

SB0016S01 compared with SB0016

~~{deleted text}~~ shows text that was in SB0016 but was deleted in SB0016S01.

Inserted text shows text that was not in SB0016 but was inserted into SB0016S01.

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Senator Daniel Hemmert proposes the following substitute bill:

PUBLIC UTILITIES COMMITTEE REPORTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel Hemmert

House Sponsor: Stephen G. Handy

LONG TITLE

~~{Committee Note:~~

~~— The Public Utilities, Energy, and Technology Interim Committee recommended this bill.~~

~~{General Description:~~

This bill addresses statutorily required reports related to public utilities, energy, and technology topics.

Highlighted Provisions:

This bill:

- ▶ repeals reporting requirements for certain reports to the Public Utilities, Energy, and Technology Interim Committee;
- ▶ consolidates reporting requirements for certain reports to the Public Utilities, Energy, and Technology Interim Committee; and

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- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

54-7-13.5, as last amended by Laws of Utah 2016, Chapter 393

~~{ **54-8b-15**, as last amended by Laws of Utah 2017, Chapter 423~~

{ **59-1-403**, as last amended by Laws of Utah 2018, Chapters 4, 92, and 376

63B-3-301, as last amended by Laws of Utah 2016, Chapters 13 and 144

63F-1-104, as last amended by Laws of Utah 2018, Chapter 200

63F-1-201, as last amended by Laws of Utah 2016, Chapter 13

63F-1-212, as enacted by Laws of Utah 2017, Chapter 238

REPEALS:

63F-1-901, as enacted by Laws of Utah 2017, Chapter 258

63F-1-902, as enacted by Laws of Utah 2017, Chapter 258

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

Section 1. Section **54-7-13.5** is amended to read:

54-7-13.5. Energy balancing accounts.

(1) As used in this section:

(a) "Base rates" means the same as that term is defined in Subsection 54-7-12(1).

(b) "Energy balancing account" means an electrical corporation account for some or all

components of the electrical corporation's incurred actual power costs, including:

(i) (A) fuel;

(B) purchased power; and

(C) wheeling expenses; and

(ii) the sum of the power costs described in Subsection (1)(b)(i) less wholesale

revenues.

(c) "Gas balancing account" means a gas corporation account to recover on a

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dollar-for-dollar basis, purchased gas costs, and gas cost-related expenses.

(2) (a) The commission may authorize an electrical corporation to establish an energy balancing account.

(b) An energy balancing account shall become effective upon a commission finding that the energy balancing account is:

- (i) in the public interest;
- (ii) for prudently-incurred costs; and
- (iii) implemented at the conclusion of a general rate case.

(c) An electrical corporation:

(i) may, with approval from the commission, recover costs under this section through:

- (A) base rates;
- (B) contract rates;
- (C) surcredits; or
- (D) surcharges; and

(ii) shall file a reconciliation of the energy balancing account with the commission at least annually with actual costs and revenues incurred by the electrical corporation.

(d) Beginning June 1, 2016, for an electrical corporation with an energy balancing account established before January 1, 2016, the commission shall allow an electrical corporation to recover 100% of the electrical corporation's prudently incurred costs as determined and approved by the commission under this section.

(e) An energy balancing account may not alter:

- (i) the standard for cost recovery; or
- (ii) the electrical corporation's burden of proof.

(f) The collection method described in Subsection (2)(c)(i) shall:

- (i) apply to the appropriate billing components in base rates; and
- (ii) be incorporated into base rates in an appropriate commission proceeding.

(g) The collection of costs related to an energy balancing account from customers paying contract rates shall be governed by the terms of the contract.

(h) Revenues collected in excess of prudently incurred actual costs shall:

(i) be refunded as a bill surcredit to an electrical corporation's customers over a period specified by the commission; and

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(ii) include a carrying charge.

(i) Prudently incurred actual costs in excess of revenues collected shall:

(i) be recovered as a bill surcharge over a period to be specified by the commission;

and

(ii) include a carrying charge.

(j) The carrying charge applied to the balance in an energy balancing account shall be:

(i) determined by the commission; and

(ii) symmetrical for over or under collections.

