or in conjunction with other syllables as in "workman," includes "woman" or "women" unless the context clearly indicates a contrary intent or the subject matter relates clearly and necessarily to the male sex only.

(m) "Month" means a calendar month, unless otherwise expressed, and the word "year," or the abbreviation "A.D." is equivalent to the expression "year of our Lord."

(n) "Oath" includes "affirmation," and the word "swear" includes "affirm." Every oral statement under oath or affirmation is embraced in the term "testify," and every written one, in the term "depose."

(o) "Person" includes individuals, bodies politic and corporate, partnerships, associations, and companies.

(p) "Personal property" includes every description of money, goods, chattels, effects, evidences of rights in action, and all written instruments by which any pecuniary obligation, right, or title to property is created, acknowledged, transferred, increased, defeated, discharged, or diminished, and every right or interest therein.

(q) "Personal representative," "executor," and "administrator" includes an executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status.

(r) "Policy board," "policy commission," or "policy council" means a board, commission,

or council that:

(i) possesses a portion of the sovereign power of the state to enable it to make policy for the benefit of the general public;

(ii) is created by and whose duties are provided by the constitution or by statute;

(iii) performs its duties according to its own rules without supervision other than under the general control of another person as provided by statute; and

(iv) is permanent and continuous and not temporary and occasional.

(s) "Population" shall be as shown by the last preceding state or national census, unless otherwise specially provided.

(t) "Property" includes both real and personal property.

(u) "Review board," "review commission," or "review council" means a board, commission, or council that:

(i) possesses a portion of the sovereign power of the state only to the extent to enable it to approve policy made for the benefit of the general public by another body or person;

(ii) is created by and whose duties are provided by statute;

(iii) performs its duties according to its own rules without supervision other than under the general control of another person as provided by statute; and

(iv) is permanent and continuous and not temporary and occasional.

(v) "Sheriff," "county attorney," "district attorney," "clerk," or other words used to denote an executive or ministerial officer, may include any deputy, or other person performing the duties of such officer, either generally or in special cases; and the words "county clerk" may be held to include "clerk of the district court."

(w) "Signature" includes any name, mark, or sign written with the intent to authenticate any instrument or writing.

(x) "State," when applied to the different parts of the United States, includes the District of Columbia and the territories; and the words "United States" may include the District and the territories.

(y) "Town" may mean incorporated town and may include city, and the word "city" may

mean incorporated town.

(z) "Vessel," when used with reference to shipping, includes steamboats, canal boats, and every structure adapted to be navigated from place to place.

(aa) "Will" includes codicils.

(bb) "Writ" means an order or precept in writing, issued in the name of the state or of a court or judicial officer; and "process" means a writ or summons issued in the course of judicial proceedings.

(cc) "Writing" includes:

(i) printing[;];

(ii) handwriting[~~, and typewriting.~~]; and

(iii) information stored in an electronic or other medium if the information is retrievable in a perceivable format.