

**AMENDMENTS RELATED TO INFORMATION  
TECHNOLOGY**

2003 GENERAL SESSION

STATE OF UTAH

**Sponsor: David H. Steele**

**This act modifies the Information Technology Title and the Utah Administrative Services Code to reorganize the information technology structure of the state including addressing the powers and duties of the chief information officer of the Division of Information Technology. The act addresses coordination of information technology between branches. The act reorganizes the Information Technology Commission to the Utah Technology Commission and creates the Utah Technology Industry Council and outlines the responsibilities of each entity. The act makes technical changes. This act provides a coordination clause.**

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

AMENDS:

- 26-9f-104**, as enacted by Chapter 263, Laws of Utah 2000
- 46-3-601**, as enacted by Chapter 346, Laws of Utah 2000
- 46-3-602**, as enacted by Chapter 346, Laws of Utah 2000
- 46-4-501**, as enacted by Chapter 74, Laws of Utah 2000
- 54-8b-2.5**, as last amended by Chapter 14, Laws of Utah 1999
- 63-38-2**, as last amended by Chapter 8, Laws of Utah 2002, Fifth Special Session
- 63A-6-103**, as renumbered and amended by Chapter 212, Laws of Utah 1993
- 63A-6-104**, as renumbered and amended by Chapter 212, Laws of Utah 1993
- 63A-6-105**, as last amended by Chapter 202, Laws of Utah 2002
- 63A-6-106**, as last amended by Chapter 9, Laws of Utah 2001
- 63A-9-801**, as last amended by Chapter 1, Laws of Utah 2000

ENACTS:

- 63A-6-101.5**, Utah Code Annotated 1953
- 63D-1a-101**, Utah Code Annotated 1953

- 63D-1a-102**, Utah Code Annotated 1953
- 63D-1a-201**, Utah Code Annotated 1953
- 63D-1a-202**, Utah Code Annotated 1953
- 63D-1a-203**, Utah Code Annotated 1953
- 63D-1a-204**, Utah Code Annotated 1953
- 63D-1a-301**, Utah Code Annotated 1953
- 63D-1a-302**, Utah Code Annotated 1953
- 63D-1a-303**, Utah Code Annotated 1953
- 63D-1a-304**, Utah Code Annotated 1953
- 63D-1a-305**, Utah Code Annotated 1953
- 63D-1a-306**, Utah Code Annotated 1953
- 63D-1a-307**, Utah Code Annotated 1953
- 63D-1a-308**, Utah Code Annotated 1953
- 63D-1a-309**, Utah Code Annotated 1953
- 63D-1a-401**, Utah Code Annotated 1953
- 63D-1a-402**, Utah Code Annotated 1953
- 63D-1a-403**, Utah Code Annotated 1953
- 67-1-14**, Utah Code Annotated 1953

**RENUMBERS AND AMENDS:**

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

**REPEALS:**

- 63D-1-101**, as enacted by Chapter 73, Laws of Utah 1997
- 63D-1-102**, as enacted by Chapter 73, Laws of Utah 1997
- 63D-1-103**, as enacted by Chapter 73, Laws of Utah 1997
- 63D-1-104**, as renumbered and amended by Chapter 73, Laws of Utah 1997
- 63D-1-201**, as renumbered and amended by Chapter 73, Laws of Utah 1997
- 63D-1-202**, as renumbered and amended by Chapter 73, Laws of Utah 1997
- 63D-1-203**, as last amended by Chapter 89, Laws of Utah 2001

**63D-1-204**, as last amended by Chapter 21, Laws of Utah 1999

**63D-1-205**, as renumbered and amended by Chapter 73, Laws of Utah 1997

**63D-1-206**, as last amended by Chapter 220, Laws of Utah 1998

**63D-1-301**, as last amended by Chapter 176, Laws of Utah 2002

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

**63D-1-302**, as renumbered and amended by Chapter 73, Laws of Utah 1997

**63D-1-303**, as renumbered and amended by Chapter 73, Laws of Utah 1997

**63D-1-304**, as last amended by Chapter 140, Laws of Utah 2001

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

Section 1. Section **26-9f-104** is amended to read:

**26-9f-104. Duties and responsibilities.**

The commission shall:

- (1) advise and make recommendations on telehealth issues to the department, the ~~[Information]~~ Utah Technology Commission, and other state entities;
  - (2) promote collaborative efforts to establish technical compatibility, uniform policies, and privacy features to meet legal, financial, commercial, and other societal requirements;
  - (3) serve as a clearinghouse on emerging telehealth technologies;
  - (4) identify, address, and seek to resolve the legal, ethical, regulatory, financial, medical, and technological issues that may serve as barriers to telehealth;
  - (5) explore and encourage the development of telehealth systems as a means of reducing health costs and increasing health care quality and access;
  - (6) seek public input on telehealth issues;
  - (7) educate the public, state officials, and the health care community on telehealth issues;
- and
- (8) advise the governor and Legislature on:
    - (a) the role of telehealth in the state;
    - (b) the policy issues related to telehealth;
    - (c) the changing telehealth needs and resources in the state; and

(d) state budgetary matters related to telehealth.

Section 2. Section **46-3-601** is amended to read:

**46-3-601. Central repository for digital certificate information -- Fee.**

(1) The chief information officer shall:

(a) designate an existing state repository or create a new repository that is a secure, central repository for the maintenance of any appropriate information relating to the issuance of digital certificates; and

(b) develop policies regarding the issuance of digital certificates by governmental entities as provided in Section [~~63D-1-301.5~~] 63D-1a-308.

(2) Any participating governmental entity may charge a fee to cover administrative costs and the fee required to be remitted to the state under Subsection (3).

(3) Of the fee collected by a participating governmental entity pursuant to Subsection (2), a reasonable portion, as established by the chief information officer, shall be:

(a) remitted to the state agency maintaining the repository in Subsection (1)(a); and

(b) deposited in the General Fund as a dedicated credit for that state agency, to maintain the repository and assist in the issuance of the digital certificates pursuant to this part and Section [~~63D-1-301.5~~] 63D-1a-308.

(4) Any money at the end of the fiscal year in excess of the dedicated credit required by Subsection (3) shall lapse to the General Fund.

(5) Any state agency permitting the public to transact business with the state agency through the use of a digital certificate may establish a transaction fee, pursuant to Section 63-38-3.2, a portion of which may be remitted to the licensed certification authority which issued the digital certificate being used.

Section 3. Section **46-3-602** is amended to read:

**46-3-602. County clerk participation and fee authorization.**

A county clerk may:

(1) participate in the issuance of digital certificates to citizens to facilitate electronic transactions with governmental entities according to the digital certificate policy issued by the

chief information officer pursuant to Section [~~63D-1-301.5~~] 63D-1a-308; and

(2) charge a fee for the service in Subsection (1), a portion of which shall be remitted to the agency maintaining the state repository pursuant to Section 46-3-601.

Section 4. Section **46-4-501** is amended to read:

**46-4-501. Creation and retention of electronic records and conversion of written records by governmental agencies.**

(1) A state governmental agency may, by following the procedures and requirements of Title 63, Chapter 46a, Utah Administrative Rulemaking Act, make rules that:

- (a) identify specific transactions that the agency is willing to conduct by electronic means;
- (b) identify specific transactions that the agency will never conduct by electronic means;
- (c) specify the manner and format in which electronic records must be created, generated, sent, communicated, received, and stored, and the systems established for those purposes;
- (d) if law or rule requires that the electronic records must be signed by electronic means, specify the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met, by any third party used by a person filing a document to facilitate the process;
- (e) specify control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records; and
- (f) identify any other required attributes for electronic records that are specified for corresponding nonelectronic records or that are reasonably necessary under the circumstances.

(2) A state governmental agency that makes rules under this section shall submit copies of those rules, and any amendments to those rules, to:

- (a) the chief information officer established by Section [~~63D-1-301~~] 63D-1a-301; and
- (b) the Utah [~~Information~~] Technology Commission established by Section [~~63D-1-202~~] 63D-1a-201.

