

1                                   **AMENDMENTS TO ADMINISTRATIVE**  
2                                   **SERVICES RATE COMMITTEE**  
3                                   2004 GENERAL SESSION  
4                                   STATE OF UTAH  
5                                   **Sponsor: David Clark**

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7 **LONG TITLE**

8 **General Description:**

9           This bill creates a Rate Committee to review the fees collected by internal service funds  
10 within the Department of Administrative Services.

11 **Highlighted Provisions:**

12           This bill:

- 13           ▶ moves the current rate committee from the Division of Information Technology  
14 Services to the general provisions of the Administrative Services Code;  
15           ▶ changes the membership of the Rate Committee;  
16           ▶ clarifies the duties of the Rate Committee; and  
17           ▶ clarifies the responsibilities of the divisions within the Department of  
18 Administrative Services to conduct a market analysis of fees charged by July 1,  
19 2005, and periodically thereafter, and to submit the market analysis and proposed  
20 fee schedules to the Rate Committee.

21 **Monies Appropriated in this Bill:**

22           None

23 **Other Special Clauses:**

24           None

25 **Utah Code Sections Affected:**

26 AMENDS:

27           **63A-2-103**, as last amended by Chapter 11, Laws of Utah 1998



28 **63A-4-102**, as renumbered and amended by Chapter 212, Laws of Utah 1993

29 **63A-5-204**, as last amended by Chapters 23 and 231, Laws of Utah 2000

30 **63A-6-105**, as last amended by Chapters 16 and 209, Laws of Utah 2003

31 **63A-9-401**, as last amended by Chapter 5, Laws of Utah 2003

32 ENACTS:

33 **63A-1-114**, Utah Code Annotated 1953



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

36 Section 1. Section **63A-1-114** is enacted to read:

37 **63A-1-114. Rate Committee -- Membership -- Duties.**

38 (1) (a) There is created a Rate Committee which shall consist of:

39 (i) the director of the Governor's Office of Planning and Budget, or a designee;

40 (ii) the executive directors of three state agencies that use services and pay rates to one  
41 of the department internal service funds, or their designee, appointed by the governor for a  
42 two-year term;

43 (iii) the executive director of the Department of Administrative Services, or a designee;

44 (iv) the director of the Division of Finance, or a designee; and

45 (v) the chief information officer.

46 (b) (i) The committee shall elect a chair from its members.

47 (ii) Members of the committee who are state government employees and who do not  
48 receive salary, per diem, or expenses from their agency for their service on the committee shall  
49 receive no compensation, benefits, per diem, or expenses for the members' service on the  
50 committee.

51 (c) The Department of Administrative Services shall provide staff services to the  
52 committee.

53 (2) (a) The internal service funds managed by the following divisions shall submit to  
54 the committee a proposed fee schedule for services rendered by the divisions to an executive  
55 branch entity or an entity that subscribes to services rendered by the division, the:

56 (i) Division of Facilities and Construction Management;

57 (ii) Division of Fleet Operations;

58 (iii) Division of Purchasing and General Services;

- 59           (iv) Division of Information Technology Services; and  
60           (v) Division of Risk Management.  
61           (b) The committee shall:  
62           (i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public  
63 Meetings;  
64           (ii) review the proposed fee schedules and may approve, increase, or decrease the fee;  
65           (iii) recommend a proposed fee schedule for each internal service fund to:  
66           (A) the Governor's Office of Planning and Budget; and  
67           (B) the legislative appropriations subcommittees that, in accordance with Section  
68 63-38-3.5, approve the internal service fund agency's rates, fees, and budget; and  
69           (iv) review and approve, increase or decrease an interim rate, fee, or amount when an  
70 internal service fund agency begins a new service or introduces a new product between annual  
71 general sessions of the Legislature.  
72           (c) The committee may in accordance with Subsection 63-38-3.5(4) decrease a rate,  
73 fee, or amount that has been approved by the Legislature.  
74           Section 2. Section **63A-2-103** is amended to read:  
75           **63A-2-103. General services provided -- Subscription by state departments, state**  
76 **agencies, and certain local governmental entities -- Fee schedule.**  
77           (1) (a) The director of the Division of Purchasing and General Services shall operate,  
78 manage, and maintain:  
79           (i) a central mailing service; and  
80           (ii) an electronic central store system for procuring goods and services.  
81           (b) The director may establish microfilming, duplicating, printing, addressograph, and  
82 other central services.  
83           (2) (a) Each state department and agency shall subscribe to all of the services described  
84 in Subsection (1), unless the director delegates the director's authority to a department or  
85 agency under Section 63A-2-104.  
86           (b) An institution of higher education, school district, or political subdivision of the  
87 state may subscribe to one or more of the services described in Subsection (1).  
88           (3) [~~(a)~~] The director shall:  
89           (a) prescribe a schedule of fees to be charged for all services provided by the division

