

1 **AMENDMENTS RELATED TO INFORMATION**

2 **TECHNOLOGY**

3 2003 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: David H. Steele**

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

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

14 AMENDS:

15 **26-9f-104**, as enacted by Chapter 263, Laws of Utah 2000

16 **46-3-601**, as enacted by Chapter 346, Laws of Utah 2000

17 **46-3-602**, as enacted by Chapter 346, Laws of Utah 2000

18 **46-4-501**, as enacted by Chapter 74, Laws of Utah 2000

19 **54-8b-2.5**, as last amended by Chapter 14, Laws of Utah 1999

20 **63-38-2**, as last amended by Chapter 8, Laws of Utah 2002, Fifth Special Session

21 **63A-6-103**, as renumbered and amended by Chapter 212, Laws of Utah 1993

22 **63A-6-104**, as renumbered and amended by Chapter 212, Laws of Utah 1993

23 **63A-6-105**, as last amended by Chapter 202, Laws of Utah 2002

24 **63A-6-106**, as last amended by Chapter 9, Laws of Utah 2001

25 **63A-9-801**, as last amended by Chapter 1, Laws of Utah 2000

26 ENACTS:

27 **63A-6-101.5**, Utah Code Annotated 1953



- 28 **63D-1a-101**, Utah Code Annotated 1953
- 29 **63D-1a-102**, Utah Code Annotated 1953
- 30 **63D-1a-201**, Utah Code Annotated 1953
- 31 **63D-1a-202**, Utah Code Annotated 1953
- 32 **63D-1a-203**, Utah Code Annotated 1953
- 33 **63D-1a-204**, Utah Code Annotated 1953
- 34 **63D-1a-301**, Utah Code Annotated 1953
- 35 **63D-1a-302**, Utah Code Annotated 1953
- 36 **63D-1a-303**, Utah Code Annotated 1953
- 37 **63D-1a-304**, Utah Code Annotated 1953
- 38 **63D-1a-305**, Utah Code Annotated 1953
- 39 **63D-1a-306**, Utah Code Annotated 1953
- 40 **63D-1a-307**, Utah Code Annotated 1953
- 41 **63D-1a-308**, Utah Code Annotated 1953
- 42 **63D-1a-309**, Utah Code Annotated 1953
- 43 **63D-1a-401**, Utah Code Annotated 1953
- 44 **63D-1a-402**, Utah Code Annotated 1953
- 45 **63D-1a-403**, Utah Code Annotated 1953
- 46 **67-1-14**, Utah Code Annotated 1953

47 RENUMBERS AND AMENDS:

- 48 **46-4-503**, (Renumbered from 63D-1-105, as enacted by Chapter 307, Laws of Utah
- 49 1999)

50 REPEALS:

- 51 **63D-1-101**, as enacted by Chapter 73, Laws of Utah 1997
- 52 **63D-1-102**, as enacted by Chapter 73, Laws of Utah 1997
- 53 **63D-1-103**, as enacted by Chapter 73, Laws of Utah 1997
- 54 **63D-1-104**, as renumbered and amended by Chapter 73, Laws of Utah 1997
- 55 **63D-1-201**, as renumbered and amended by Chapter 73, Laws of Utah 1997
- 56 **63D-1-202**, as renumbered and amended by Chapter 73, Laws of Utah 1997
- 57 **63D-1-203**, as last amended by Chapter 89, Laws of Utah 2001
- 58 **63D-1-204**, as last amended by Chapter 21, Laws of Utah 1999

- 59 **63D-1-205**, as renumbered and amended by Chapter 73, Laws of Utah 1997
- 60 **63D-1-206**, as last amended by Chapter 220, Laws of Utah 1998
- 61 **63D-1-301**, as last amended by Chapter 176, Laws of Utah 2002
- 62 **63D-1-301.5**, as last amended by Chapters 12 and 346, Laws of Utah 2000
- 63 **63D-1-302**, as renumbered and amended by Chapter 73, Laws of Utah 1997
- 64 **63D-1-303**, as renumbered and amended by Chapter 73, Laws of Utah 1997
- 65 **63D-1-304**, as last amended by Chapter 140, Laws of Utah 2001

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

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

68 **26-9f-104. Duties and responsibilities.**

69 The commission shall:

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

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

88 **46-3-601. Central repository for digital certificate information -- Fee.**

- 89 (1) The chief information officer shall:

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

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

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

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

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

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

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

105 (5) Any state agency permitting the public to transact business with the state agency
106 through the use of a digital certificate may establish a transaction fee, pursuant to Section
107 63-38-3.2, a portion of which may be remitted to the licensed certification authority which
108 issued the digital certificate being used.

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

110 **46-3-602. County clerk participation and fee authorization.**

111 A county clerk may:

112 (1) participate in the issuance of digital certificates to citizens to facilitate electronic
113 transactions with governmental entities according to the digital certificate policy issued by the
114 chief information officer pursuant to Section [~~63D-1-301.5~~] 63D-1a-308; and

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

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

118 **46-4-501. Creation and retention of electronic records and conversion of written**
119 **records by governmental agencies.**

120 (1) A state governmental agency may, by following the procedures and requirements of

121 Title 63, Chapter 46a, Utah Administrative Rulemaking Act, make rules that:

122 (a) identify specific transactions that the agency is willing to conduct by electronic
123 means;

124 (b) identify specific transactions that the agency will never conduct by electronic
125 means;

126 (c) specify the manner and format in which electronic records must be created,
127 generated, sent, communicated, received, and stored, and the systems established for those
128 purposes;

129 (d) if law or rule requires that the electronic records must be signed by electronic
130 means, specify the type of electronic signature required, the manner and format in which the
131 electronic signature must be affixed to the electronic record, and the identity of, or criteria that
132 must be met, by any third party used by a person filing a document to facilitate the process;

133 (e) specify control processes and procedures as appropriate to ensure adequate
134 preservation, disposition, integrity, security, confidentiality, and auditability of electronic
135 records; and

136 (f) identify any other required attributes for electronic records that are specified for
137 corresponding nonelectronic records or that are reasonably necessary under the circumstances.

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

140 (a) the chief information officer established by Section [~~63D-1-301~~] 63D-1a-301; and

141 (b) the Utah [~~Information~~] Technology Commission established by Section
142 [~~63D-1-202~~] 63D-1a-201.