(3) (a) The chief information officer may prepare model rules and standards relating to

electronic transactions that encourage and promote consistency and interoperability with similar requirements adopted by other Utah government agencies, other states, the federal government, and nongovernmental persons interacting with Utah governmental agencies.

(b) In preparing those model rules and standards, the chief information officer may specify different levels of standards from which governmental agencies may choose in order to implement the most appropriate standard for a particular application.

(c) Before submitting any model rules or standards to state governmental agencies for their adoption as permanent rules, the chief information officer shall submit the model rules and standards to the Utah [Information] Technology Commission for its review and suggestions.

(d) Nothing in this Subsection (3) requires a state agency to use the model rules and standards prepared by the chief information officer when making rules under this section.

(4) Except as provided in Subsection 46-4-301(6), nothing in this chapter requires any state governmental agency to:

(a) conduct transactions by electronic means; or

(b) use or permit the use of electronic records or electronic signatures.

(5) Each state governmental agency shall:

(a) establish record retention schedules for any electronic records created or received in an electronic transaction according to the standards developed by the Division of Archives under Subsection 63-2-901(2)(e); and

(b) obtain approval of those schedules from the State Records Committee as required by Subsection 63-2-502(1)(b).

Section 5. 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 on Internet.**

(1) The appropriate state entities shall allow the following services to be transacted through the Internet by July 1, 2002:

(a) application for and renewal of professional and occupational licenses;

(b) renewal of drivers licenses;

- (c) application for hunting and fishing licenses;
- (d) filings for income tax, sales tax, court documents, and Uniform Commercial Code;
- (e) registrations for products, brands, motor vehicles, corporations, and businesses; and
- (f) submission of an application for unemployment, welfare, and health benefits.

(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[;]:

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

(3) State entities 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 listed in Subsections (1) through (3), determine any additional services which may be made available to the public through electronic means, including the Internet, by July 1, 2002; and

(c) as part of their [~~budget reports to the Information Technology Commission prescribed~~] agency information technology plans required by Section [63D-1-204] 63D-1a-303, report on the progress of compliance with Subsections (1) through (3).

(4) A state entity is not required to provide a transaction through the Internet that is impractical, unreasonable, or not permitted by laws pertaining to privacy or security.

Section 6. Section **54-8b-2.5** is amended to read:

**54-8b-2.5. Report to governor and Legislature.**

Beginning October 15, 1998, and annually thereafter, the commission shall submit a

report to the governor, Legislature, the Public Utilities and Technology Interim Committee, and [Information] Utah Technology Commission on the state of the telecommunications industry and make recommendations for any regulatory changes necessary to achieve the policy of the state as set forth in Section 54-8b-1.1. The commission shall determine criteria to be used to evaluate the performance of price regulation and the information necessary to conduct the evaluation.

Section 7. Section **63-38-2** is amended to read:

**63-38-2. Governor to submit budget to Legislature -- Contents -- Preparation -- Appropriations based on current tax laws and not to exceed estimated revenues.**

(1) (a) The governor shall, within three days after the convening of the Legislature in the annual general session, submit a budget for the ensuing fiscal year by delivering it to the presiding officer of each house of the Legislature together with a schedule for all of the proposed appropriations of the budget, clearly itemized and classified.

(b) The budget message shall include a projection of estimated revenues and expenditures for the next fiscal year.

(2) At least 34 days before the submission of any budget, the governor shall deliver a confidential draft copy of his proposed budget recommendations to the Office of the Legislative Fiscal Analyst.

(3) (a) The budget shall contain a complete plan of proposed expenditures and estimated revenues for the next fiscal year based upon the current fiscal year state tax laws and rates.

(b) The budget may be accompanied by a separate document showing proposed expenditures and estimated revenues based on changes in state tax laws or rates.

(4) The budget shall be accompanied by a statement showing:

(a) the revenues and expenditures for the last fiscal year;

(b) the current assets, liabilities, and reserves, surplus or deficit, and the debts and funds of the state;

(c) an estimate of the state's financial condition as of the beginning and the end of the period covered by the budget;

(d) a complete analysis of lease with an option to purchase arrangements entered into by

state agencies;

(e) the recommendations for each state agency for new full-time employees for the next fiscal year; which recommendation should be provided also to the State Building Board under Subsection 63A-5-103(2);

(f) any explanation the governor may desire to make as to the important features of the budget and any suggestion as to methods for the reduction of expenditures or increase of the state's revenue; and

(g) the information detailing certain regulatory fee increases required by Section 63-38-3.2.

(5) The budget shall include an itemized estimate of the appropriations for:

(a) the Legislative Department as certified to the governor by the president of the Senate and the speaker of the House;

(b) the Executive Department;

(c) the Judicial Department as certified to the governor by the state court administrator;

(d) payment and discharge of the principal and interest of the indebtedness of the state;

(e) the salaries payable by the state under the Utah Constitution or under law for the lease agreements planned for the next fiscal year;

(f) other purposes that are set forth in the Utah Constitution or under law; and

(g) all other appropriations.

(6) Deficits or anticipated deficits shall be included in the budget.

(7) (a) (i) For the purpose of preparing and reporting the budget, the governor shall require from the proper state officials, including public and higher education officials, all heads of executive and administrative departments and state institutions, bureaus, boards, commissions, and agencies expending or supervising the expenditure of the state moneys, and all institutions applying for state moneys and appropriations, itemized estimates of revenues and expenditures. ~~[The entities required by this Subsection (7)(a)(i) to submit itemized estimates of revenues and expenditures to the governor, shall also report to the Utah Information Technology Commission created in Title 63D, Chapter 1, Information Technology Act, before October 30 of each year.]~~

~~The report to the Information Technology Commission shall include the proposed information technology expenditures and objectives, the proposed appropriation requests and other sources of revenue necessary to fund the proposed expenditures and an analysis of:]~~

~~[(A) the entity's need for appropriations for information technology;]~~

~~[(B) how the entity's development of information technology coordinates with other state or local government entities;]~~

~~[(C) any performance measures used by the entity for implementing information technology goals; and]~~

~~[(D) any efforts to develop public/private partnerships to accomplish information technology goals:]~~

(ii) (A) The governor may also require other information under these guidelines and at times as the governor may direct.

(B) These guidelines may include a requirement for program productivity and performance measures, where appropriate, with emphasis on outcome indicators.

(b) The estimate for the Legislative Department as certified by the presiding officers of both houses shall be included in the budget without revision by the governor. ~~[Before preparing the estimates for the Legislative Department, the Legislature shall report to the Information Technology Commission the proposed information technology expenditures and objectives, the proposed appropriation requests and other sources of revenue necessary to fund the proposed expenditures, including an analysis of:]~~

~~[(i) the Legislature's implementation of information technology goals;]~~

~~[(ii) any coordination of information technology with other departments of state and local government;]~~

~~[(iii) any efforts to develop public/private partnerships to accomplish information technology goals; and]~~

~~[(iv) any performance measures used by the entity for implementing information technology goals:]~~

(c) The estimate for the Judicial Department, as certified by the state court administrator,

shall also be included in the budget without revision, but the governor may make separate recommendations on it. ~~[Before preparing the estimates for the Judicial Department, the state court administrator shall report to the Information Technology Commission the proposed information technology expenditures and objectives, the proposed appropriation requests and other sources of revenue necessary to fund the proposed expenditures, including an analysis of:]~~

~~[(i) the Judicial Department's information technology goals;]~~

~~[(ii) coordination of information technology statewide between all courts;]~~

~~[(iii) any efforts to develop public/private partnerships to accomplish information technology goals; and]~~

~~[(iv) any performance measures used by the entity for implementing information technology goals.]~~

~~[(d) Before preparing the estimates for the State Office of Education, the state superintendent shall report to the Information Technology Commission the proposed information technology expenditures and objectives, the proposed appropriation requests and other sources of revenue necessary to fund the proposed expenditures, including an analysis of:]~~

~~[(i) the Office of Education's information technology goals;]~~

~~[(ii) coordination of information technology statewide between all public schools;]~~

~~[(iii) any efforts to develop public/private partnerships to accomplish information technology goals; and]~~

~~[(iv) any performance measures used by the Office of Education for implementing information technology goals.]~~

~~[(e) Before preparing the estimates for the state system of Higher Education, the commissioner shall report to the Information Technology Commission the proposed information technology expenditures and objectives, the proposed appropriation requests and other sources of revenue necessary to fund the proposed expenditures, including an analysis of:]~~

~~[(i) Higher Education's information technology goals;]~~

~~[(ii) coordination of information technology statewide within the state system of higher education;]~~

~~[(iii) any efforts to develop public/private partnerships to accomplish information technology goals; and]~~

~~[(iv) any performance measures used by the state system of higher education for implementing information technology goals.]~~

~~[(f)]~~ (d) The governor may require the attendance at budget meetings of representatives of public and higher education, state departments and institutions, and other institutions or individuals applying for state appropriations.