90 to any department or agency after [~~receiving prior approval of the fee schedule from the: (i)~~  
91 ~~director of the Division of Finance; and] the director:~~

92 (i) submits the proposed fees to the Rate Committee established in Section 63A-1-114;  
93 and

94 (ii) obtains the approval of the Legislature, as required by [~~Section-~~] Sections  
95 63-38-3.2[-] and 63-38-3.5;

96 (b) [~~When~~] when practicable, [~~the director of the Division of Purchasing and General~~  
97 ~~Services shall]~~ ensure that the fees are approximately equal to the cost of providing the  
98 services[-]; and

99 (c) conduct a market analysis by July 1, 2005, and periodically thereafter of fees, which  
100 analysis shall include comparison of the division's rates with the fees of other public or private  
101 sector providers where comparable services and rates are reasonably available.

102 Section 3. Section **63A-4-102** is amended to read:

103 **63A-4-102. Risk manager -- Powers.**

104 (1) The risk manager may:

105 (a) enter into contracts;

106 (b) purchase insurance;

107 (c) adjust, settle, and pay claims;

108 (d) pay expenses and costs;

109 (e) study the risks of all state agencies and properties;

110 (f) issue certificates of coverage to state agencies for any risks covered by Risk

111 Management Fund;

112 (g) make recommendations about risk management and risk reduction strategies to  
113 state agencies;

114 (h) in consultation with the attorney general, prescribe insurance and liability  
115 provisions to be included in all state contracts;

116 (i) review agency building construction, major remodeling plans, agency program  
117 plans, and make recommendations to the agency about needed changes to address risk  
118 considerations;

119 (j) attend agency planning and management meetings when necessary;

120 (k) review any proposed legislation and communicate with legislators and legislative

121 committees about the liability or risk management issues connected with any legislation; and

122 (1) solicit any needed information about agency plans, agency programs, or agency  
123 risks necessary to perform his responsibilities under this part.

124 (2) (a) The risk manager may expend monies from the Risk Management Fund to  
125 procure and provide coverage to all state agencies and their indemnified employees, except  
126 those agencies or employees specifically exempted by statute.

127 (b) The risk manager shall apportion the costs of that coverage according to the  
128 requirements of this part.

129 (3) Before charging a fee to an executive branch agency, or to a subscriber of services  
130 other than an executive branch agency, the director shall:

131 (a) submit the proposed fees and cost analysis to the Rate Committee established in  
132 Section 63A-1-114; and

133 (b) obtain the approval of the Legislature as required by Section 63-38-3.5.

134 (4) The director shall conduct a market analysis by July 1, 2005, and periodically  
135 thereafter, of proposed fees, which analysis shall include a comparison of the division's rates  
136 with the fees of other public or private sector providers where comparable services and rates  
137 are reasonably available.

138 Section 4. Section **63A-5-204** is amended to read:

139 **63A-5-204. Specific powers and duties of director.**

140 (1) As used in this section, "capitol hill facilities" and "capitol hill grounds" have the  
141 same meaning as provided in Section 63C-9-102.