143 (3) (a) The chief information officer may prepare model rules and standards relating to
144 electronic transactions that encourage and promote consistency and interoperability with
145 similar requirements adopted by other Utah government agencies, other states, the federal
146 government, and nongovernmental persons interacting with Utah governmental agencies.

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

150 (c) Before submitting any model rules or standards to state governmental agencies for
151 their adoption as permanent rules, the chief information officer shall submit the model rules

152 and standards to the Utah [Information] Technology Commission for its review and
153 suggestions.

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

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

158 (a) conduct transactions by electronic means; or

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

160 (5) Each state governmental agency shall:

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

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

166 Section 5. Section **46-4-503**, which is renumbered from Section 63D-1-105 is
167 renumbered and amended to read:

168 ~~[63D-1-105].~~ **46-4-503. Government products and services on Internet.**

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

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

172 (b) renewal of drivers licenses;

173 (c) application for hunting and fishing licenses;

174 (d) filings for income tax, sales tax, court documents, and Uniform Commercial Code;

175 (e) registrations for products, brands, motor vehicles, corporations, and businesses; and

176 (f) submission of an application for unemployment, welfare, and health benefits.

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

180 (a) secure access by parents and students to student grades and progress reports;

181 (b) email communications with teachers, parent-teacher associations, and school
182 administrators;

183 (c) access to school calendars and schedules; and
184 (d) teaching resources that may include teaching plans, curriculum guides, and media
185 resources.

186 (3) State entities shall:

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

190 (b) in addition to those required services listed in Subsections (1) through (3),
191 determine any additional services which may be made available to the public through electronic
192 means, including the Internet, by July 1, 2002; and

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

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

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

199 **54-8b-2.5. Report to governor and Legislature.**

200 Beginning October 15, 1998, and annually thereafter, the commission shall submit a
201 report to the governor, Legislature, the Public Utilities and Technology Interim Committee, and
202 [~~Information~~] Utah Technology Commission on the state of the telecommunications industry
203 and make recommendations for any regulatory changes necessary to achieve the policy of the
204 state as set forth in Section 54-8b-1.1. The commission shall determine criteria to be used to
205 evaluate the performance of price regulation and the information necessary to conduct the
206 evaluation.

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

208 **63-38-2. Governor to submit budget to Legislature -- Contents -- Preparation --**
209 **Appropriations based on current tax laws and not to exceed estimated revenues.**

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

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

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

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

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

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

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

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

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

230 (d) a complete analysis of lease with an option to purchase arrangements entered into
231 by state agencies;

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

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

238 (g) the information detailing certain regulatory fee increases required by Section
239 63-38-3.2.

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

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

243 (b) the Executive Department;

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

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

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

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

249 (g) all other appropriations.

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

251 (7) (a) (i) For the purpose of preparing and reporting the budget, the governor shall

252 require from the proper state officials, including public and higher education officials, all heads

253 of executive and administrative departments and state institutions, bureaus, boards,

254 commissions, and agencies expending or supervising the expenditure of the state moneys, and

255 all institutions applying for state moneys and appropriations, itemized estimates of revenues

256 and expenditures. ~~[The entities required by this Subsection (7)(a)(i) to submit itemized~~

257 ~~estimates of revenues and expenditures to the governor, shall also report to the Utah~~

258 ~~Information Technology Commission created in Title 63D, Chapter 1, Information Technology~~

259 ~~Act, before October 30 of each year. The report to the Information Technology Commission~~

260 ~~shall include the proposed information technology expenditures and objectives, the proposed~~

261 ~~appropriation requests and other sources of revenue necessary to fund the proposed~~

262 ~~expenditures and an analysis of:]~~

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

264 ~~[(B) how the entity's development of information technology coordinates with other~~

265 ~~state or local government entities;]~~

266 ~~[(C) any performance measures used by the entity for implementing information~~

267 ~~technology goals; and]~~

268 ~~[(D) any efforts to develop public/private partnerships to accomplish information~~

269 ~~technology goals.]~~

270 (ii) (A) The governor may also require other information under these guidelines and at

271 times as the governor may direct.

272 (B) These guidelines may include a requirement for program productivity and

273 performance measures, where appropriate, with emphasis on outcome indicators.

274 (b) The estimate for the Legislative Department as certified by the presiding officers of

275 both houses shall be included in the budget without revision by the governor. ~~[Before~~

276 preparing the estimates for the Legislative Department, the Legislature shall report to the
277 Information Technology Commission the proposed information technology expenditures and
278 objectives, the proposed appropriation requests and other sources of revenue necessary to fund
279 the proposed expenditures, including an analysis of:]

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

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

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

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

287 (c) The estimate for the Judicial Department, as certified by the state court
288 administrator, shall also be included in the budget without revision, but the governor may make
289 separate recommendations on it. [Before preparing the estimates for the Judicial Department,
290 the state court administrator shall report to the Information Technology Commission the
291 proposed information technology expenditures and objectives, the proposed appropriation
292 requests and other sources of revenue necessary to fund the proposed expenditures, including
293 an analysis of:]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 338 (i) local mental health authorities under Section 62A-15-110;
- 339 (ii) local substance abuse authorities under Section 62A-15-110;
- 340 (iii) area agencies under Section 62A-3-104.2;
- 341 (iv) programs administered directly by and for operation of the Divisions of Substance
- 342 Abuse and Mental Health and Aging and Adult Services;
- 343 (v) local health departments under Title 26A, Chapter 1, Local Health Departments;
- 344 and
- 345 (vi) counties for the operation of Children's Justice Centers under Section 67-5b-102.

346 (b) In his budget recommendations under Subsections (10)(a)(i), (ii), and (iii), the
347 governor shall consider an amount sufficient to grant local health departments, local mental
348 health authorities, local substance abuse authorities, and area agencies the same percentage
349 increase for wages and benefits that he includes in his budget for persons employed by the
350 state.

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

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

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

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

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

368 (13) The governor shall include in his budget the state's portion of the budget for the

369 Utah Communications Agency Network established in Title 63C, Chapter 7, Utah
370 Communications Agency Network Act.

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

372 **63A-6-101.5. Definitions.**

373 As used in this chapter:

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

376 (2) "Commission" means the Utah Technology Commission created in Section
377 63D-1a-201.