~~[(g)]~~ (e) The governor may revise all estimates, except those relating to the Legislative Department, the Judicial Department, and those providing for the payment of principal and interest to the state debt and for the salaries and expenditures specified by the Utah Constitution or under the laws of the state.

(8) The total appropriations requested for expenditures authorized by the budget may not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing fiscal year.

(9) If any item of the budget as enacted is held invalid upon any ground, the invalidity does not affect the budget itself or any other item in it.

(10) (a) In submitting the budgets for the Departments of Health and Human Services and the Office of the Attorney General, the governor shall consider a separate recommendation in his budget for funds to be contracted to:

(i) local mental health authorities under Section 62A-15-110;

(ii) local substance abuse authorities under Section 62A-15-110;

(iii) area agencies under Section 62A-3-104.2;

(iv) programs administered directly by and for operation of the Divisions of Substance Abuse and Mental Health and Aging and Adult Services;

(v) local health departments under Title 26A, Chapter 1, Local Health Departments; and

(vi) counties for the operation of Children's Justice Centers under Section 67-5b-102.

(b) In his budget recommendations under Subsections (10)(a)(i), (ii), and (iii), the governor shall consider an amount sufficient to grant local health departments, local mental

health authorities, local substance abuse authorities, and area agencies the same percentage increase for wages and benefits that he includes in his budget for persons employed by the state.

(c) If the governor does not include in his budget an amount sufficient to grant the increase described in Subsection (10)(b), he shall include a message to the Legislature regarding his reason for not including that amount.

(11) (a) In submitting the budget for the Division of Services for People with Disabilities, the Division of Child and Family Services, and the Division of Youth Corrections within the Department of Human Services, the governor shall consider an amount sufficient to grant employees of corporations that provide direct services under contract with those divisions, the same percentage increase for cost-of-living that he includes in his budget for persons employed by the state.

(b) If the governor does not include in his budget an amount sufficient to grant the increase described in Subsection (11)(a), he shall include a message to the Legislature regarding his reason for not including that amount.

(12) (a) The Families, Agencies, and Communities Together Council may propose to the governor under Subsection 63-75-4(4)(e) a budget recommendation for collaborative service delivery systems operated under Section 63-75-6.5.

(b) The Legislature may, through a specific program schedule, designate funds appropriated for collaborative service delivery systems operated under Section 63-75-6.5.

(13) The governor shall include in his budget the state's portion of the budget for the Utah Communications Agency Network established in Title 63C, Chapter 7, Utah Communications Agency Network Act.

Section 8. Section **63A-6-101.5** is enacted to read:

**63A-6-101.5. Definitions.**

As used in this chapter:

(1) "Chief information officer" means the chief information officer appointed under Section 63D-1a-301.

(2) "Commission" means the Utah Technology Commission created in Section

63D-1a-201.

(3) "Computer center" means the location at which a central data processing platform is managed to serve multiple executive branch agencies.

(4) "Data center" means a centralized repository for the storage, management, and dissemination of data.

(5) "Director" means the director appointed in accordance with Section 63A-6-102.

(6) "Division" means the Division of Information Technology Services created in Section 63A-6-101.

(7) "Executive branch agency" is as defined in Section 63D-1a-102.

(8) "Executive branch strategic plan" is as defined in Section 63D-1a-102.

(9) "Information technology" is as defined in Section 63D-1a-102.

(10) "Telecommunications" means the transmission or reception of signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, light waves, or other electromagnetic means.

Section 9. Section **63A-6-103** is amended to read:

**63A-6-103. Duties of the division.**

The [~~Division of Information Technology Services~~] division shall:

(1) establish telecommunication system specifications and standards for use by [~~state agencies~~];

(a) one or more executive branch agencies; or

(b) one or more entities that subscribe to the telecommunication systems in accordance with Section 63A-6-106;

(2) coordinate state telecommunication planning;

(a) in cooperation with;

(i) state telecommunication users; [~~and other departments and state agencies~~];

(ii) executive branch agencies; and

(iii) other subscribers to the state's telecommunication systems; and

(b) subject to Section 63D-1a-307;

- (3) coordinate the development and implementation of advanced state telecommunication systems;
- (4) provide ~~[data processing and telecommunication]~~ services including technical assistance to ~~[state agencies];~~
  - (a) (i) executive branch agencies; and
  - (ii) subscribers to the services; and
  - (b) related to:
    - (i) information technology; or
    - (ii) telecommunications;
- (5) cooperate ~~[with other federal, state, county, or city data processing and telecommunication departments, divisions, sections, or units];~~
  - (a) with:
    - (i) the federal government;
    - (ii) other state entities;
    - (iii) counties; and
    - (iv) municipalities;
  - (b) in the development, implementation, and maintenance of:
    - (i) governmental ~~[data processing and]~~ information technology; or
    - (ii) governmental telecommunication systems ~~[it]~~; and
  - (c) (i) as part of a cooperative organization; or ~~[otherwise];~~
  - (ii) through means other than a cooperative organization;
- (6) establish, operate, manage, and maintain ~~[the central state computer center and];~~
  - (a) one or more state data centers; and
  - (b) one or more regional computer centers;
- (7) design, implement, and manage all state-owned, leased, or rented land mobile or radio telecommunication systems ~~[which]~~ that are used in the delivery of services for state government or its political subdivisions; ~~[and]~~
- (8) ~~[coordinate the implementation of]~~ in accordance with the executive branch strategic

plan, implement minimum standards to be used by the division for purposes of compatibility of procedures, programming languages, codes, and media [tø] that facilitate the exchange of information within and among telecommunication systems[-]; and

(9) assist executive branch agencies in complying with the requirements of any rule adopted by the chief information officer in accordance with Section 63D-1a-305.

Section 10. Section **63A-6-104** is amended to read:

**63A-6-104. Delegation of division duties.**

(1) ~~[The]~~ (a) If the conditions of Subsections (1)(b) and (2) are met and subject to the other provisions of this section, the director [of the Division of Information Technology Services; with the approval of the executive director,] may delegate ~~[the division's authority]~~ a function of the division:

(i) to [other state agencies and institutions];

(A) another executive branch agency; or

(B) an institution of higher education; and

(ii) by:

(A) contract; or

(B) other means authorized by law[-, if,].

(b) The director may delegate a function of the division as provided in Subsection (1)(a)

if:

(i) in the judgment of the director:

~~[(a)]~~ (A) the [state] executive branch agency or institution of higher education has requested that the [authority] function be delegated; and

~~[(b)]~~ (B) the [state] executive branch agency or institution of higher education has the necessary resources and skills to perform or control the [functions of the division] function to be delegated; and

(ii) the executive director approves the delegation.

(2) The director may delegate ~~[the division's authority]~~ a function of the division only when the delegation results in net cost savings or improved service delivery to the state as a

whole.