(3) (a) The commission may:

(i) establish a gas balancing account for a gas corporation; and

(ii) set forth procedures for a gas corporation's gas balancing account in the gas corporation's commission-approved tariff.

(b) A gas balancing account may not alter:

(i) the standard of cost recovery; or

(ii) the gas corporation's burden of proof.

(4) (a) All allowed costs and revenues associated with an energy balancing account or gas balancing account shall remain in the respective balancing account until charged or refunded to customers.

(b) The balance of an energy balancing account or gas balancing account may not be:

(i) transferred by the electrical corporation or gas corporation; or

(ii) used by the commission to impute earnings or losses to the electrical corporation or gas corporation.

(c) An energy balancing account or gas balancing account that is formed and maintained in accordance with this section does not constitute impermissible retroactive ratemaking or single-issue ratemaking.

(5) This section does not create a presumption for or against approval of an energy balancing account.

~~[(6) The commission shall report to the Public Utilities and Technology Interim Committee before December 1 in 2017 and 2018 regarding whether allowing an electrical corporation to continue to recover costs under Subsection (2)(d) is reasonable and in the public interest.]~~

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Section 2. Section ~~{54-8b-15}~~59-1-403 is amended to read:

~~{~~~~54-8b-15. Universal Public Telecommunications Service Support Fund -- Commission duties -- Charges -- Lifeline program.~~

~~_____ (1) For purposes of this section:~~

~~_____ (a) "Broadband Internet access service" means the same as that term is defined in 47 C.F.R. Sec. 8.2:~~

~~_____ (b) "Carrier of last resort" means:~~

~~_____ (i) an incumbent telephone corporation; or~~

~~_____ (ii) a telecommunications corporation that, under Section 54-8b-2.1:~~

~~_____ (A) has a certificate of public convenience and necessity to provide local exchange service; and~~

~~_____ (B) has an obligation to provide public telecommunications service to any customer or class of customers that requests service within the local exchange.~~

~~_____ (c) "Connection" means an authorized session that uses Internet protocol or a functionally equivalent technology standard to enable an end-user to initiate or receive a call from the public switched network.~~

~~_____ (d) "Fund" means the Universal Public Telecommunications Service Support Fund established in this section.~~

~~_____ (e) "Non-rate-of-return regulated" means having price flexibility under Section 54-8b-2.3:~~

~~_____ (f) "Rate-of-return regulated" means subject to regulation under Section 54-4-4.~~

~~_____ (g) "Wholesale broadband Internet access service" means the end-user loop component of Internet access provided by a rate-of-return regulated carrier of last resort that is used to provide, at retail:~~

~~_____ (i) combined consumer voice and broadband Internet access; or~~

~~_____ (ii) stand-alone, consumer, broadband-only Internet access.~~

~~_____ (2) (a) There is established an expendable special revenue fund known as the "Universal Public Telecommunications Service Support Fund."~~

~~_____ (b) The fund shall provide a mechanism for a qualifying carrier of last resort to obtain specific, predictable, and sufficient funds to deploy and manage, for the purpose of providing service to end-users, networks capable of providing:~~

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- ~~—— (i) access lines;~~
- ~~—— (ii) connections; or~~
- ~~—— (iii) wholesale broadband Internet access service.~~
- ~~—— (c) The commission shall develop, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, policies and procedures to govern the administration of the fund.~~
- ~~—— (3) Subject to this section, the commission shall use funds in the Universal Public Telecommunications Service Support Fund to:~~
 - ~~—— (a) fund the hearing and speech impaired program described in Section 54-8b-10;~~
 - ~~—— (b) fund a lifeline program that covers the reasonable cost to an eligible telecommunications carrier, as determined by the commission, to offer lifeline service consistent with the Federal Communications Commission's lifeline program for low-income consumers;~~
 - ~~—— (c) fund, for the purpose of providing service to end-users, a rate-of-return regulated or non-rate-of-return regulated carrier of last resort's deployment and management of networks capable of providing:
 - ~~—— (i) access lines;~~
 - ~~—— (ii) connections; or~~
 - ~~—— (iii) wholesale broadband Internet access service that is consistent with Federal Communications Commission rules; and~~~~
 - ~~—— (d) fund one-time distributions from the Universal Public Telecommunications Service Support Fund for a non-rate-of-return regulated carrier of last resort's deployment and management of networks capable of providing:
 - ~~—— (i) access lines;~~
 - ~~—— (ii) connections; or~~
 - ~~—— (iii) broadband Internet access service.~~~~
- ~~—— (4) (a) A rate-of-return regulated carrier of last resort is eligible for payment from the Universal Public Telecommunications Service Support Fund if:
 - ~~—— (i) the rate-of-return regulated carrier of last resort provides the services described in Subsections (3)(c)(i) through (iii); and~~
 - ~~—— (ii) the rate-of-return regulated carrier of last resort's reasonable costs, as determined by~~~~