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

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

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

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

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

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

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

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

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

392 **63A-6-103. Duties of the division.**

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

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

396 (a) one or more executive branch agencies; or

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

399 (2) coordinate state telecommunication planning;

- 400 (a) in cooperation with:
- 401 (i) state telecommunication users; ~~[and other departments and state agencies;]~~
- 402 (ii) executive branch agencies; and
- 403 (iii) other subscribers to the state's telecommunication systems; and
- 404 (b) subject to Section 63D-1a-307;
- 405 (3) coordinate the development and implementation of advanced state
- 406 telecommunication systems;
- 407 (4) provide ~~[data processing and telecommunication]~~ services including technical
- 408 assistance to ~~[state agencies;]~~:
- 409 (a) (i) executive branch agencies; and
- 410 (ii) subscribers to the services; and
- 411 (b) related to:
- 412 (i) information technology; or
- 413 (ii) telecommunications;
- 414 (5) cooperate ~~[with other federal, state, county, or city data processing and~~
- 415 ~~telecommunication departments, divisions, sections, or units]~~:
- 416 (a) with:
- 417 (i) the federal government;
- 418 (ii) other state entities;
- 419 (iii) counties; and
- 420 (iv) municipalities;
- 421 (b) in the development, implementation, and maintenance of:
- 422 (i) governmental ~~[data processing and]~~ information technology; or
- 423 (ii) governmental telecommunication systems ~~[it]~~; and
- 424 (c) (i) as part of a cooperative organization; or ~~[otherwise;]~~
- 425 (ii) through means other than a cooperative organization;
- 426 (6) establish, operate, manage, and maintain ~~[the central state computer center and]~~:
- 427 (a) one or more state data centers; and
- 428 (b) one or more regional computer centers;
- 429 (7) design, implement, and manage all state-owned, leased, or rented land mobile or
- 430 radio telecommunication systems ~~[which]~~ that are used in the delivery of services for state

431 government or its political subdivisions; ~~[and]~~

432 (8) ~~[coordinate the implementation of]~~ in accordance with the executive branch
 433 strategic plan, implement minimum standards to be used by the division for purposes of
 434 compatibility of procedures, programming languages, codes, and media ~~[to]~~ that facilitate the
 435 exchange of information within and among telecommunication systems~~[-]; and~~

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

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

439 **63A-6-104. Delegation of division duties.**

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

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

445 (A) another executive branch agency; or

446 (B) an institution of higher education; and

447 (ii) by:

448 (A) contract; or

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

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

451 (1)(a) if:

452 (i) in the judgment of the director:

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

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

458 (ii) the executive director approves the delegation.

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

- 462 (3) The delegation of a function under this section shall:
- 463 (a) be in writing; and
- 464 (b) contain the following:
- 465 ~~[(a)]~~ (i) a precise definition of each function to be delegated;
- 466 ~~[(b)]~~ (ii) a clear description of the standards to be met in performing each function
- 467 delegated;
- 468 ~~[(c)]~~ (iii) a provision for periodic administrative audits by the Department of
- 469 Administrative Services; and
- 470 ~~[(d)]~~ (iv) a date on which the agreement shall terminate if the agreement has not been
- 471 previously terminated or renewed.

472 (4) An agreement to delegate functions to ~~[a state]~~ an executive branch agency or an

473 institution of higher education may be terminated by the department if the results of

474 administrative audits conducted by the department reveal a lack of compliance with the terms

475 of the agreement by the ~~[state]~~ executive branch agency or institution of higher education.

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

477 **63A-6-105. Duties of director -- Fees -- Rate Committee -- Advisory Committee.**

- 478 (1) The director ~~[of the Division of Information Technology Services]~~ shall:
- 479 (a) at the lowest practical cost, manage the delivery of efficient and cost-effective ~~[data~~
- 480 ~~processing]~~ information technology and telecommunication services for:
- 481 (i) all ~~[state]~~ executive branch agencies ~~[at the lowest practical cost]~~; and
- 482 (ii) entities that subscribe to the services in accordance with Section 63A-6-106; and
- 483 (b) provide priority service to public safety agencies~~[-and]~~.
- 484 ~~[(c) provide a semiannual report to the chief information officer as provided in~~
- 485 ~~Subsection 63D-1-301.5(5).]~~
- 486 (2) The director may negotiate the purchase, lease, or rental of private or public ~~[data~~
- 487 ~~processing]~~ information technology or telecommunication services or facilities.
- 488 (3) Where practical, efficient, and economically beneficial, the director shall use
- 489 existing private and public ~~[data processing]~~ information technology or telecommunication
- 490 resources.
- 491 ~~[(4) The director shall prescribe a schedule of fees to be charged for all services~~
- 492 ~~rendered to any state agency by the division that are equitable and sufficient to recover all the~~

493 ~~costs of operation, including the cost of capital equipment and facilities.]~~

494 ~~[(5)] (4) (a) [The] In accordance with Section 63D-1a-303, the director shall provide~~
 495 ~~the chief information officer [and the state information technology review committee] a written~~
 496 ~~analysis of [each state agency's annual] any agency information technology plan provided to the~~
 497 ~~division.~~

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

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

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

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

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

507 ~~(i) an executive branch entity; or~~

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

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

511 ~~(i) equitable; and~~

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

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

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

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

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

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

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

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

523 ~~(I) appointed by the Rate Committee; and~~

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

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

528 (I) appointed by the Rate Committee; and

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

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

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

533 (II) one representative from a small agency; and

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

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

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

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

546 [~~(7)~~] (6) (a) The director shall create advisory committees composed of representatives
547 of user agencies.

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

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

551 **63A-6-106. Subscription by state agencies and institutions.**

552 (1) As used in this section:

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

555 ~~waves, or other electromagnetic means.]~~

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

557 (i) information technology; or

558 (ii) information technology systems.

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

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

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

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

568 (i) result in:

569 (A) cost savings[;];

570 (B) increased efficiency[;]; or

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

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

573 (3) An institution of higher education may subscribe to the services provided by the
574 division if:

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

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

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

581 (a) the legislative branch;

582 (b) the judicial branch; and

583 (c) the State Board of Education.