(3) The delegation of a function under this section shall:

~~(a)~~ be in writing; and

~~(b)~~ contain the following:

~~[(a)]~~ (i) a precise definition of each function to be delegated;

~~[(b)]~~ (ii) a clear description of the standards to be met in performing each function delegated;

~~[(c)]~~ (iii) a provision for periodic administrative audits by the Department of Administrative Services; and

~~[(d)]~~ (iv) a date on which the agreement shall terminate if the agreement has not been previously terminated or renewed.

(4) An agreement to delegate functions to ~~[a state]~~ an executive branch agency or an institution of higher education may be terminated by the department if the results of administrative audits conducted by the department reveal a lack of compliance with the terms of the agreement by the ~~[state]~~ executive branch agency or institution of higher education.

Section 11. Section **63A-6-105** is amended to read:

**63A-6-105. Duties of director -- Fees -- Rate Committee -- Advisory Committee.**

(1) The director ~~[of the Division of Information Technology Services]~~ shall:

(a) at the lowest practical cost, manage the delivery of efficient and cost-effective ~~[data processing]~~ information technology and telecommunication services for:

(i) all ~~[state]~~ executive branch agencies ~~[at the lowest practical cost]~~; and

(ii) entities that subscribe to the services in accordance with Section 63A-6-106; and

(b) provide priority service to public safety agencies~~;~~ and;

~~[(c) provide a semiannual report to the chief information officer as provided in Subsection 63D-1-301.5(5).]~~

(2) The director may negotiate the purchase, lease, or rental of private or public ~~[data processing]~~ information technology or telecommunication services or facilities.

(3) Where practical, efficient, and economically beneficial, the director shall use existing

private and public ~~[data processing]~~ information technology or telecommunication resources.

~~[(4) The director shall prescribe a schedule of fees to be charged for all services rendered to any state agency by the division that are equitable and sufficient to recover all the costs of operation, including the cost of capital equipment and facilities.]~~

~~[(5) (4) (a) [The]~~ In accordance with Section 63D-1a-303, the director shall provide the chief information officer [and the state information technology review committee] a written analysis of [each state agency's annual] any agency information technology plan provided to the division.

~~[(b) That analysis shall:]~~

~~[(i) include an assessment of how the implementation of each plan will affect the costs, operations, and the services of the Division of Information Technology Services and state government; and]~~

~~[(ii) where appropriate, make alternative recommendations:]~~

(b) In accordance with Section 63D-1a-307, the division shall submit the division's agency information technology plan for approval by the chief information officer.

(5) (a) In accordance with this Subsection (5), the director shall prescribe a schedule of fees for all services rendered by the division to:

(i) an executive branch entity; or

(ii) an entity that subscribes to services rendered by the division in accordance with Section 63A-6-106.

(b) Each fee included in the schedule of fees required by Subsection (5)(a) shall be:

(i) equitable; and

(ii) sufficient to recover all the costs of operation, including the cost of capital equipment and facilities.

~~[(6) (a) (c) Before charging [the fees] a fee to an executive branch agency, the director shall obtain approval of the [fee schedules] schedule of fees described in Subsection (5)(a) from the Rate Committee created in Subsection (5)(d).~~

(d) (i) There is created a Rate Committee which shall consist of:

~~[(i)]~~ (A) the executive director;

~~[(ii)]~~ (B) the director of the Division of Finance;

~~[(iii)]~~ (C) the director of the Office of Planning and Budget;

~~[(iv)]~~ (D) the chief information officer;

~~[(v)]~~ (E) a representative of ~~[the]~~ executive branch agencies;

(I) appointed by the Rate Committee; and

(II) nominated by the ~~[Information Technology Policy and Strategy Committee established in Section 63D-1-302]~~ governor; and

~~[(vi)]~~ (F) a representative of the executive branch agencies' administrative services managers:

(I) appointed by the Rate Committee; and

(II) nominated by the agencies' administrative services managers coordination group.

~~[(b)]~~ (ii) In appointing the agency representatives listed in ~~[Subsection (6)(a)(v) and (vi)]~~ Subsections (5)(d)(i)(E) and (F), the Rate Committee shall appoint:

~~[(i)]~~ (A) (I) one representative from a large agency; and

(II) one representative from a small agency; and

~~[(i)]~~ (B) the representatives described in Subsection (5)(d)(ii)(A) to four-year terms of office, except that initially one of the appointments shall be for a two-year term in order to stagger the appointments.

~~[(c)]~~ (iii) In the event of a vacancy for any reason for a representative described in Subsection (5)(d)(i)(E) or (F), the entity responsible for nominating the person who is vacating the position shall provide new nominations to the Rate Committee to fill the unexpired term.

(e) Before charging a fee to a subscriber of services other than an executive branch agency, the director shall provide a copy of the schedule of fees to the commission at least 60 days before the day on which the fee is charged.

~~[(d)]~~ (f) When modifying ~~[fees]~~ a fee, the director shall attempt to provide sufficient notice to ~~[agencies and institutions]~~ the entities that will be charged the modified fee so that ~~[they]~~ the entities may reflect those fee changes in ~~[their]~~ the entities' budgets.

~~[(7)]~~ (6) (a) The director shall create advisory committees composed of representatives of user agencies.

(b) Those advisory committees may recommend policies and practices for the efficient and effective operation of the division.

Section 12. Section **63A-6-106** is amended to read:

**63A-6-106. Subscription by state agencies and institutions.**

(1) As used in this section:

~~[(a) "Telecommunications" means the transmission or reception of signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, light waves, or other electromagnetic means.]~~

(a) "Information technology services" means services related to:

(i) information technology; or

(ii) information technology systems.

(b) "Telecommunications services ~~[and support]~~" means providing the hardware, software, maintenance, and upkeep of equipment used in telecommunications.

(2) ~~[State agencies, after consultation with the state's chief information officer,]~~ An executive branch agency in accordance with its agency information technology plan may:

(a) subscribe to the telecommunications or information technology services provided by the ~~[Division of Information Technology Services or may]~~ division; or

(b) contract with one or more alternate private providers of telecommunications or information technology services if the agency determines that the purchase of ~~[such]~~ the services from a private provider will:

(i) result in:

(A) cost savings[;];

(B) increased efficiency[;]; or

(C) improved quality of services ~~[to the agency without impairing]; and~~

(ii) not impair the interoperability of the state's telecommunication services.

(3) An institution of higher education may subscribe to the services provided by the

division if:

(a) the president of the institution recommends that the institution subscribe to the services of the division; and

(b) the Board of Regents determines that subscription to the services of the division will result in cost savings or increased efficiency to the institution.

(4) The following may subscribe to telecommunications or information technology services by requesting that the services be provided from the division:

(a) the legislative branch;

(b) the judicial branch;

(c) the State Board of Education;

(d) a political subdivision of the state;

(e) an agency of the federal government; or

(f) independent entity as defined in Section 63E-1-102.

Section 13. Section **63A-9-801** is amended to read:

**63A-9-801. State surplus property program -- Definitions -- Administration.**

(1) As used in this section:

(a) "Agency" means:

(i) the Utah Departments of Administrative Services, Agriculture, Alcoholic Beverage Control, Commerce, Community and Economic Development, Corrections, Workforce Services, Health, Human Resource Management, Human Services, Insurance, Natural Resources, Public Safety, and Transportation and the Labor Commission;

(ii) the Utah Offices of the Auditor, Attorney General, Court Administrator, Crime Victim Reparations, Rehabilitation, and Treasurer;

(iii) the Public Service Commission and State Tax Commission;

(iv) the State Boards of Education, Pardons and Parole, and Regents;

(v) the Career Service Review Board;

(vi) other state agencies designated by the governor;

(vii) the legislative branch, the judicial branch, and the State Board of Regents; and

(viii) an institution of higher education, its president, and its board of trustees for purposes of Section 63A-9-802.

(b) "Division" means the Division of Fleet Operations.

(c) "Information technology equipment" means any equipment that is designed to electronically manipulate, store, or transfer any form of data.

(d) "Inventory property" means property in the possession of the division that is available for purchase by an agency or the public.

(e) "Judicial district" means the geographic districts established by Section 78-1-2.1.