142 (2) (a) The director shall:

143 (i) recommend rules to the executive director for the use and management of facilities  
144 and grounds owned or occupied by the state for the use of its departments and agencies;

145 (ii) supervise and control the allocation of space, in accordance with legislative  
146 directive through annual appropriations acts or other specific legislation, to the various  
147 departments, commissions, institutions, and agencies in all buildings or space owned, leased, or  
148 rented by or to the state, except capitol hill facilities and capitol hill grounds and except as  
149 otherwise provided by law;

150 (iii) comply with the procedures and requirements of Title 63A, Chapter 5, Part 3,  
151 Division of Facilities Construction and Management Leasing;

152 (iv) except as provided in Subsection (2)(b), acquire, as authorized by the Legislature  
153 through the appropriations act or other specific legislation, and hold title to, in the name of the  
154 division, all real property, buildings, fixtures, or appurtenances owned by the state or any of its  
155 agencies;

156 (v) adopt and use a common seal, of a form and design determined by the director, and  
157 of which courts shall take judicial notice;

158 (vi) file a description and impression of the seal with the Division of Archives;

159 (vii) collect and maintain all deeds, abstracts of title, and all other documents  
160 evidencing title to or interest in property belonging to the state or any of its departments, except  
161 institutions of higher education and the School and Institutional Trust Lands Administration;

162 (viii) report all properties acquired by the state, except those acquired by institutions of  
163 higher education, to the director of the Division of Finance for inclusion in the state's financial  
164 records; ~~and~~

165 (ix) before charging a fee to an executive branch agency, or to a subscriber of services  
166 other than an executive branch agency:

167 (A) submit the proposed fees and cost analysis to the Rate Committee established in  
168 Section 63A-1-114; and

169 (B) obtain the approval of the Legislature as required by Section 63-38-3.5;

170 (x) conduct a market analysis by July 1, 2005, and periodically thereafter, of proposed  
171 fees, which analysis shall include a comparison of the division's rates with the fees of other  
172 public or private sector providers where comparable services and rates are reasonably  
173 available; and

174 ~~(ix)~~ (xi) take all other action necessary for carrying out the purposes of this chapter.

175 (b) Legislative approval is not required for acquisitions by the division that cost less  
176 than \$250,000.

177 (3) (a) The director shall direct or delegate maintenance and operations, preventive  
178 maintenance, and facilities inspection programs and activities for any department, commission,  
179 institution, or agency, except:

180 (i) the State Capitol Preservation Board; and

181 (ii) state institutions of higher education.

182 (b) The director may choose to delegate responsibility for these functions only when

183 the director determines that:

184 (i) the department or agency has requested the responsibility;

185 (ii) the department or agency has the necessary resources and skills to comply with  
186 facility maintenance standards approved by the State Building Board; and

187 (iii) the delegation would result in net cost savings to the state as a whole.

188 (c) The State Capitol Preservation Board and state institutions of higher education are  
189 exempt from Division of Facilities Construction and Management oversight.

190 (d) Each state institution of higher education shall comply with the facility  
191 maintenance standards approved by the State Building Board.

192 (e) Except for the State Capitol Preservation Board, agencies and institutions that are  
193 exempt from division oversight shall annually report their compliance with the facility  
194 maintenance standards to the division in the format required by the division.

195 (f) The division shall:

196 (i) prescribe a standard format for reporting compliance with the facility maintenance  
197 standards;

198 (ii) report agency and institution compliance or noncompliance with the standards to  
199 the Legislature; and

200 (iii) conduct periodic audits of exempt agencies and institutions to ensure that they are  
201 complying with the standards.

202 (4) (a) In making any allocations of space under Subsection (2), the director shall:

203 (i) conduct studies to determine the actual needs of each department, commission,  
204 institution, or agency; and

205 (ii) comply with the restrictions contained in this Subsection (4).

206 (b) The supervision and control of the legislative area is reserved to the Legislature.

207 (c) The supervision and control of the judicial area is reserved to the judiciary for trial  
208 courts only.

209 (d) The director may not supervise or control the allocation of space for entities in the  
210 public and higher education systems.

211 (e) The supervision and control of capitol hill facilities and capitol hill grounds is  
212 reserved to the State Capitol Preservation Board.

213 (5) The director may:

214 (a) hire or otherwise procure assistance and services, professional, skilled, or  
215 otherwise, that are necessary to carry out the director's responsibilities, and may expend funds  
216 provided for that purpose either through annual operating budget appropriations or from  
217 nonlapsing project funds;

218 (b) sue and be sued in the name of the division; and

219 (c) hold, buy, lease, and acquire by exchange or otherwise, as authorized by the  
220 Legislature, whatever real or personal property that is necessary for the discharge of the  
221 director's duties.