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

585 **63A-9-801. State surplus property program -- Definitions -- Administration.**

- 586 (1) As used in this section:
- 587 (a) "Agency" means:
- 588 (i) the Utah Departments of Administrative Services, Agriculture, Alcoholic Beverage
- 589 Control, Commerce, Community and Economic Development, Corrections, Workforce
- 590 Services, Health, Human Resource Management, Human Services, Insurance, Natural
- 591 Resources, Public Safety, and Transportation and the Labor Commission;
- 592 (ii) the Utah Offices of the Auditor, Attorney General, Court Administrator, Crime
- 593 Victim Reparations, Rehabilitation, and Treasurer;
- 594 (iii) the Public Service Commission and State Tax Commission;
- 595 (iv) the State Boards of Education, Pardons and Parole, and Regents;
- 596 (v) the Career Service Review Board;
- 597 (vi) other state agencies designated by the governor;
- 598 (vii) the legislative branch, the judicial branch, and the State Board of Regents; and
- 599 (viii) an institution of higher education, its president, and its board of trustees for
- 600 purposes of Section 63A-9-802.
- 601 (b) "Division" means the Division of Fleet Operations.
- 602 (c) "Information technology equipment" means any equipment that is designed to
- 603 electronically manipulate, store, or transfer any form of data.
- 604 (d) "Inventory property" means property in the possession of the division that is
- 605 available for purchase by an agency or the public.
- 606 (e) "Judicial district" means the geographic districts established by Section 78-1-2.1.
- 607 (f) (i) "Surplus property" means property purchased by, seized by, or donated to, an
- 608 agency that the agency wishes to dispose of.
- 609 (ii) "Surplus property" does not mean real property.
- 610 (g) "Transfer" means transfer of surplus property without cash consideration.
- 611 (2) (a) The division shall make rules establishing a state surplus property program that
- 612 meets the requirements of this chapter by following the procedures and requirements of Title
- 613 63, Chapter 46a, Utah Administrative Rulemaking Act.
- 614 (b) Those rules shall include:
- 615 (i) a requirement prohibiting the transfer of surplus property from one agency to
- 616 another agency without written approval from the division;

- 617 (ii) procedures and requirements governing division administration requirements that
618 an agency must follow;
- 619 (iii) requirements governing purchase priorities;
- 620 (iv) requirements governing accounting, reimbursement, and payment procedures;
- 621 (v) procedures for collecting bad debts;
- 622 (vi) requirements and procedures for disposing of firearms;
- 623 (vii) the elements of the rates or other charges assessed by the division for services and
624 handling;
- 625 (viii) procedures governing the timing and location of public sales of inventory
626 property; and
- 627 (ix) procedures governing the transfer of information technology equipment by state
628 agencies directly to public schools.
- 629 (c) The division shall report all transfers of information technology equipment by state
630 agencies to public schools to the state's ~~Information~~ Utah Technology Commission and to the
631 Legislative Interim Education Committee at the end of each fiscal year.
- 632 (3) In creating and administering the program, the division shall:
- 633 (a) when conditions, inventory, and demand permit:
- 634 (i) establish facilities to store inventory property at geographically dispersed locations
635 throughout the state; and
- 636 (ii) hold public sales of property at geographically dispersed locations throughout the
637 state;
- 638 (b) establish, after consultation with the agency requesting the sale of surplus property,
639 the price at which the surplus property shall be sold; and
- 640 (c) transfer proceeds arising from the sale of state surplus property to the agency
641 requesting the sale in accordance with ~~the~~ Title 63, Chapter 38, Budgetary Procedures Act,
642 less an amount established by the division by rule to pay the costs of administering the surplus
643 property program.
- 644 (4) Unless specifically exempted from this chapter by explicit reference to this chapter,
645 each state agency shall dispose of and acquire surplus property only by participating in the
646 division's program.
- 647 Section 14. Section **63D-1a-101** is enacted to read:

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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;

679 (ii) procedures; or
 680 (iii) equipment.
 681 (8) "Information technology" means all computerized and auxiliary automated
 682 information handling, including:

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

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

692 **Part 2. Utah Technology Commission**

693 **63D-1a-201. Creation -- Membership -- Appointment -- Staff.**

694 (1) (a) There is created an independent commission to be known as the "Utah
 695 Technology Commission."

696 (b) The commission shall be composed of 13 members appointed as follows:
 697 (i) five members of the House of Representatives, appointed by the speaker of the
 698 House, not more than two of whom shall be from the same political party;
 699 (ii) three members of the Senate, appointed by the president of the Senate, not more
 700 than two of whom shall be from the same political party;
 701 (iii) the chief information officer;
 702 (iv) a representative of the executive branch appointed by the governor;
 703 (v) a representative of the judicial branch appointed by the Judicial Council;
 704 (vi) a representative of public education appointed by the State Board of Education;
 705 and
 706 (vii) a representative of higher education appointed by the State Board of Regents.

707 (2) (a) The president of the Senate shall appoint a member of the commission who is a
 708 legislator to serve as a chair of the commission.

709 (b) The speaker of the House shall appoint a member of the commission who is a

710 legislator to serve as a chair of the commission.

711 (3) (a) A majority of the members of the commission constitute a quorum.

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

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

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

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

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

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

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

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

733 **63D-1a-202. Powers and duties of the commission -- Reporting.**

734 (1) The commission may:

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

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

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

740 (B) public and higher education;

- 741 (ii) in accordance with Part 4, Interbranch Coordination:
742 (A) with regard to the interbranch information technology coordination plan:
743 (I) participating in the interbranch information technology plan's preparation; and
744 (II) reviewing the interbranch information technology plan; and
745 (B) receiving reports regarding the information technology objectives of:
746 (I) the executive, legislative, and judicial branches; and
747 (II) public and higher education; and
748 (iii) making budget recommendations to:
749 (A) the Executive Appropriations Committee; and
750 (B) the appropriate appropriations subcommittees of the Executive Appropriations
751 Committee;
752 (b) make recommendations for promoting economic development of the technology
753 industry of Utah, including participating in joint meetings with the steering committee of the
754 Utah Technology Industry Council in accordance with Section 63D-1a-204;
755 (c) study the present and future technology needs related to the state's economy and
756 quality of life of Utah's citizens, including soliciting and considering recommendations
757 regarding technology from:
758 (i) the governor;
759 (ii) the chief information officer;
760 (iii) the judicial branch;
761 (iv) public and higher education;
762 (v) the Legislature;
763 (vi) the business communities in the state; and
764 (vii) the general public; and
765 (d) review, analyze, and study any issue related to information technology that is of
766 interest to the commission.
767 (2) The commission shall:
768 (a) submit an annual report to the Legislature before each annual general session;
769 (b) submit the annual report required by Section 63D-1a-204 to:
770 (i) the governor; and
771 (ii) the Legislature; and

772 (c) if needed, prepare legislation concerning information technology for submission to
773 the Legislature for consideration by the Legislature in the Legislature's annual general session.