(f) (i) "Surplus property" means property purchased by, seized by, or donated to, an agency that the agency wishes to dispose of.

(ii) "Surplus property" does not mean real property.

(g) "Transfer" means transfer of surplus property without cash consideration.

(2) (a) The division shall make rules establishing a state surplus property program that meets the requirements of this chapter by following the procedures and requirements of Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

(b) Those rules shall include:

(i) a requirement prohibiting the transfer of surplus property from one agency to another agency without written approval from the division;

(ii) procedures and requirements governing division administration requirements that an agency must follow;

(iii) requirements governing purchase priorities;

(iv) requirements governing accounting, reimbursement, and payment procedures;

(v) procedures for collecting bad debts;

(vi) requirements and procedures for disposing of firearms;

(vii) the elements of the rates or other charges assessed by the division for services and handling;

(viii) procedures governing the timing and location of public sales of inventory property;  
and

(ix) procedures governing the transfer of information technology equipment by state agencies directly to public schools.

(c) The division shall report all transfers of information technology equipment by state agencies to public schools to the ~~[state's Information]~~ Utah Technology Commission and to the Legislative Interim Education Committee at the end of each fiscal year.

(3) In creating and administering the program, the division shall:

(a) when conditions, inventory, and demand permit:

(i) establish facilities to store inventory property at geographically dispersed locations throughout the state; and

(ii) hold public sales of property at geographically dispersed locations throughout the state;

(b) establish, after consultation with the agency requesting the sale of surplus property, the price at which the surplus property shall be sold; and

(c) transfer proceeds arising from the sale of state surplus property to the agency requesting the sale in accordance with ~~[the]~~ Title 63, Chapter 38, Budgetary Procedures Act, less an amount established by the division by rule to pay the costs of administering the surplus property program.

(4) Unless specifically exempted from this chapter by explicit reference to this chapter, each state agency shall dispose of and acquire surplus property only by participating in the division's program.

Section 14. Section **63D-1a-101** is enacted to read:

**TITLE 63D. INFORMATION TECHNOLOGY ACT**  
**CHAPTER 1a. STATE INFORMATION TECHNOLOGY ACT**

**Part 1. General Provisions**

**63D-1a-101. Title.**

(1) This title is known as the "Information Technology Act."

(2) This chapter is known as the "State Information Technology Act."

Section 15. Section **63D-1a-102** is enacted to read:

**63D-1a-102. Definitions.**

As used in this title:

(1) "Cabinet level officials" means executive directors of departments and others who serve on the governor's cabinet.

(2) "Chief information officer" means the chief information officer appointed under Section 63D-1a-301.

(3) "Commission" means the Utah Technology Commission created in Section 63D-1a-201.

(4) "Division" means the Division of Information Technology Services created in Title 63A, Chapter 6, Information Technology Services.

(5) (a) Except as provided in Subsection (5)(b), "executive branch agency" means an agency or administrative subunit of state government.

(b) "Executive branch agency" does not include:

(i) the legislative branch;

(ii) the judicial branches;

(iii) the State Board of Education;

(iv) the Board of Regents; and

(v) institutions of higher education.

(6) "Executive branch strategic plan" means the executive branch strategic plan created under Section 63D-1a-302.

(7) "Information system" means a system designed, built, operated, and maintained:

(a) to collect, record, process, store, retrieve, and display information; and

(b) involving one or more of the following resources:

(i) people;

(ii) procedures; or

(iii) equipment.

(8) "Information technology" means all computerized and auxiliary automated information handling, including:

- (a) systems design and analysis;
- (b) conversion of data;
- (c) computer programming;
- (d) information storage and retrieval;
- (e) voice, radio, video, and data communications;
- (f) requisite systems controls;
- (g) simulation; and
- (h) all related interactions between people and machines.

Section 16. Section **63D-1a-201** is enacted to read:

**Part 2. Utah Technology Commission**

**63D-1a-201. Creation -- Membership -- Appointment -- Staff.**

- (1) (a) There is created an independent commission to be known as the "Utah Technology Commission."
- (b) The commission shall be composed of 13 members appointed as follows:
  - (i) five members of the House of Representatives, appointed by the speaker of the House, not more than three of whom shall be from the same political party;
  - (ii) three members of the Senate, appointed by the president of the Senate, not more than two of whom shall be from the same political party;
  - (iii) the chief information officer;
  - (iv) a representative of the executive branch appointed by the governor;
  - (v) a representative of the judicial branch appointed by the Judicial Council;
  - (vi) a representative of public education appointed by the State Board of Education; and
  - (vii) a representative of higher education appointed by the State Board of Regents.
- (2) (a) The president of the Senate shall appoint a member of the commission who is a legislator to serve as a chair of the commission.
  - (b) The speaker of the House shall appoint a member of the commission who is a legislator to serve as a chair of the commission.
- (3) (a) A majority of the members of the commission constitute a quorum.

(b) Action by a majority vote of a quorum of the commission constitutes an action by the commission.

(4) (a) (i) A member of the commission who is a state government officer and employee who does not receive salary, per diem, or expenses from the member's agency for the member's service on the commission may receive per diem and expenses incurred in the performance of the member's official duties from the commission at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) A member of the commission who is state government officer and employee may decline to receive per diem and expenses for the member's service.

(b) Salaries and expenses of the members of the commission who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rule 15.03.

(c) (i) A member of the commission appointed to represent higher education who does not receive salary, per diem, or expenses from the entity that the member represents may receive per diem and expenses incurred in the performance of the member's official duties from the commission at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) A member of the commission appointed to represent higher education may decline to receive per diem and expenses for the member's service.

(5) The Office of Legislative Research and General Counsel shall provide staffing for the commission.

Section 17. Section **63D-1a-202** is enacted to read:

**63D-1a-202. Powers and duties of the commission -- Reporting.**

(1) The commission may:

(a) study the present and future information technology needs of state government including:

(i) making recommendations regarding the coordination and governance of the information technology needs for:

(A) the executive, legislative, and judicial branches; and

(B) public and higher education;

(ii) in accordance with Part 4, Interbranch Coordination;

(A) with regard to the interbranch information technology coordination plan:

(I) participating in the interbranch information technology plan's preparation; and

(II) reviewing the interbranch information technology plan; and

(B) receiving reports regarding the information technology objectives of:

(I) the executive, legislative, and judicial branches; and

(II) public and higher education; and

(iii) making budget recommendations to:

(A) the Executive Appropriations Committee; and

(B) the appropriate appropriations subcommittees of the Executive Appropriations Committee;

(b) make recommendations for promoting economic development of the technology industry of Utah, including participating in joint meetings with the steering committee of the Utah Technology Industry Council in accordance with Section 63D-1a-204;

(c) study the present and future technology needs related to the state's economy and quality of life of Utah's citizens, including soliciting and considering recommendations regarding technology from:

(i) the governor;

(ii) the chief information officer;

(iii) the judicial branch;

(iv) public and higher education;

(v) the Legislature;

(vi) the business communities in the state; and

(vii) the general public; and

(d) review, analyze, and study any issue related to information technology that is of interest to the commission.

(2) The commission shall:

- (a) submit an annual report to the Legislature before each annual general session;
- (b) submit the annual report required by Section 63D-1a-204 to:
  - (i) the governor; and
  - (ii) the Legislature; and
- (c) if needed, prepare legislation concerning information technology for submission to the Legislature for consideration by the Legislature in the Legislature's annual general session.

Section 18. Section **63D-1a-203** is enacted to read:

**63D-1a-203. Utah Technology Industry Council.**

- (1) As used in this section:
  - (a) "Council" means the Utah Technology Industry Council created by this section.
  - (b) "Technology industry business in this state" means a business that has as a primary function the research, development, production, or marketing of technologies in technology sectors including:

- (i) aerospace;
- (ii) biotechnology or other technologies related to life sciences;
- (iii) information technologies or other technologies related to information technologies;

or

- (iv) other key technology industries sectors as the technology industries develop.
- (2) (a) There is created a Utah Technology Industry Council to act as a body that recommends policy to the commission.
  - (b) Subject to the requirements of this section, the council:
    - (i) shall be organized by the steering committee created under Subsection (3); and
    - (ii) operate in accordance with the charter that:
      - (A) is initially adopted by the steering committee in accordance with Subsection (4); and
      - (B) amended as provided in the charter.
  - (c) A member of the council shall receive no compensation or benefits for the member's services including per diem or expenses incurred in the performance of the member's official duties on the council.

