

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

A Bill

SENATE BILL 1027

4
5 By: Senators G. Jeffress, Capps, J. Bookout, Glover, Holt, Salmon, Trusty
6 By: Representatives W. Lewellen, Dobbins, Pace, Adcock, Berry, Cook, M. Martin, Medley, Rainey,
7 Rogers

For An Act To Be Entitled

11 AN ACT TO AMEND THE ENABLING LEGISLATION OF THE
12 DEPARTMENT OF INFORMATION SYSTEMS; AND FOR OTHER
13 PURPOSES.

Subtitle

16 TO AMEND THE ENABLING LEGISLATION OF THE
17 DEPARTMENT OF INFORMATION SYSTEMS.

18
19
20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

21
22 SECTION 1. Arkansas Code § 25-4-102 is amended to read as follows:
23 25-4-102. Legislative findings and declaration of intent.

24 (a) The General Assembly finds and declares information and
25 information resources to be strategic assets of the State of Arkansas and
26 that procedures must be established to ensure that:

- 27 (1) Information resources are used in an efficient manner;
28 (2) Departmental resources are used unless an exception is
29 authorized;
30 (3) Information is administered and shared, consistent with
31 requirements for security, privacy, and confidentiality;
32 (4) Information technology acquisitions meet state needs and are
33 consistent with coordinated efforts to maximize standardization and cost
34 effectiveness; ~~and~~
35 (5) State officials have timely access to information in useful
36 forms; and



1 (6) The Department of Information Systems complies with
 2 applicable state and federal statutory and regulatory provisions.

3 (b) The General Assembly further declares its intent to create a state
 4 agency to:

5 ~~(1) Support the information technology initiatives established~~
 6 ~~by the Executive Chief Information Officer;~~

7 ~~(2)~~(1) Provide design and management services for the state's
 8 core information technology infrastructures;

9 ~~(3)~~(2) Provide information technology services;

10 ~~(4)~~(3) Implement appropriate technologies to exchange and share
 11 information; and

12 ~~(5)~~(4) Develop technical standards and provide technical
 13 leadership and guidance to support the state's shared technical architecture
 14 as promulgated by the Executive Chief Information Officer.

15 (c) It is also the intent of the General Assembly that ~~this state~~
 16 ~~agency~~ the Department of Information Systems achieve certain objectives that
 17 will better support information technology utilization by other state
 18 agencies. These objectives are to:

19 (1) Implement increased capabilities for communication and
 20 exchange of information; and

21 ~~(2) Establish technical standards for information technology;~~
 22 ~~and~~

23 ~~(3)~~(2) Develop and publish mechanisms for more timely
 24 acquisition of information technology.

25 (d)(1) The General Assembly further finds and determines that:

26 (A) Information technology services are readily available
 27 in the private sector;

28 (B) The public interest would be well-served by
 29 competition for the provision of such services to the state;

30 (C) Public-private partnerships or joint ventures for the
 31 provision of such services may be appropriate in certain instances; ~~and~~

32 (D) Emphasis ~~should~~ will be given to encouraging and
 33 enabling competition among suppliers of such services wherever possible in
 34 the administration of this chapter; and

35 (E) Emphasis will be given to encouraging and enabling
 36 competition among women-owned and minority-owned suppliers of such services

1 wherever possible in the administration of this chapter.

2 (2) The Department of Information Systems shall consider in the
3 development of the department plan and the Joint Committee on Advanced
4 Communications and Information Technology shall emphasize in its
5 recommendations and policies the availability in the private sector of
6 information technology resources upon a competitive bid basis with a view to
7 assuring the state of the highest reasonable quality of resources at the
8 lowest reasonable cost.

9
10 SECTION 2. Arkansas Code § 25-4-103 is amended to read as follows:
11 25-4-103. Definitions.