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

775 **63D-1a-203. Utah Technology Industry Council.**

776 (1) As used in this section:

777 (a) "Council" means the Utah Technology Industry Council created by this section.

778 (b) "Technology industry business in this state" means a business that has as a primary
779 function the research, development, production, or marketing of technologies in technology
780 sectors including:

781 (i) aerospace;

782 (i) biotechnology or other technologies related to life sciences;

783 (ii) information technologies or other technologies related to information technologies;

784 or

785 (iii) other key technology industries sectors as the technology industries develop.

786 (2) (a) There is created a Utah Technology Industry Council to act as a body that
787 recommends policy to the commission.

788 (b) Subject to the requirements of this section, the council:

789 (i) shall be organized by the steering committee created under Subsection (3); and

790 (ii) operate in accordance with the charter that:

791 (A) is initially adopted by the steering committee in accordance with Subsection (4);

792 and

793 (B) amended as provided in the charter.

794 (c) A member of the council shall receive no compensation or benefits for the

795 member's services including per diem or expenses incurred in the performance of the member's
796 official duties on the council.

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

799 (i) the executive director of the Department of Community and Economic

800 Development or the executive director's designee, provided that the designee is a senior officer
801 in the department; and

802 (ii) seven members appointed as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

826 (i) the steering committee; and

827 (ii) the council.

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

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

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

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

- 834 (iii) representatives of:
835 (A) state or local government; or
836 (B) public or higher education;
837 (b) the number, terms, and appointment of nonvoting members of the council;
838 (c) the term of the chair of the council;
839 (d) the process to be followed in creating any subcommittees of the council;
840 (e) the quorum requirements for the council or for subcommittees of the council to take
841 action;
842 (f) the processes to be followed to call a meeting of the council or a subcommittee of
843 the council, except that:
844 (i) any meeting of the council or a subcommittee of the council is subject to Title 52,
845 Chapter 4, Open and Public Meetings law;
846 (ii) members of the commission shall be provided notice of each meeting of the council
847 or of a subcommittee of the council; and
848 (iii) legislative members of the commission that attend a meeting of the council or a
849 subcommittee of the council:
850 (A) may not vote unless the legislator is a member of the council or the subcommittee;
851 and
852 (B) may receive a salary and expenses paid in accordance with Section 36-2-2 and
853 Legislative Joint Rule 15.03; and
854 (g) the process for amending the charter under which the council operates.
855 (5) The council may:
856 (a) conduct research or other studies to the extent that funding is available;
857 (b) review practices in the worldwide private and public sectors that could foster
858 technology business growth in the state;
859 (c) prepare an assessment of the current status of technology industries in the state
860 including:
861 (i) the needs of technology industries in the state; and
862 (ii) opportunities for future growth of technology industries in the state;
863 (d) develop a strategic plan as to:
864 (i) the future of technology industries in the state;

865 (ii) the future economic value technology industries can bring to the state; and
866 (iii) the future benefits technology industries can bring to the quality of life of the
867 citizens in the state;

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

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

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

875 **63D-1a-204. Joint meetings of the commission and the steering committee --**
876 **Reporting.**

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

880 (b) The chairs of the commission shall chair a joint meeting of the commission and
881 steering committee.

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

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

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

885 and

886 (iii) an action by a majority vote of a quorum constitutes an action by the commission
887 and the steering committee.

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

890 (i) the governor; and

891 (ii) the Legislature.

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

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

895 (i) a summary of the activities of the council as those activities were reported to the

896 commission; and
897 (ii) any of the following that were adopted at a joint meeting of the commission and the
898 steering committee that is held in accordance with Subsection (1):
899 (A) an assessment of the current status of technology industries in the state including:
900 (I) the successes and failures experienced by technology industries in the state;
901 (II) the needs of technology industries in the state; and
902 (III) opportunities for future growth of technology industries in the state;
903 (B) recommendations for how state government can use new or existing products and
904 services available from technology industry businesses in the state;
905 (C) a strategic plan for:
906 (I) the future of technology industries in the state;
907 (II) the economic value that technology industries can bring to the state in the future;
908 and
909 (III) the benefits that technology industries can bring to the quality of life of the
910 citizens in the state in the future;
911 (D) recommendations for any proposed legislation; and
912 (E) recommendations for any administrative changes in the executive branch.
913 Section 20. Section **63D-1a-301** is enacted to read:
914 **Part 3. Chief Information Officer**
915 **63D-1a-301. Chief information officer -- Appointment -- Powers -- Reporting.**
916 (1) (a) The governor shall appoint a chief information officer with the consent of the
917 Senate.
918 (b) The chief information officer serves at the pleasure of the governor.
919 (c) The governor shall establish the chief information officer's salary within the salary
920 range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.
921 (2) The chief information officer shall:
922 (a) advise the governor on information technology policy; and
923 (b) perform those duties given the chief information officer by statute.
924 (3) (a) The chief information officer shall report annually to:
925 (i) the governor;
926 (ii) the commission; and

- 927 (iii) the Public Utilities and Technology Interim Committee.
- 928 (b) The report required under Subsection (3)(a) shall:
- 929 (i) summarize the state's current and projected use of information technology;
- 930 (ii) summarize the executive branch strategic plan including a description of major
- 931 changes in the executive branch strategic plan; and
- 932 (iii) provide a brief description of each state agency's information technology plan.
- 933 (4) To the extent permitted by the budget, the chief information officer may employ
- 934 staff.
- 935 Section 21. Section **63D-1a-302** is enacted to read:
- 936 **63D-1a-302. Executive branch information technology strategic plan.**
- 937 (1) In accordance with this section, the chief information officer shall prepare an
- 938 executive branch information technology strategic plan:
- 939 (a) that complies with this chapter; and
- 940 (b) which may include:
- 941 (i) a strategic plan for the:
- 942 (A) interchange of information related to information technology between executive
- 943 branch agencies;
- 944 (B) coordination between executive branch agencies in the development and
- 945 maintenance of information technology and information systems including the coordination of
- 946 agency information technology plans described in Section 63D-1a-303; and
- 947 (C) protection of the privacy of individuals who use state information technology or
- 948 information systems;
- 949 (ii) priorities for the development and implementation of information technology or
- 950 information systems including priorities determined on the basis of:
- 951 (A) the importance of the information technology or information system; and
- 952 (B) the time sequencing of the information technology or information system; and
- 953 (iii) promotes maximum use of existing state information technology resources.
- 954 (2) In the development of the executive branch strategic plan, the chief information
- 955 officer shall consult with all cabinet level officials.
- 956 (3) (a) Unless withdrawn by the chief information officer in accordance with
- 957 Subsection (3)(b), the executive branch strategic plan takes effect 30 days after the day on

958 which the executive branch strategic plan is submitted to:

959 (i) the governor; and

960 (ii) the commission.