222 (6) Notwithstanding the provisions of Subsection (2)(a)(iv), the following entities may  
223 hold title to any real property, buildings, fixtures, and appurtenances held by them for purposes  
224 other than administration that are under their control and management:

225 (a) the Office of Trust Administrator;

226 (b) the Department of Transportation;

227 (c) the Division of Forestry, Fire and State Lands;

228 (d) the Department of Natural Resources;

229 (e) the Utah National Guard;

230 (f) any area vocational center or other institution administered by the State Board of  
231 Education; and

232 (g) any institution of higher education.

233 (7) The director shall ensure that any firm performing testing and inspection work  
234 governed by the American Society for Testing Materials Standard E-329 on public buildings  
235 under the director's supervision shall:

236 (a) fully comply with the American Society for Testing Materials standard  
237 specifications for agencies engaged in the testing and inspection of materials known as ASTM  
238 E-329; and

239 (b) carry a minimum of \$1,000,000 of errors and omissions insurance.

240 (8) Notwithstanding Subsections (2)(a)(iii) and (iv), the School and Institutional Trust  
241 Lands Administration may hold title to any real property, buildings, fixtures, and appurtenances  
242 held by it that are under its control.

243 Section 5. Section **63A-6-105** is amended to read:

244 **63A-6-105. Duties of director -- Fees -- Rate Committee -- Advisory committee.**



- 245 (1) The director shall:
- 246 (a) at the lowest practical cost, manage the delivery of efficient and cost-effective
- 247 information technology and telecommunication services for:
- 248 (i) all executive branch agencies; and
- 249 (ii) entities that subscribe to the services in accordance with Section 63A-6-106; and
- 250 (b) provide priority service to public safety agencies.
- 251 (2) The director may negotiate the purchase, lease, or rental of private or public
- 252 information technology or telecommunication services or facilities.
- 253 (3) Where practical, efficient, and economically beneficial, the director shall use
- 254 existing private and public information technology or telecommunication resources.
- 255 (4) (a) In accordance with Section 63D-1a-303, the director shall provide the chief
- 256 information officer a written analysis of any agency information technology plan provided to
- 257 the division.
- 258 (b) In accordance with Section 63D-1a-307, the division shall submit the division's
- 259 agency information technology plan for approval by the chief information officer.
- 260 (5) (a) In accordance with this Subsection (5), the director shall prescribe a schedule of
- 261 fees for all services rendered by the division to:
- 262 (i) an executive branch entity; or
- 263 (ii) an entity that subscribes to services rendered by the division in accordance with
- 264 Section 63A-6-106.
- 265 (b) Each fee included in the schedule of fees required by Subsection (5)(a) shall be:
- 266 (i) equitable; and
- 267 (ii) sufficient to recover all the costs of operation, including the cost of capital
- 268 equipment and facilities.
- 269 (c) Before charging a fee to an executive branch agency, or to a subscriber of services
- 270 other than an executive branch agency, the director shall [~~obtain approval of the schedule of~~
- 271 ~~fees described in Subsection (5)(a) from the Rate Committee created in Subsection (5)(d):~~]:
- 272 (i) submit the proposed fees and cost analysis to the Rate Committee established in
- 273 Section 63A-1-114; and
- 274 (ii) obtain the approval of the Legislature as required by Section 63-38-3.5.
- 275 (d) The director shall conduct a market analysis by July 1, 2005, and periodically

276 thereafter, of proposed fees, which analysis shall include a comparison of the division's rates  
277 with the fees of other public or private sector providers where comparable services and rates  
278 are reasonably available.