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~~the commission, to provide public telecommunications service and wholesale broadband Internet access service are greater than the sum of:~~

~~—— (A) the rate-of-return regulated carrier of last resort's revenue from basic residential service considered affordable by the commission;~~

~~} { —— (B) the rate-of-return regulated carrier of last resort's regulated revenue derived from providing other public telecommunications service;~~

~~—— (C) the rate-of-return regulated carrier of last resort's revenue from rates approved by the Federal Communications Commission for wholesale broadband Internet access service; and~~

~~—— (D) the amount the rate-of-return regulated carrier of last resort receives from federal universal service funds.~~

~~—— (b) A non-rate-of-return regulated carrier of last resort is eligible for payment from the Universal Public Telecommunications Service Support Fund for reimbursement of reasonable costs as determined by the commission if the non-rate-of-return regulated carrier meets criteria that are:~~

~~—— (i) consistent with Subsections (2) and (3); and~~

~~—— (ii) developed by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~

~~—— (5) A rate-of-return regulated carrier of last resort that qualifies for funds under this section:~~

~~—— (a) is entitled to a rate of return equal to the weighted average cost of capital rate of return prescribed by the Federal Communications Commission for rate-of-return regulated carriers; and~~

~~—— (b) may use any depreciation method allowed by the Federal Communications Commission.~~

~~—— (6) (a) The commission shall determine if a rate-of-return regulated carrier of last resort is correctly applying a depreciation method described in Subsection (5)(b).~~

~~—— (b) If the commission determines under Subsection (6)(a) that a rate-of-return regulated carrier of last resort is incorrectly applying a depreciation method or that the rate-of-return regulated carrier of last resort is not using a depreciation method allowed by the Federal Communications Commission, the commission shall issue an order that provides corrections to the rate-of-return regulated carrier of last resort's method of depreciation.~~

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~~—— (7) A carrier of last resort that receives funds from the Universal Public Telecommunications Service Support Fund may only use the funds in accordance with this section within the area for which the carrier of last resort has a carrier of last resort obligation.~~

~~—— (8) Each access line provider and each connection provider shall contribute to the Universal Public Telecommunications Service Support Fund through an explicit charge assessed by the commission on the access line provider or connection provider.~~

~~—— (9) The commission shall calculate the amount of each explicit charge described in Subsection (8) using a method developed by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:~~

~~—— (a) does not discriminate against:~~

~~—— (i) any access line or connection provider; or~~

~~—— (ii) the technology used by any access line or connection provider;~~

~~—— (b) is competitively neutral; and~~

~~—— (c) is a function of an access line or connection provider's:~~

~~—— (i) annual intrastate revenue;~~

~~—— (ii) number of access lines or connections in the state; or~~

~~—— (iii) a combination of an access line or connection provider's annual intrastate revenue and number of access lines or connections in the state.~~

~~—— (10) The commission shall develop the method described in Subsection (9) before January 1, 2018.~~

~~—— (11) An access line or connection provider that provides mobile telecommunications service shall contribute to the Universal Public Telecommunications Service Support Fund only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.~~

~~—— (12) Nothing in this section shall be construed to enlarge or reduce the commission's jurisdiction or authority, as provided in other provisions of this title.~~

~~—— (13) A person that fails to make a required contribution to the fund created by this section, or that fails to comply with a commission directive concerning the person's books, records, or other information required by the commission to administer this section, is subject to applicable penalties.~~

~~—— (14) Nothing in this section gives the commission the authority:~~

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~~_____ (a) to regulate broadband Internet access service;~~