961 (b) The chief information officer may withdraw the executive branch strategic plan

962 submitted under this Subsection (3) if the governor or chief information officer determines that
963 the executive branch strategic plan:

964 (i) should be modified; or

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

966 (c) Any amendment to the executive branch strategic plan is subject to this Subsection

967 (3) in the same manner as the executive branch strategic plan is subject to under this

968 Subsection (3).

969 (4) The executive branch strategic plan:

970 (a) is to be implemented by executive branch agencies through each executive branch

971 agency adopting an agency information technology plan in accordance with Section

972 63D-1a-303; and

973 (b) may not include any requirement described in Subsection 63D-1a-305(1) unless

974 that requirement has been adopted by rule in accordance with Section 63D-1a-305.

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

976 **63D-1a-303. Agency information technology plans.**

977 (1) Subject to Subsection (2), each executive branch agency shall submit an agency

978 information technology plan:

979 (a) at the department level:

980 (i) unless the governor requests that an agency information technology plan be

981 submitted by:

982 (A) a subunit of a department; or

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

984 (ii) except that in addition to the Department of Administrative Services, the division

985 shall submit an agency information technology plan in accordance with Section 63D-1a-307;

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

987 (c) in the level of detail and format specified by the chief information officer by rule

988 made by the chief information officer in accordance with Section 63D-1a-305; and

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

991 (i) the information technology objectives of the agency;

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

994 (iii) any planned expenditures related to information technology;

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

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

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

1000 (vii) the efforts the executive branch agency has taken to comply with Section
1001 46-4-503.

1002 (2) (a) Except as provided in Subsection (2)(b), an agency information technology plan
1003 described in Subsection (1) shall comply with the executive branch strategic plan established in
1004 accordance with Section 63D-1a-302.

1005 (b) If the executive branch agency submitting the agency information technology plan
1006 justifies the need to depart from the executive branch strategic plan, an agency information
1007 technology plan may depart from the executive branch strategic plan to the extent approved by
1008 the chief information officer.

1009 (3) (a) On receipt of a state agency information technology plan, the chief information
1010 officer shall provide a complete copy of the agency information technology plan to the
1011 division.

1012 (b) The division shall provide the chief information officer a written analysis of each
1013 agency information technology plan submitted to the division.

1014 (c) The analysis required by Subsection (3)(b) shall include:

1015 (i) an assessment of how the implementation of the agency information technology
1016 plan will affect the costs, operations, and services of:

1017 (A) the division; and

1018 (B) other executive branch agencies; and

1019 (ii) any recommended changes to the plan.

1020 (4) (a) The chief information officer shall review each agency information technology
1021 plan to determine:

1022 (i) (A) whether the agency information technology plan complies with the executive
1023 strategic plan; or

1024 (B) to the extent that the agency information technology plan does not comply with the
1025 executive strategic plan, whether the executive branch entity is justified in departing from the
1026 executive strategic plan;

1027 (ii) whether the agency information technology plan meets the information technology
1028 and other needs of:

1029 (A) the executive branch agency submitting the plan; and

1030 (B) the state.

1031 (b) In conducting the review required by Subsection (4)(a), the chief information
1032 officer shall consider the analysis submitted by the division under Subsection (3).

1033 (5) (a) After the chief information officer conducts the review described in Subsection
1034 (4) of an agency information technology plan, the chief information officer may:

1035 (i) approve the agency information technology plan;

1036 (ii) disapprove the agency information technology plan; or

1037 (iii) recommend modifications to the agency information technology plan.

1038 (6) An executive branch agency may not submit a request for appropriation related to
1039 information technology or an information technology system to the governor in accordance
1040 with Section 63-38-2 until after the executive branch agency's information technology plan is
1041 approved by the chief information officer.

1042 Section 23. Section **63D-1a-304** is enacted to read:

1043 **63D-1a-304. Monitoring acquisitions of information technology.**

1044 (1) In accordance with Subsection (2), the chief information officer may monitor the
1045 acquisition by an executive branch agency of:

1046 (a) information technology equipment;

1047 (b) telecommunications equipment;

1048 (c) software; and

1049 (d) services related to the items listed in Subsections (1)(a) through (c).

1050 (2) In monitoring an acquisition described in Subsection (1), the chief information

1051 officer may:

1052 (a) determine whether the acquisition is in compliance with:

1053 (i) the executive strategic plan;

1054 (ii) the applicable agency information technology plan;

1055 (iii) the budget for the executive branch agency as adopted by the Legislature; and

1056 (iv) Title 63, Chapter 56, Utah Procurement Code; and

1057 (b) in accordance with Section 63D-1a-306, encourage coordination of acquisitions

1058 between two or more executive branch agencies if it is in the best interests of the state.

1059 (3) Each executive branch entity shall provide the chief information officer with

1060 complete access to all information technology records, documents, and reports:

1061 (a) at the request of the chief information officer; and

1062 (b) related to the executive branch entity's acquisition of any item listed in Subsection

1063 (1).

1064 (4) The chief information officer and the Division of Purchasing and General Services

1065 shall work cooperatively to establish procedures under which the chief information officer may

1066 monitor acquisitions as provided in this section.

1067 Section 24. Section **63D-1a-305** is enacted to read:

1068 **63D-1a-305. Rulemaking -- Policies.**

1069 (1) Subject to Subsection (2), in accordance with Title 63, Chapter 46a, Utah

1070 Administrative Rulemaking Act, the chief information officer may make rules that:

1071 (a) provide standards that impose requirements on executive branch agencies that are

1072 related to the security of the statewide area network;

1073 (b) specify the detail and format required in an agency information technology plan

1074 submitted in accordance with Section 63D-1a-303;

1075 (c) provide for standards related to the privacy policies of websites operated by or on

1076 behalf of an executive state agency; or

1077 (d) provide for the acquisition, licensing, and sale of computer software.