279 ~~[(d) (i) There is created a Rate Committee which shall consist of:]~~  
280 ~~[(A) the executive director;]~~  
281 ~~[(B) the director of the Division of Finance;]~~  
282 ~~[(C) the director of the Governor's Office of Planning and Budget;]~~  
283 ~~[(D) the chief information officer;]~~  
284 ~~[(E) a representative of executive branch agencies;]~~  
285 ~~[(F) appointed by the Rate Committee; and]~~  
286 ~~[(H) nominated by the governor; and]~~  
287 ~~[(F) a representative of the executive branch agencies' administrative services~~  
288 ~~managers;]~~  
289 ~~[(I) appointed by the Rate Committee; and]~~  
290 ~~[(H) nominated by the agencies' administrative services managers coordination group.]~~  
291 ~~[(ii) In appointing the agency representatives listed in Subsections (5)(d)(i)(E) and (F);~~  
292 ~~the Rate Committee shall appoint:]~~  
293 ~~[(A) (I) one representative from a large agency; and]~~  
294 ~~[(H) one representative from a small agency; and]~~  
295 ~~[(B) the representatives described in Subsection (5)(d)(ii)(A) to four-year terms of~~  
296 ~~office, except that initially one of the appointments shall be for a two-year term in order to~~  
297 ~~stagger the appointments.]~~  
298 ~~[(iii) In the event of a vacancy for any reason for a representative described in~~  
299 ~~Subsection (5)(d)(i)(E) or (F), the entity responsible for nominating the person who is vacating~~  
300 ~~the position shall provide new nominations to the Rate Committee to fill the unexpired term.]~~  
301 ~~[(e) Before charging a fee to a subscriber of services other than an executive branch~~  
302 ~~agency, the director shall provide a copy of the schedule of fees to the commission at least 60~~  
303 ~~days before the day on which the fee is charged.]~~  
304 ~~[(f) When modifying a fee, the director shall attempt to provide sufficient notice to the~~  
305 ~~entities that will be charged the modified fee so that the entities may reflect those fee changes~~  
306 ~~in the entities' budgets.]~~

307 (6) (a) The director shall create advisory committees composed of representatives of  
308 user agencies.

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

311 Section 6. Section **63A-9-401** is amended to read:

312 **63A-9-401. Division -- Duties.**

313 (1) The division shall:

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

316 (b) coordinate all purchases of state vehicles;

317 (c) establish one or more fleet automation and information systems for state vehicles;

318 (d) make rules establishing requirements for:

319 (i) maintenance operations for state vehicles;

320 (ii) use requirements for state vehicles;

321 (iii) fleet safety and loss prevention programs;

322 (iv) preventative maintenance programs;

323 (v) procurement of state vehicles, including vehicle standards, alternative fuel vehicle  
324 requirements, short-term lease programs, equipment installation, and warranty recovery  
325 programs;

326 (vi) fuel management programs;

327 (vii) cost management programs;

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

329 (ix) cost recovery and billing procedures;

330 (x) disposal of state vehicles;

331 (xi) reassignment of state vehicles and reallocation of vehicles throughout the fleet;

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

333 (xiii) insurance and risk management requirements;

334 (e) establish a parts inventory;

335 (f) create and administer a fuel dispensing services program that meets the  
336 requirements of Subsection (2);

337 (g) emphasize customer service when dealing with agencies and agency employees;

338 [and]

339 (h) conduct an annual audit of all state vehicles for compliance with division  
340 requirements[-];

341 (i) before charging a fee to an executive branch agency, or to a subscriber of services  
342 other than an executive branch agency:

343 (A) submit the proposed fees and cost analysis to the Rate Committee established in  
344 Section 63A-1-114; and

345 (B) obtain the approval of the Legislature as required by Section 63-38-3.5; and

346 (j) conduct a market analysis by July 1, 2005, and periodically thereafter, of proposed  
347 fees, which analysis shall include a comparison of the division's rates with the fees of other  
348 public or private sector providers where comparable services and rates are reasonably available.

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

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

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

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

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

357 (e) provides central planning for fuel contingencies;

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

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

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

362 (3) The division shall:

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

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

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

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

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

371 (iii) defines the liability of the parties.

372 (4) The executive director of the Department of Administrative Services may make  
373 rules governing fuel dispensing according to the procedures and requirements of Title 63,  
374 Chapter 46a, Utah Administrative Rulemaking Act.

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

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

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

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

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

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

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

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

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

**Legislative Review Note**  
**as of 11-25-03 12:16 PM**

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

**Office of Legislative Research and General Counsel**

**Mixed Membership Committee Note**  
**as of 12-10-03 1:29 PM**

**H.B. 30**

**12-10-03 1:29 PM**

The Utah Technology Commission recommended this bill.

Membership:	8 legislators	5 non-legislators	
Legislative Vote:	7 voting for	0 voting against	1 absent

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**Fiscal Note**

Amendments to Administrative Service Rate Committee

17-Jan-04

**Bill Number HB0030**1:00 PM

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**State Impact**

No fiscal impact.

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**Individual and Business Impact**No fiscal impact.

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**Office of the Legislative Fiscal Analyst**