~~_____ (b) to require a carrier of last resort to provide broadband Internet access service; or~~

~~_____ (c) assess a contribution in violation of the Internet Tax Freedom Act, 47 U.S.C. Sec. 151 note.~~

~~_____ (15) (a) A facilities-based or nonfacilities-based wireless telecommunication provider is eligible for distributions from the Universal Telecommunications Service Support Fund under the lifeline program described in Subsection (3)(b) for providing lifeline service that is consistent with the Federal Communications Commission's lifeline program for low-income consumers.~~

~~_____ (b) Except as provided in Subsection (15)(c), the commission may impose reasonable conditions for providing a distribution to a wireless telecommunication provider under the lifeline program described in Subsection (3)(b).~~

~~_____ (c) The commission may not require a wireless telecommunication provider to offer unlimited local calling to a lifeline customer as a condition of receiving a distribution under the lifeline program described in Subsection (3)(b).~~

~~_____ [(16) The commission shall report to the Public Utilities, Energy, and Technology Interim Committee each year before November 1 regarding:]~~

~~_____ [(a) the contribution method described in Subsection (9);]~~

~~_____ [(b) the amount of distributions from and contributions to the Universal Public Telecommunications Service Support Fund during the last fiscal year;]~~

~~_____ [(c) the availability of services for which Subsection (3) permits Universal Public Telecommunications Service Support Fund funds to be used; and]~~

~~_____ [(d) the effectiveness and efficiency of the Universal Public Telecommunications Service Support Fund.]~~

~~_____ Section 3. Section 59-1-403 is amended to read:~~

‡ **59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.**

(1) (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

(i) a tax commissioner;

(ii) an agent, clerk, or other officer or employee of the commission; or

(iii) a representative, agent, clerk, or other officer or employee of any county, city, or

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town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

(i) in accordance with judicial order;

(ii) on behalf of the commission in any action or proceeding under:

(A) this title; or

(B) other law under which persons are required to file returns with the commission;

(iii) on behalf of the commission in any action or proceeding to which the commission is a party; or

(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (1)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(2) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

(i) who brings action to set aside or review a tax based on the report or return;

(ii) against whom an action or proceeding is contemplated or has been instituted under this title; or

(iii) against whom the state has an unsatisfied money judgment.

(3) (a) Notwithstanding Subsection (1) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

(i) the United States Internal Revenue Service; or

(ii) the revenue service of any other state.

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(b) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (1), the commission shall provide to the director of the Division of Environmental Response and Remediation, as defined in Section 19-6-402, as requested by the director of the Division of Environmental Response and Remediation, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection (1), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

- (i) Chapter 13, Part 2, Motor Fuel; or
- (ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

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(g) Notwithstanding Subsection (1), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (1), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (1), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Management and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (1), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (1), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l) (i) Notwithstanding Subsection (1), the commission shall provide the Office of Recovery Services within the Department of Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (3)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m) (i) Notwithstanding Subsection (1), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and social security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection

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(3)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n) (i) As used in this Subsection (3)(n):

(A) "GOED" means the Governor's Office of Economic Development created in Section 63N-1-201.

(B) "Income tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(C) "Other tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission except for a return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(D) "Tax information" means income tax information or other tax information.

(ii) (A) Notwithstanding Subsection (1) and except as provided in Subsection (3)(n)(ii)(B) or (C), the commission shall at the request of GOED provide to GOED all income tax information.

(B) For purposes of a request for income tax information made under Subsection (3)(n)(ii)(A), GOED may not request and the commission may not provide to GOED a person's address, name, social security number, or taxpayer identification number.

(C) In providing income tax information to GOED, the commission shall in all instances protect the privacy of a person as required by Subsection (3)(n)(ii)(B).

(iii) (A) Notwithstanding Subsection (1) and except as provided in Subsection (3)(n)(iii)(B), the commission shall at the request of GOED provide to GOED other tax information.

(B) Before providing other tax information to GOED, the commission shall redact or remove any name, address, social security number, or taxpayer identification number.

(iv) GOED may provide tax information received from the commission in accordance with this Subsection (3)(n) only:

(A) as a fiscal estimate, fiscal note information, or statistical information; and

(B) if the tax information is classified to prevent the identification of a particular return.