(3) (a) The steering committee described in Subsection (2) shall consist of eight members:

(i) the executive director of the Department of Community and Economic Development or the executive director's designee, provided that the designee is a senior officer in the department; and

(ii) seven members appointed as follows:

(A) the speaker of the House of Representatives shall appoint two members who are present or former senior:

(I) officers of technology industry businesses in the state; or

(II) executive directors of technology industry associations in this state;

(B) the president of the Senate shall appoint two members who are present or former:

(I) senior officers of technology industry businesses in the state; or

(II) executive directors of technology industry associations in this state;

(C) the governor shall appoint two members who are present or former:

(I) senior officers in technology industry businesses in the state; or

(II) executive directors of technology industry associations in this state; and

(D) the chair of the steering committee shall appoint a representative of political subdivisions of the state who is an elected official in any Utah municipality or county.

(b) (i) The members of the steering committee shall elect a chair of the steering committee from the steering committee by a majority vote.

(ii) The chair of the steering committee shall act as chair of the council.

(c) (i) Except as required by Subsection (3)(c)(ii), a member of the steering committee appointed under Subsection (3)(a)(ii) shall be appointed to a term of four years.

(ii) Notwithstanding the requirements of Subsection (3)(c)(i), at the time of initial appointment of the steering committee, the members of the steering committee shall create a random process to adjust the length of terms of the initial members of the steering committee to ensure that the terms of members are staggered so that approximately half of the steering committee is appointed every two years.

(d) The Department of Community and Economic Development shall provide staff to:

(i) the steering committee; and

(ii) the council.

(4) The steering committee appointed under Subsection (3) shall adopt a charter for the council by no later than July 1, 2003 that specifies:

(a) the number, terms, and appointment of voting members of the council, except that the voting members of the council shall be:

(i) present or former senior officers of technology industry businesses in the state;

(ii) present or former executive directors of technology associations in the state; or

(iii) representatives of:

(A) state or local government; or

(B) public or higher education;

(b) the number, terms, and appointment of nonvoting members of the council;

(c) the term of the chair of the council;

(d) the process to be followed in creating any subcommittees of the council;

(e) the quorum requirements for the council or for subcommittees of the council to take action;

(f) the processes to be followed to call a meeting of the council or a subcommittee of the council, except that:

(i) any meeting of the council or a subcommittee of the council is subject to Title 52, Chapter 4, Open and Public Meetings;

(ii) members of the commission shall be provided notice of each meeting of the council or of a subcommittee of the council; and

(iii) legislative members of the commission that attend a meeting of the council or a subcommittee of the council:

(A) may not vote unless the legislator is a member of the council or the subcommittee;

and

(B) may receive a salary and expenses paid in accordance with Section 36-2-2 and

Legislative Joint Rule 15.03; and

(g) the process for amending the charter under which the council operates.

(5) The council may:

(a) conduct research or other studies to the extent that funding is available;

(b) review practices in the worldwide private and public sectors that could foster technology business growth in the state;

(c) prepare an assessment of the current status of technology industries in the state including:

(i) the needs of technology industries in the state; and

(ii) opportunities for future growth of technology industries in the state;

(d) develop a strategic plan as to:

(i) the future of technology industries in the state;

(ii) the future economic value technology industries can bring to the state; and

(iii) the future benefits technology industries can bring to the quality of life of the citizens in the state;

(e) develop plans, including public and private sector initiatives, to meet any objectives included in the strategic plan statement described in Subsection (5)(d), including proposals to support the creation, retention, expansion, or attraction of technology industry businesses in the state; and

(f) study other issues as directed by the commission related to economic development of technology industries.

Section 19. Section **63D-1a-204** is enacted to read:

**63D-1a-204. Joint meetings of the commission and the steering committee --**

**Reporting.**

(1) (a) The chairs of the commission shall call a joint meeting of the commission and the steering committee of the council at least twice each year to discuss activities and recommendations of the council.

(b) The chairs of the commission shall chair a joint meeting of the commission and

steering committee.

(c) At a joint meeting of the commission and the steering committee:

(i) the members of the commission and the steering committee may vote;

(ii) 11 members of the commission and the steering committee constitute a quorum; and

(iii) an action by a majority vote of a quorum constitutes an action by the commission

and the steering committee.

(2) (a) The commission shall report annually regarding the results of the joint meetings held in accordance with this section to:

(i) the governor; and

(ii) the Legislature.

(b) The report of the commission described in Subsection (2)(a) shall be made prior to each annual general session of the Legislature.

(c) The report of the commission described in Subsection (2)(a) may include:

(i) a summary of the activities of the council as those activities were reported to the commission; and

(ii) any of the following that were adopted at a joint meeting of the commission and the steering committee that is held in accordance with Subsection (1):

(A) an assessment of the current status of technology industries in the state including:

(I) the successes and failures experienced by technology industries in the state;

(II) the needs of technology industries in the state; and

(III) opportunities for future growth of technology industries in the state;

(B) recommendations for how state government can use new or existing products and services available from technology industry businesses in the state;

(C) a strategic plan for:

(I) the future of technology industries in the state;

(II) the economic value that technology industries can bring to the state in the future; and

(III) the benefits that technology industries can bring to the quality of life of the citizens in the state in the future;

(D) recommendations for any proposed legislation; and

(E) recommendations for any administrative changes in the executive branch.

Section 20. Section **63D-1a-301** is enacted to read:

**Part 3. Chief Information Officer**

**63D-1a-301. Chief information officer -- Appointment -- Powers -- Reporting.**

(1) (a) The governor shall appoint a chief information officer with the consent of the Senate.

(b) The chief information officer serves at the pleasure of the governor.

(c) The governor shall establish the chief information officer's salary within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(2) The chief information officer shall:

(a) advise the governor on information technology policy; and

(b) perform those duties given the chief information officer by statute.

(3) (a) The chief information officer shall report annually to:

(i) the governor;

(ii) the commission; and

(iii) the Public Utilities and Technology Interim Committee.

(b) The report required under Subsection (3)(a) shall:

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

(ii) summarize the executive branch strategic plan including a description of major changes in the executive branch strategic plan; and

(iii) provide a brief description of each state agency's information technology plan.

(4) To the extent permitted by the budget, the chief information officer may employ staff.

Section 21. Section **63D-1a-302** is enacted to read:

**63D-1a-302. Executive branch information technology strategic plan.**

(1) In accordance with this section, the chief information officer shall prepare an executive branch information technology strategic plan:

(a) that complies with this chapter; and

(b) which may include:

(i) a strategic plan for the:

(A) interchange of information related to information technology between executive branch agencies;

(B) coordination between executive branch agencies in the development and maintenance of information technology and information systems including the coordination of agency information technology plans described in Section 63D-1a-303; and

(C) protection of the privacy of individuals who use state information technology or information systems;

(ii) priorities for the development and implementation of information technology or information systems including priorities determined on the basis of:

(A) the importance of the information technology or information system; and

(B) the time sequencing of the information technology or information system; and

(iii) promotes maximum use of existing state information technology resources.

(2) In the development of the executive branch strategic plan, the chief information officer shall consult with all cabinet level officials.

(3) (a) Unless withdrawn by the chief information officer in accordance with Subsection (3)(b), the executive branch strategic plan takes effect 30 days after the day on which the executive branch strategic plan is submitted to:

(i) the governor; and

(ii) the commission.

(b) The chief information officer may withdraw the executive branch strategic plan submitted under this Subsection (3) if the governor or chief information officer determines that the executive branch strategic plan:

(i) should be modified; or

(ii) for any other reason should not take effect.