1078 (2) (a) Notwithstanding Title 63, Chapter 46a, Utah Administrative Rulemaking Act,

1079 and subject to Subsection (2)(b), the chief information officer may adopt a policy that outlines

1080 procedures to be followed by the chief information officer in facilitating the implementation of

1081 this chapter by executive branch agencies if the policy:

1082 (i) is consistent with the executive strategic plan;
1083 (ii) is not required to be made by rule under Subsection (1).
1084 (b) (i) A policy adopted by the chief information officer under Subsection (2)(a) may
1085 not take effect until 30 days after the day on which the chief information officer submits the
1086 policy to:
1087 (A) the governor; and
1088 (B) all cabinet level officials.
1089 (ii) During the 30-day period described in Subsection (2)(b)(i), cabinet level officials
1090 may review and comment on a policy submitted under Subsection (2)(b)(i).
1091 (3) (a) Notwithstanding Subsection (1), (2), or Title 63, Chapter 46a, Utah
1092 Administrative Rulemaking Act, without following the procedures of Subsection (1) or (2), the
1093 chief information officer may adopt a security procedure to be followed by executive branch
1094 agencies to protect the statewide area network if:
1095 (i) broad communication of the security procedure would create a significant potential
1096 for increasing the vulnerability of the statewide area network to breach or attack; and
1097 (ii) after consultation with the chief information officer, the governor agrees that broad
1098 communication of the security procedure would create a significant potential increase in the
1099 vulnerability of the statewide area network to breach or attack.
1100 (b) A security procedure described in Subsection (3)(a), is classified as a protected
1101 record under Title 63, Chapter 2, Government Records Access and Management Act.
1102 (c) The chief information officer shall provide a copy of the security procedure as a
1103 protected record to:
1104 (i) the judicial branch;
1105 (ii) the legislative branch;
1106 (iii) the Board of Regents; and
1107 (iv) the State Board of Education.
1108 Section 25. Section **63D-1a-306** is enacted to read:
1109 **63D-1a-306. Coordination within the executive branch -- Cooperation with other**
1110 **branches.**
1111 (1) In accordance with the executive branch strategic plan, and in addition to the Utah
1112 Technology Infrastructure Innovation Program, the chief information officer shall coordinate

1113 the development of information technology or systems between two or more executive branch
1114 agencies subject to:

1115 (a) the budget approved by the Legislature; and

1116 (b) Title 63, Chapter 38, Budgetary Procedures Act.

1117 (2) In addition to the coordination described in Subsection (1), the chief information
1118 officer shall promote cooperation regarding information technology in a manner consistent
1119 with the interbranch coordination plan created in accordance with Part 4, Interbranch
1120 Coordination.

1121 Section 26. Section **63D-1a-307** is enacted to read:

1122 **63D-1a-307. Relationship with the division.**

1123 (1) In accordance with this section, the division shall submit an agency information
1124 technology plan.

1125 (2) The agency information technology plan submitted by the division under this
1126 section shall include:

1127 (a) the information required by Section 63D-1a-303;

1128 (b) a list of the services the division offers or plans to offer;

1129 (c) a description of the performance measures used by the division to measure the
1130 quality of the services described in Subsection (2)(b); and

1131 (d) a summary of the state telecommunication plans developed in accordance with
1132 Subsection 63A-6-103(2).

1133 (3) (a) In submitting its agency information technology plan under this section, the
1134 division shall comply with Section 63D-1a-303.

1135 (b) The agency information technology plan submitted by the division under this
1136 section is subject to the approval of the chief information officer as provided in Section
1137 63D-1a-303.

1138 Section 27. Section **63D-1a-308** is enacted to read:

1139 **63D-1a-308. Facilitating the electronic delivery of government services.**

1140 (1) The chief information officer shall:

1141 (a) inform each executive branch entity of the requirements of Section 46-4-503;

1142 (b) in accordance with Section 63D-1a-306, coordinate the efforts of state government
1143 to provide services and transactions through the Internet; and

1144 (c) subject to Subsection (2), coordinate the development of electronic authentication
1145 methods and technology needed to conduct electronic transactions between government and
1146 citizens or businesses.

1147 (2) (a) Subject to Subsection (2)(b), the chief information officer shall:

1148 (i) designate an existing state repository or create a new repository that is secure and
1149 central for the maintenance of any appropriate information relating to the issuance of digital
1150 certificates as provided in Section 46-3-601;

1151 (ii) develop a digital certificate policy that includes:

1152 (A) indicating the level of identity verification necessary for digital certificates issued
1153 by any governmental entity to be valid for transacting business online with state agencies and
1154 political subdivisions;

1155 (B) requiring any certification authority from which the digital certificates are acquired
1156 to be licensed in the state pursuant to Title 46, Chapter 3, Utah Digital Signature Act;

1157 (C) providing for the security of the information in the repository, including who is
1158 permitted access to the information; and

1159 (D) indicating the appropriate use and retention of the information in the repository;

1160 (iii) assist governmental entities desiring to transact business with citizens
1161 electronically to develop programs using digital certificates; and

1162 (iv) designate the state repository pursuant to Section 46-3-601.

1163 (b) Notwithstanding Subsection (2)(a), the Division of Corporations and Commercial
1164 Code has the responsibility for regulatory activities in Title 46, Chapter 3, Utah Digital
1165 Signature Act.

1166 Section 28. Section **63D-1a-309** is enacted to read:

1167 **63D-1a-309. Utah Technology Infrastructure Innovation Program.**

1168 (1) There is created a program known as the "Utah Technology Infrastructure
1169 Innovation Program" to be administered by the chief information officer.

1170 (2) (a) The Utah Technology Infrastructure Innovation Program shall be funded from
1171 legislative appropriations made to the program.

1172 (b) Money in the Utah Technology Infrastructure Innovation Program shall be
1173 nonlapsing except that any monies in excess of \$5,000,000 unexpended at the close of each
1174 fiscal year shall lapse into the General Fund.

1175 (3) Notwithstanding the provisions of Section 63-38-3, the chief information officer:

1176 (a) may provide grants to one or more executive branch agencies for a single-agency or
1177 cross-agency technology innovation project as prescribed by Subsection (4); and

1178 (b) shall favor granting monies to executive branch agency technology innovation
1179 projects that can show clear cost savings to the state.

1180 (4) To receive funds for a proposed technology innovation project, an executive branch
1181 agency shall provide information to the chief information officer that clearly identifies any
1182 return on investment or cost savings that the state will experience if the proposed technology
1183 innovation project is implemented.