(v) (A) A person may not request tax information from GOED under Title 63G,

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Chapter 2, Government Records Access and Management Act, or this section, if GOED received the tax information from the commission in accordance with this Subsection (3)(n).

(B) GOED may not provide to a person that requests tax information in accordance with Subsection (3)(n)(v)(A) any tax information other than the tax information GOED provides in accordance with Subsection (3)(n)(iv).

(o) Notwithstanding Subsection (1), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection (3)(o)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(p) Notwithstanding Subsection (1), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(q) Notwithstanding Subsection (1), the commission shall provide to the Utah Communications Authority, or a division of the Utah Communications Authority, the information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and 63H-7a-502.

(r) Notwithstanding Subsection (1), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(s) Notwithstanding Subsection (1), for the purpose of verifying eligibility under Sections 26-18-2.5 and 26-40-105, the commission shall provide an eligibility worker with the

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Department of Health or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26-18-2.5 and 26-40-105.

(t) Notwithstanding Subsection (1), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(u) Notwithstanding Subsection (1), the commission shall provide a report regarding any access line provider that is over 90 days delinquent in payment to the commission of amounts the access line provider owes under Title 69, Chapter 2, Part 4, 911 Emergency Service Charges, to [~~:(i) the board of the Utah Communications Authority created in Section 63H-7a-201; and (ii) the Public Utilities, Energy, and Technology Interim Committee.~~] the board of the Utah Communications Authority created in Section 63H-7a-201.

(v) Notwithstanding Subsection (1), the commission shall provide the Department of Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the previous calendar year under Section 59-24-103.5.

(w) Notwithstanding Subsection (1), the commission may, upon request, provide to the Department of Workforce Services any information received under Chapter 10, Part 4, Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

(4) (a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (4)(a) the commission may destroy a report or return.

(5) (a) Any individual who violates this section is guilty of a class A misdemeanor.

(b) If the individual described in Subsection (5)(a) is an officer or employee of the state, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (5)(a) or (b), GOED, when requesting information in accordance with Subsection (3)(n)(iii), or an individual who requests information in accordance with Subsection (3)(n)(v):

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- (i) is not guilty of a class A misdemeanor; and
- (ii) is not subject to:
 - (A) dismissal from office in accordance with Subsection (5)(b); or
 - (B) disqualification from holding public office in accordance with Subsection (5)(b).
- (6) Except as provided in Section 59-1-404, this part does not apply to the property tax.

Section ~~4~~3. Section **63B-3-301** is amended to read:

63B-3-301. Legislative intent -- Additional projects.

(1) It is the intent of the Legislature that, for any lease purchase agreement that the Legislature may authorize the Division of Facilities Construction and Management to enter into during its 1994 Annual General Session, the State Building Ownership Authority, at the reasonable rates and amounts it may determine, and with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Management and Budget, may seek out the most cost effective and prudent lease purchase plans available to the state and may, pursuant to [~~Title 63B,~~] Chapter 1, Part 3, State Building Ownership Authority Act, certificate out interests in, or obligations of the authority pertaining to:

- (a) the lease purchase obligation; or
- (b) lease rental payments under the lease purchase obligation.

(2) It is the intent of the Legislature that the Department of Transportation dispose of surplus real properties and use the proceeds from those properties to acquire or construct through the Division of Facilities Construction and Management a new District Two Complex.

(3) It is the intent of the Legislature that the State Building Board allocate funds from the Capital Improvement appropriation and donations to cover costs associated with the upgrade of the Governor's Residence that go beyond the restoration costs which can be covered by insurance proceeds.

(4) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of [~~Title 63B,~~] Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$10,600,000 for the construction of a Natural Resources Building in Salt Lake City, together with additional amounts necessary to:

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- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Management and Budget.

(c) It is the intent of the Legislature that the operating budget for the Department of Natural Resources not be increased to fund these lease payments.

(5) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of [~~Title 63B;~~] Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$8,300,000 for the acquisition of the office buildings currently occupied by the Department of Environmental Quality and approximately 19 acres of additional vacant land at the Airport East Business Park in Salt Lake City, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Management and Budget.