(c) Any amendment to the executive branch strategic plan is subject to this Subsection (3) in the same manner as the executive branch strategic plan is subject to under this Subsection

(3).

(4) The executive branch strategic plan:

(a) is to be implemented by executive branch agencies through each executive branch agency adopting an agency information technology plan in accordance with Section 63D-1a-303; and

(b) may not include any requirement described in Subsection 63D-1a-305(1) unless that requirement has been adopted by rule in accordance with Section 63D-1a-305.

Section 22. Section **63D-1a-303** is enacted to read:

**63D-1a-303. Agency information technology plans.**

(1) Subject to Subsection (2), each executive branch agency shall submit an agency information technology plan:

(a) at the department level:

(i) unless the governor requests that an agency information technology plan be submitted by:

(A) a subunit of a department; or

(B) any executive branch agency other than a department; and

(ii) except that in addition to the Department of Administrative Services, the division shall submit an agency information technology plan in accordance with Section 63D-1a-307;

(b) to the chief information officer by no later than July 1 of each year;

(c) in the level of detail and format specified by the chief information officer by rule made by the chief information officer in accordance with Section 63D-1a-305; and

(d) that includes for the two fiscal years following the day on which the agency information technology plan is submitted:

(i) the information technology objectives of the agency;

(ii) any performance measures used by the agency for implementing the agency's information technology objectives;

(iii) any planned expenditures related to information technology;

(iv) the agency's need for appropriations for information technology;

(v) how the agency's development of information technology coordinates with other state and local governmental entities;

(vi) any efforts the agency has taken to develop public and private partnerships to accomplish the information technology objectives of the agency; and

(vii) the efforts the executive branch agency has taken to comply with Section 46-4-503.

(2) (a) Except as provided in Subsection (2)(b), an agency information technology plan described in Subsection (1) shall comply with the executive branch strategic plan established in accordance with Section 63D-1a-302.

(b) If the executive branch agency submitting the agency information technology plan justifies the need to depart from the executive branch strategic plan, an agency information technology plan may depart from the executive branch strategic plan to the extent approved by the chief information officer.

(3) (a) On receipt of a state agency information technology plan, the chief information officer shall provide a complete copy of the agency information technology plan to the division.

(b) The division shall provide the chief information officer a written analysis of each agency information technology plan submitted to the division.

(c) The analysis required by Subsection (3)(b) shall include:

(i) an assessment of how the implementation of the agency information technology plan will affect the costs, operations, and services of:

(A) the division; and

(B) other executive branch agencies; and

(ii) any recommended changes to the plan.

(4) (a) The chief information officer shall review each agency information technology plan to determine:

(i) (A) whether the agency information technology plan complies with the executive strategic plan; or

(B) to the extent that the agency information technology plan does not comply with the executive strategic plan, whether the executive branch entity is justified in departing from the

executive strategic plan;

(ii) whether the agency information technology plan meets the information technology and other needs of:

(A) the executive branch agency submitting the plan; and

(B) the state.

(b) In conducting the review required by Subsection (4)(a), the chief information officer shall consider the analysis submitted by the division under Subsection (3).

(5) (a) After the chief information officer conducts the review described in Subsection (4) of an agency information technology plan, the chief information officer may:

(i) approve the agency information technology plan;

(ii) disapprove the agency information technology plan; or

(iii) recommend modifications to the agency information technology plan.

(6) An executive branch agency may not submit a request for appropriation related to information technology or an information technology system to the governor in accordance with Section 63-38-2 until after the executive branch agency's information technology plan is approved by the chief information officer.

Section 23. Section **63D-1a-304** is enacted to read:

**63D-1a-304. Monitoring acquisitions of information technology.**

(1) In accordance with Subsection (2), the chief information officer may monitor the acquisition by an executive branch agency of:

(a) information technology equipment;

(b) telecommunications equipment;

(c) software; and

(d) services related to the items listed in Subsections (1)(a) through (c).

(2) In monitoring an acquisition described in Subsection (1), the chief information officer may:

(a) determine whether the acquisition is in compliance with:

(i) the executive strategic plan;

(ii) the applicable agency information technology plan;  
(iii) the budget for the executive branch agency as adopted by the Legislature; and  
(iv) Title 63, Chapter 56, Utah Procurement Code; and  
(b) in accordance with Section 63D-1a-306, encourage coordination of acquisitions between two or more executive branch agencies if it is in the best interests of the state.

(3) Each executive branch entity shall provide the chief information officer with complete access to all information technology records, documents, and reports:

(a) at the request of the chief information officer; and  
(b) related to the executive branch entity's acquisition of any item listed in Subsection (1).

(4) The chief information officer and the Division of Purchasing and General Services shall work cooperatively to establish procedures under which the chief information officer may monitor acquisitions as provided in this section.

Section 24. Section **63D-1a-305** is enacted to read:

**63D-1a-305. Rulemaking -- Policies.**

(1) Subject to Subsection (2), in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the chief information officer may make rules that:

(a) provide standards that impose requirements on executive branch agencies that are related to the security of the statewide area network;

(b) specify the detail and format required in an agency information technology plan submitted in accordance with Section 63D-1a-303;

(c) provide for standards related to the privacy policies of websites operated by or on behalf of an executive state agency; or

(d) provide for the acquisition, licensing, and sale of computer software.

(2) (a) Notwithstanding Title 63, Chapter 46a, Utah Administrative Rulemaking Act, and subject to Subsection (2)(b), the chief information officer may adopt a policy that outlines procedures to be followed by the chief information officer in facilitating the implementation of this chapter by executive branch agencies if the policy:

(i) is consistent with the executive strategic plan;

(ii) is not required to be made by rule under Subsection (1).

(b) (i) A policy adopted by the chief information officer under Subsection (2)(a) may not take effect until 30 days after the day on which the chief information officer submits the policy to:

(A) the governor; and

(B) all cabinet level officials.

(ii) During the 30-day period described in Subsection (2)(b)(i), cabinet level officials may review and comment on a policy submitted under Subsection (2)(b)(i).

(3) (a) Notwithstanding Subsection (1), (2), or Title 63, Chapter 46a, Utah Administrative Rulemaking Act, without following the procedures of Subsection (1) or (2), the chief information officer may adopt a security procedure to be followed by executive branch agencies to protect the statewide area network if:

(i) broad communication of the security procedure would create a significant potential for increasing the vulnerability of the statewide area network to breach or attack; and

(ii) after consultation with the chief information officer, the governor agrees that broad communication of the security procedure would create a significant potential increase in the vulnerability of the statewide area network to breach or attack.

(b) A security procedure described in Subsection (3)(a), is classified as a protected record under Title 63, Chapter 2, Government Records Access and Management Act.

(c) The chief information officer shall provide a copy of the security procedure as a protected record to:

(i) the judicial branch;

(ii) the legislative branch;

(iii) the Board of Regents; and

(iv) the State Board of Education.

Section 25. Section **63D-1a-306** is enacted to read:

**63D-1a-306. Coordination within the executive branch -- Cooperation with other**

**branches.**

(1) In accordance with the executive branch strategic plan, and in addition to the Utah Technology Infrastructure Innovation Program, the chief information officer shall coordinate the development of information technology or systems between two or more executive branch agencies subject to:

- (a) the budget approved by the Legislature; and
- (b) Title 63, Chapter 38, Budgetary Procedures Act.

(2) In addition to the coordination described in Subsection (1), the chief information officer shall promote cooperation regarding information technology in a manner consistent with the interbranch coordination plan created in accordance with Part 4, Interbranch Coordination.

Section 26. Section **63D-1a-307** is enacted to read:

**63D-1a-307. Relationship with the division.**

(1) In accordance with this section, the division shall submit an agency information technology plan.

(2) The agency information technology plan submitted by the division under this section shall include:

- (a) the information required by Section 63D-1a-303;
- (b) a list of the services the division offers or plans to offer;
- (c) a description of the performance measures used by the division to measure the quality of the services described in Subsection (2)(b); and
- (d) a summary of the state telecommunication plans developed in accordance with Subsection 63A-6-103(2).