1184 Section 29. Section **63D-1a-401** is enacted to read:

1185 **Part 4. Interbranch Coordination**

1186 **63D-1a-401. Interbranch information technology coordination plan.**

1187 (1) In accordance with this section, the chief information officer shall prepare an
1188 interbranch information technology coordination plan that provides for the coordination where
1189 possible of the development, acquisition, and maintenance of information technology and
1190 information systems of:

1191 (a) the executive branch;

1192 (b) the judicial branch;

1193 (c) the legislative branch;

1194 (d) the Board of Regents; and

1195 (e) the State Board of Education.

1196 (2) In the development of the interbranch coordination plan, the chief information
1197 officer shall consult with:

1198 (a) the entities described in Subsection (1); and

1199 (b) the commission.

1200 (3) The interbranch coordination plan:

1201 (a) is an advisory document; and

1202 (b) does not bind any entity described in Subsection (1).

1203 (4) (a) The chief information officer shall submit the interbranch coordination plan to
1204 the commission for comment.

1205 (b) The chief information officer may modify the interbranch coordination plan:

- 1206 (i) at the request of the commission; or
- 1207 (ii) to improve the coordination between the entities described in Subsection (1).
- 1208 (c) Any amendment to the interbranch coordination plan is subject to this Subsection
- 1209 (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.

1212 (1) In a manner consistent with the interbranch coordination plan, the reports described
1213 in Subsection (2) shall be made to the commission by no later than October 30 of each year.

1214 (2) In accordance with Subsection (1):

1215 (a) the chief information officer shall:

1216 (i) provide to the commission:

1217 (A) a copy of each agency information technology plan approved by the chief
1218 information officer; or

1219 (B) an explanation as to why an agency information technology plan has not been
1220 approved by the chief information officer; and

1221 (ii) report to the commission each request for appropriation included in an agency
1222 information technology plan:

1223 (b) the legislative branch shall annually report to the commission the Legislature's:

1224 (i) proposed information technology objectives;

1225 (ii) efforts to implement its information technology objectives;

1226 (iii) efforts to coordinate its information technology objectives with other departments
1227 of state and local government; and

1228 (iv) efforts to develop public and private partnerships to accomplish its information
1229 technology objectives;

1230 (c) the state court administrator or the state court administrator's designee shall report
1231 to the commission the judicial branch's:

1232 (i) proposed information technology objectives;

1233 (ii) efforts to implement its information technology objectives;

1234 (iii) efforts to coordinate its information technology objectives with other departments
1235 of state and local government; and

1236 (iv) efforts to develop public and private partnerships to accomplish its information

1237 technology objectives;

1238 (d) the state superintendent or the state superintendent's designee shall report to the
1239 commission the State Office of Education's:

1240 (i) proposed information technology objectives;

1241 (ii) efforts to implement its information technology objectives;

1242 (iii) efforts to coordinate its information technology objectives with other departments
1243 of state and local government; and

1244 (iv) efforts to develop public and private partnerships to accomplish its information
1245 technology objectives; and

1246 (e) the commissioner of higher education or the commissioner of higher education's
1247 designee shall report to the commission the state system of higher education's:

1248 (i) proposed information technology objectives;

1249 (ii) efforts to implement its information technology objectives;

1250 (iii) efforts to coordinate its information technology objectives with other departments
1251 of state and local government; and

1252 (iv) efforts to develop public and private partnerships to accomplish its information
1253 technology objectives.

1254 Section 31. Section **63D-1a-403** is enacted to read:

1255 **63D-1a-403. Liaisons with the chief information officer.**

1256 In a manner consistent with the interbranch coordination plan created in accordance
1257 with Section 63D-1a-401, the chief information officer shall maintain liaisons with:

1258 (1) the judicial branch;

1259 (2) the legislative branch;

1260 (3) the Board of Regents;

1261 (4) the State Board of Education;

1262 (5) local government;

1263 (6) the federal government;

1264 (7) business and industry; and

1265 (8) those members of the public who use information technology or systems of the
1266 state.

1267 Section 32. Section **67-1-14** is enacted to read:

- 1268 **67-1-14. Information technology.**
- 1269 The governor shall review the executive branch strategic plan submitted to the governor
- 1270 by the chief information officer in accordance with Section 63D-1a-302.
- 1271 Section 33. **Repealer.**
- 1272 This act repeals:
- 1273 Section **63D-1-101, Title.**
- 1274 Section **63D-1-102, Title -- Chapter 1.**
- 1275 Section **63D-1-103, Policy statement.**
- 1276 Section **63D-1-104, Definitions.**
- 1277 Section **63D-1-201, Title -- Part 2.**
- 1278 Section **63D-1-202, Creation -- Membership -- Appointment.**
- 1279 Section **63D-1-203, Terms of members -- Vacancies -- Term limitation.**
- 1280 Section **63D-1-204, Purpose -- Duties -- Quorum.**
- 1281 Section **63D-1-205, Compensation of members -- Reports to the Legislature --**
- 1282 **Publication of reports.**
- 1283 Section **63D-1-206, Staffing.**
- 1284 Section **63D-1-301, Chief information officer -- Appointment -- Salary.**
- 1285 Section **63D-1-301.5, Chief information officer -- Duties.**
- 1286 Section **63D-1-302, Information Technology Policy and Strategy Committee --**
- 1287 **Membership -- Chair -- Duties.**
- 1288 Section **63D-1-303, Executive committee -- Membership -- Chair.**
- 1289 Section **63D-1-304, Utah Technology Infrastructure Innovation Program.**

Legislative Review Note
as of 2-24-03 9:27 AM

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

Office of Legislative Research and General Counsel

State Impact

Costs for Legislator salaries, per diem, and travel related to sections sixteen through nineteen equal \$4,500 per year. Additional costs related to sections eighteen and nineteen depend upon the constitution and scope of the Utah Technology Industry Council, which has yet to be determined. Costs for sections twenty through thirty-one can be absorbed within existing resources.

	<u>FY 04 Approp.</u>	<u>FY 05 Approp.</u>	<u>FY 04 Revenue</u>	<u>FY 05 Revenue</u>
General Fund	\$4,500	\$4,500	\$0	\$0
TOTAL	\$4,500	\$4,500	\$0	\$0

Individual and Business Impact

Private sector representatives will incur opportunity cost of time spent serving on the Utah Technology Industry Council.

Office of the Legislative Fiscal Analyst