(6) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of [~~Title 63B;~~] Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$9,000,000 for the acquisition or construction of up to two field offices for the Department of Human Services in the southwestern portion of Salt Lake County, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and

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(iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Management and Budget.

(7) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of [~~Title 63B,~~] Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for lease purchase agreements in which participation interests may be created, to provide up to \$5,000,000 for the acquisition or construction of up to 13 stores for the Department of Alcoholic Beverage Control, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Management and Budget.

(c) It is the intent of the Legislature that the operating budget for the Department of Alcoholic Beverage Control not be increased to fund these lease payments.

(8) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of [~~Title 63B,~~] Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$6,800,000 for the construction of a Prerelease and Parole Center for the Department of Corrections, containing a minimum of 300 beds, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the

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director of the Division of Finance, and the executive director of the Governor's Office of Management and Budget.

(9) If S.B. 275, 1994 General Session, which authorizes funding for a Courts Complex in Salt Lake City, becomes law, it is the intent of the Legislature that:

(a) the Legislative Management Committee, the Interim Appropriation Subcommittees for General Government and Capital Facilities and Executive Offices, Courts, and Corrections, the Office of the Legislative Fiscal Analyst, the Governor's Office of Management and Budget, and the State Building Board participate in a review of the proposed facility design for the Courts Complex no later than December 1994; and

(b) although this review will not affect the funding authorization issued by the 1994 Legislature, it is expected that Division of Facilities Construction and Management will give proper attention to concerns raised in these reviews and make appropriate design changes pursuant to the review.

(10) It is the intent of the Legislature that:

(a) the Division of Facilities Construction and Management, in cooperation with the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services, develop a flexible use prototype facility for the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services;

(b) the development process use existing prototype proposals unless it can be quantifiably demonstrated that the proposals cannot be used;

(c) the facility is designed so that with minor modifications, it can accommodate detention, observation and assessment, transition, and secure programs as needed at specific geographical locations;

(d) (i) funding as provided in the fiscal year 1995 bond authorization for the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services is used to design and construct one facility and design the other;

(ii) the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services shall:

(A) determine the location for the facility for which design and construction are fully funded; and

(B) in conjunction with the Division of Facilities Construction and Management,

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determine the best methodology for design and construction of the fully funded facility;

(e) the Division of Facilities Construction and Management submit the prototype as soon as possible to the Infrastructure and General Government Appropriations Subcommittee and Executive Offices, Criminal Justice, and Legislature Appropriation Subcommittee for review;

(f) the Division of Facilities Construction and Management issue a Request for Proposal for one of the facilities, with that facility designed and constructed entirely by the winning firm;

(g) the other facility be designed and constructed under the existing Division of Facilities Construction and Management process;

(h) that both facilities follow the program needs and specifications as identified by Division of Facilities Construction and Management and the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services in the prototype; and

(i) the fully funded facility should be ready for occupancy by September 1, 1995.

(11) It is the intent of the Legislature that the fiscal year 1995 funding for the State Fair Park Master Study be used by the Division of Facilities Construction and Management to develop a master plan for the State Fair Park that:

(a) identifies capital facilities needs, capital improvement needs, building configuration, and other long term needs and uses of the State Fair Park and its buildings; and

(b) establishes priorities for development, estimated costs, and projected timetables.

(12) It is the intent of the Legislature that:

(a) the Division of Facilities Construction and Management, in cooperation with the Division of Parks and Recreation and surrounding counties, develop a master plan and general program for the phased development of Antelope Island;

(b) the master plan:

(i) establish priorities for development;

(ii) include estimated costs and projected time tables; and

(iii) include recommendations for funding methods and the allocation of responsibilities between the parties; and

(c) the results of the effort be reported to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee and Infrastructure and General

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Government Appropriations Subcommittee.