(3) (a) In submitting its agency information technology plan under this section, the division shall comply with Section 63D-1a-303.

(b) The agency information technology plan submitted by the division under this section is subject to the approval of the chief information officer as provided in Section 63D-1a-303.

Section 27. Section **63D-1a-308** is enacted to read:

**63D-1a-308. Facilitating the electronic delivery of government services.**

(1) The chief information officer shall:

(a) inform each executive branch entity of the requirements of Section 46-4-503;

(b) in accordance with Section 63D-1a-306, coordinate the efforts of state government to provide services and transactions through the Internet; and

(c) subject to Subsection (2), coordinate the development of electronic authentication methods and technology needed to conduct electronic transactions between government and citizens or businesses.

(2) (a) Subject to Subsection (2)(b), the chief information officer shall:

(i) 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;

(ii) develop a digital certificate policy that includes:

(A) 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;

(B) 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;

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

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

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

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

(b) Notwithstanding Subsection (2)(a), the Division of Corporations and Commercial Code has the responsibility for regulatory activities in Title 46, Chapter 3, Utah Digital Signature Act.

Section 28. Section **63D-1a-309** is enacted to read:

**63D-1a-309. Utah Technology Infrastructure Innovation Program.**

(1) There is created a program known as the "Utah Technology Infrastructure Innovation Program" to be administered by the chief information officer.

(2) (a) The Utah Technology Infrastructure Innovation Program shall be funded from legislative appropriations made to the program.

(b) Money in the Utah Technology Infrastructure Innovation Program shall be nonlapsing except that any monies in excess of \$5,000,000 unexpended at the close of each fiscal year shall lapse into the General Fund.

(3) Notwithstanding the provisions of Section 63-38-3, the chief information officer:

(a) may provide grants to one or more executive branch agencies for a single-agency or cross-agency technology innovation project as prescribed by Subsection (4); and

(b) shall favor granting monies to executive branch agency technology innovation projects that can show clear cost savings to the state.

(4) To receive funds for a proposed technology innovation project, an executive branch agency shall provide information to the chief information officer that clearly identifies any return on investment or cost savings that the state will experience if the proposed technology innovation project is implemented.

Section 29. Section **63D-1a-401** is enacted to read:

#### **Part 4. Interbranch Coordination**

##### **63D-1a-401. Interbranch information technology coordination plan.**

(1) In accordance with this section, the chief information officer shall prepare an interbranch information technology coordination plan that provides for the coordination where possible of the development, acquisition, and maintenance of information technology and information systems of:

(a) the executive branch;

(b) the judicial branch;

(c) the legislative branch;

(d) the Board of Regents; and

(e) the State Board of Education.

(2) In the development of the interbranch coordination plan, the chief information officer shall consult with:

(a) the entities described in Subsection (1); and

(b) the commission.

(3) The interbranch coordination plan:

(a) is an advisory document; and

(b) does not bind any entity described in Subsection (1).

(4) (a) The chief information officer shall submit the interbranch coordination plan to the commission for comment.

(b) The chief information officer may modify the interbranch coordination plan:

(i) at the request of the commission; or

(ii) to improve the coordination between the entities described in Subsection (1).

(c) Any amendment to the interbranch coordination plan is subject to this Subsection (4) in the same manner as the interbranch coordination plan is subject to this Subsection (4).

Section 30. Section **63D-1a-402** is enacted to read:

**63D-1a-402. Reporting on information technology objectives.**

(1) In a manner consistent with the interbranch coordination plan, the reports described in Subsection (2) shall be made to the commission by no later than October 30 of each year.

(2) In accordance with Subsection (1):

(a) the chief information officer shall:

(i) provide to the commission:

(A) a copy of each agency information technology plan approved by the chief information officer; or

(B) an explanation as to why an agency information technology plan has not been approved by the chief information officer; and

(ii) report to the commission each request for appropriation included in an agency information technology plan;

(b) the legislative branch shall annually report to the commission the Legislature's:

(i) proposed information technology objectives;

(ii) efforts to implement its information technology objectives;

(iii) efforts to coordinate its information technology objectives with other departments of state and local government; and

(iv) efforts to develop public and private partnerships to accomplish its information technology objectives;

(c) the state court administrator or the state court administrator's designee shall report to the commission the judicial branch's:

(i) proposed information technology objectives;

(ii) efforts to implement its information technology objectives;

(iii) efforts to coordinate its information technology objectives with other departments of state and local government; and

(iv) efforts to develop public and private partnerships to accomplish its information technology objectives;

(d) the state superintendent or the state superintendent's designee shall report to the commission the State Office of Education's:

(i) proposed information technology objectives;

(ii) efforts to implement its information technology objectives;

(iii) efforts to coordinate its information technology objectives with other departments of state and local government; and

(iv) efforts to develop public and private partnerships to accomplish its information technology objectives; and

(e) the commissioner of higher education or the commissioner of higher education's designee shall report to the commission the state system of higher education's:

(i) proposed information technology objectives;

(ii) efforts to implement its information technology objectives;

(iii) efforts to coordinate its information technology objectives with other departments of state and local government; and

(iv) efforts to develop public and private partnerships to accomplish its information technology objectives.

Section 31. Section **63D-1a-403** is enacted to read:

**63D-1a-403. Liaisons with the chief information officer.**

In a manner consistent with the interbranch coordination plan created in accordance with Section 63D-1a-401, the chief information officer shall maintain liaisons with:

- (1) the judicial branch;
- (2) the legislative branch;
- (3) the Board of Regents;
- (4) the State Board of Education;
- (5) local government;
- (6) the federal government;
- (7) business and industry; and
- (8) those members of the public who use information technology or systems of the state.

Section 32. Section **67-1-14** is enacted to read:

**67-1-14. Information technology.**

The governor shall review the executive branch strategic plan submitted to the governor by the chief information officer in accordance with Section 63D-1a-302.

Section 33. **Repealer.**

This act repeals:

Section **63D-1-101, Title.**

Section **63D-1-102, Title -- Chapter 1.**

Section **63D-1-103, Policy statement.**

Section **63D-1-104, Definitions.**

Section **63D-1-201, Title -- Part 2.**

Section **63D-1-202, Creation -- Membership -- Appointment.**

Section **63D-1-203, Terms of members -- Vacancies -- Term limitation.**

Section **63D-1-204, Purpose -- Duties -- Quorum.**

Section 63D-1-205, Compensation of members -- Reports to the Legislature --  
**Publication of reports.**

Section 63D-1-206, Staffing.

Section 63D-1-301, Chief information officer -- Appointment -- Salary.

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

Section 63D-1-302, Information Technology Policy and Strategy Committee --  
**Membership -- Chair -- Duties.**

Section 63D-1-303, Executive committee -- Membership -- Chair.

Section 63D-1-304, Utah Technology Infrastructure Innovation Program.

Section 34. Coordination clause.

(1) If this bill and H.B. 105, Internet Privacy and Security Amendments, both pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel in preparing the Utah Code database for publication:

(a) renumber Title 63D, Chapter 1, Part 4 as enacted in H.B. 105 to Title 63D, Chapter 1a, Part 4;

(b) delete Subsection 63D-1-402(2) as enacted in H.B. 105 and replace it with the following:

"(2) "Governmental entity" means:

(a) an executive branch agency;

(b) a political subdivision of the state:

(i) as defined in Section 17B-2-101; and

(ii) including a school district;

(c) the legislative branch;

(d) the judicial branch;

(e) the State Board of Education;

(f) the Board of Regents; or

(g) institutions of higher education.";

(c) delete Subsection 63D-1-402(6) as enacted in H.B. 105; and

(d) renumber the remaining subsections accordingly.

(2) If this bill and S.B. 20, Facilitation of E-Government, both pass, it is the intent of the Legislature that the amendments in this bill to Subsection 46-4-503(3)(c) supersede the amendments to Subsection 46-4-503(3)(c) in S.B. 20.