(13) It is the intent of the Legislature to authorize the University of Utah to use:

(a) bond reserves to plan, design, and construct the Kingsbury Hall renovation under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(b) donated and other nonappropriated funds to plan, design, and construct the Biology Research Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(14) It is the intent of the Legislature to authorize Utah State University to use:

(a) federal and other funds to plan, design, and construct the Bee Lab under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(b) donated and other nonappropriated funds to plan, design, and construct an Athletic Facility addition and renovation under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(c) donated and other nonappropriated funds to plan, design, and construct a renovation to the Nutrition and Food Science Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(d) federal and private funds to plan, design, and construct the Millville Research Facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(15) It is the intent of the Legislature to authorize Salt Lake Community College to use:

(a) institutional funds to plan, design, and construct a remodel to the Auto Trades Office and Learning Center under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(b) institutional funds to plan, design, and construct the relocation and expansion of a temporary maintenance compound under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

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(c) institutional funds to plan, design, and construct the Alder Amphitheater under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(16) It is the intent of the Legislature to authorize Southern Utah University to use:

(a) federal funds to plan, design, and construct a Community Services Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(b) donated and other nonappropriated funds to plan, design, and construct a stadium expansion under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(17) It is the intent of the Legislature to authorize the Department of Corrections to use donated funds to plan, design, and construct a Prison Chapel at the Central Utah Correctional Facility in Gunnison under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(18) If the Utah National Guard does not relocate in the Signetics Building, it is the intent of the Legislature to authorize the Guard to use federal funds and funds from Provo City to plan and design an Armory in Provo, Utah, under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(19) It is the intent of the Legislature that the Utah Department of Transportation use \$250,000 of the fiscal year 1995 highway appropriation to fund an environmental study in Ogden, Utah of the 2600 North Corridor between Washington Boulevard and I-15.

(20) It is the intent of the Legislature that the Ogden-Weber Applied Technology Center use the money appropriated for fiscal year 1995 to design the Metal Trades Building and purchase equipment for use in that building that could be used in metal trades or other programs in other Applied Technology Centers.

(21) It is the intent of the Legislature that the Bridgerland Applied Technology Center and the Ogden-Weber Applied Technology Center projects as designed in fiscal year 1995 be considered as the highest priority projects for construction funding in fiscal year 1996.

(22) It is the intent of the Legislature that:

(a) the Division of Facilities Construction and Management complete physical space

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utilization standards by June 30, 1995, for the use of technology education activities;

(b) these standards are to be developed with and approved by the State Board of Education, the Board of Regents, and the Utah State Building Board;

(c) these physical standards be used as the basis for:

(i) determining utilization of any technology space based on number of stations capable and occupied for any given hour of operation; and

(ii) requests for any new space or remodeling;

(d) the fiscal year 1995 projects at the Bridgerland Applied Technology Center and the Ogden-Weber Applied Technology Center are exempt from this process; and

(e) the design of the Davis Applied Technology Center take into account the utilization formulas established by the Division of Facilities Construction and Management.

(23) It is the intent of the Legislature that Utah Valley State College may use the money from the bond allocated to the remodel of the Signetics building to relocate its technical education programs at other designated sites or facilities under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(24) It is the intent of the Legislature that the money provided for the fiscal year 1995 project for the Bridgerland Applied Technology Center be used to design and construct the space associated with Utah State University and design the technology center portion of the project.

(25) It is the intent of the Legislature that the governor provide periodic reports on the expenditure of the funds provided for electronic technology, equipment, and hardware to [~~the Public Utilities, Energy, and Technology Interim Committee;~~] the Infrastructure and General Government Appropriations Subcommittee, and the Legislative Management Committee.

Section ~~5~~4. Section **63F-1-104** is amended to read:

63F-1-104. Purposes.

The department shall:

(1) lead state executive branch agency efforts to establish and reengineer the state's information technology architecture with the goal of coordinating central and individual agency information technology in a manner that:

(a) ensures compliance with the executive branch agency strategic plan; and

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(b) ensures that cost-effective, efficient information and communication systems and resources are being used by agencies to:

- (i) reduce data, hardware, and software redundancy;
- (ii) improve system interoperability and data accessibility between agencies; and
- (iii) meet the agency's and user's business and service needs;

(2) coordinate an executive branch strategic plan for all agencies;

(3) develop and implement processes to replicate information technology best practices and standards throughout the executive branch;

(4) at least once every odd-numbered year:

(a) evaluate the adequacy of the department's and the executive branch agencies' data and information technology system security standards through an independent third party assessment; and

(b) communicate the results of the independent third party assessment to the appropriate executive branch agencies and to the president of the Senate and the speaker of the House of Representatives;

(5) oversee the expanded use and implementation of project and contract management principles as they relate to information technology projects within the executive branch;

(6) serve as general contractor between the state's information technology users and private sector providers of information technology products and services;

(7) work toward building stronger partnering relationships with providers;

(8) develop service level agreements with executive branch departments and agencies to ensure quality products and services are delivered on schedule and within budget;

(9) develop standards for application development including a standard methodology and cost-benefit analysis that all agencies shall utilize for application development activities;

(10) determine and implement statewide efforts to standardize data elements;

(11) develop systems and methodologies to review, evaluate, and prioritize existing information technology projects within the executive branch and report to the governor and the Public Utilities, Energy, and Technology Interim Committee in accordance with Section 63F-1-201 on a semiannual basis regarding the status of information technology projects;

(12) assist the Governor's Office of Management and Budget with the development of information technology budgets for agencies; and

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(13) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

- (a) under this title;
- (b) by the department; or
- (c) by an agency or division within the department.

Section ~~63F-5~~. Section **63F-1-201** is amended to read:

63F-1-201. Chief information officer -- Appointment -- Powers -- Reporting.

(1) The director of the department shall serve as the state's chief information officer.

(2) The chief information officer shall:

- (a) advise the governor on information technology policy; and
- (b) perform those duties given the chief information officer by statute.

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

- (i) the governor; and
- (ii) the Public Utilities, Energy, and Technology Interim Committee.

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

- (i) summarize the state's current and projected use of information technology;
- (ii) summarize the executive branch strategic plan including a description of major

changes in the executive branch strategic plan; [~~and~~]

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

~~[(4)(a) In accordance with this section, the chief information officer shall prepare an interbranch information technology coordination plan that provides for the coordination where possible of the development, acquisition, and maintenance of information technology and information systems of:]~~

~~[(i) the executive branch;]~~

~~[(ii) the judicial branch;]~~

~~[(iii) the legislative branch;]~~

~~[(iv) the Board of Regents; and]~~

~~[(v) the State Board of Education.]~~

~~[(b) In the development of the interbranch coordination plan, the chief information officer shall consult with the entities described in Subsection (4)(a).]~~

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~~[(c) The interbranch coordination plan:]~~

~~[(i) is an advisory document, and]~~

~~[(ii) does not bind any entity described in Subsection (4)(a):]~~

~~[(d) (i) The chief information officer shall submit the interbranch coordination plan to the Public Utilities, Energy, and Technology Interim Committee for comment.]~~

~~[(ii) The chief information officer may modify the interbranch coordination plan:]~~

~~[(A) at the request of the Public Utilities, Energy, and Technology Interim Committee; or]~~

~~[(B) to improve the coordination between the entities described in Subsection (4)(a):]~~

~~[(iii) Any amendment to the interbranch coordination plan is subject to this Subsection (4) in the same manner as the interbranch coordination plan is subject to this Subsection (4):]~~

~~[(5) In a manner consistent with the interbranch coordination plan created in accordance with Subsection (4), the chief information officer shall maintain liaisons with:]~~

~~[(a) the judicial branch;]~~

~~[(b) the legislative branch;]~~

~~[(c) the Board of Regents;]~~

~~[(d) the State Board of Education;]~~

~~[(e) local government;]~~

~~[(f) the federal government;]~~

~~[(g) business and industry; and]~~

~~[(h) those members of the public who use information technology or systems of the state:]~~

(iv) include the status of information technology projects described in Subsection 63F-1-104(11);

(v) include the performance report described in Section 63F-1-212; and

(vi) include the expenditure of the funds provided for electronic technology, equipment, and hardware.

Section ~~{7}~~6. Section **63F-1-212** is amended to read:

63F-1-212. Report to the Legislature.

The department shall, in accordance with Section 63F-1-201, before November 1 of each year, report to the Public Utilities, Energy, and Technology Interim Committee on:

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(1) performance measures that the department uses to assess the department's effectiveness in performing the department's duties under this chapter; and

(2) the department's performance, evaluated in accordance with the performance measures described in Subsection (1).

Section ~~8~~7. **Repealer.**

This bill repeals:

Section **63F-1-901, Title.**

Section **63F-1-902, Executive branch agencies -- Data security review -- Report to Legislature.**