12 As used in this chapter:

13 (1) "Administrator" means the Administrator of the Office of
14 Information Technology;

15 (2) "Application" means a separately identifiable and
16 interrelated set of information technology resources that allows information
17 processing to support specifically defined objectives;

18 (3) "Core information technology infrastructure" means the state
19 data, state network and application interfaces, ~~and~~ state security, and
20 disaster recovery;

21 (4) "Customer" means a state agency, other governmental entity,
22 or nongovernmental entity that purchases or uses services under this chapter;

23 ~~(4)~~(5) "Department" means the Department of Information Systems;

24 ~~(5)~~(6) "Director" means the Director of the Department of
25 Information Systems;

26 ~~(6)~~(7) "Equipment" means the machines, devices, and transmission
27 facilities used in information processing, including computers, word
28 processors, terminals, telephones, cables, software, and related services;

29 ~~(7)~~(8) "Information processing" means the electronic capture,
30 collection, storage, manipulation, transmission, retrieval, and presentation
31 of information in the form of data, text, voice, or image and includes
32 telecommunications and office automation functions;

33 ~~(8)~~(9) "Information technology" means any component related to
34 information processing and wired and wireless telecommunications, including
35 data processing and telecommunications hardware, software, services,
36 planning, personnel, facilities, and training;

1 ~~(9)~~(10) "Information technology resources" means the procedures,
2 equipment, and software that are designed, built, operated, and maintained to
3 collect, record, process, store, retrieve, display, and transmit information,
4 and the associated personnel including consultants and contractors;

5 ~~(10)~~(11) "Network infrastructure" means the shared portions of
6 the state's telecommunications transmission facilities, including all
7 transmission lines and all associated equipment and software components
8 necessary for the management and control of the state network;

9 ~~(11)~~(12) "Other governmental entities" means state-elected
10 constitutional officers and their staffs, the Supreme Court and the
11 Administrative Office of the Courts, the General Assembly or its committees
12 or staffs, the Arkansas State Highway and Transportation Department, the
13 Arkansas Game and Fish Commission, the federal government, cities, counties,
14 municipalities, and public school districts;

15 ~~(12)~~(13) "Project" means a program to apply information
16 technology resources to functions within or among elements of a state agency
17 that ideally is characterized by well-defined parameters, specific
18 objectives, common benefits, planned activities, a scheduled completion date,
19 and an established budget with a specified source of funding;

20 (14) "Project management" means principles, practices, and
21 techniques applied to lead projects and teams and the control of project
22 schedules, costs, and performance risks with the goal of satisfying
23 customers' requirements.

24 ~~(13)~~(15) "Public instrumentality" means any statutorily created
25 entity charged with the responsibility of providing information or services
26 through the use of information technology;

27 ~~(14)~~(16) "State agencies" means all state departments, boards,
28 and commissions but shall not include the elected constitutional officers and
29 their staffs, the General Assembly and its committees and staffs, or the
30 Supreme Court and the Administrative Office of the Courts, and public
31 institutions of higher education with respect to academic, research,
32 healthcare, and existing information technology applications and underlying
33 support therefor;

34 ~~(15)~~(17) "State of Arkansas shared technical architecture" means
35 the structure of program or system components, how these components relate to
36 one another, and the principles that govern their design and evolution over

1 time; and

2 ~~(16)~~(18) "Telecommunications" means all forms of communications
3 devices and transport media for the conveyance by electronic or electrical
4 means of voice, words, data, signals, or images.

5

6 SECTION 3. Arkansas Code § 25-4-105 is amended to read as follows:

7 25-4-105. Department of Information Systems - General powers and
8 duties.

9 The Department of Information Systems shall be vested with all the
10 powers and duties necessary to administer the department and to enable it to
11 carry out fully and effectively the regulations and laws relating to the
12 department. These powers and duties relate to information technology and
13 include, but are not limited to:

14 (1) Conceptualizing, designing, developing, building, and
15 maintaining common information technology infrastructure elements used by
16 state agencies and governmental entities;

17 (2) Providing information technology services to state agencies,
18 ~~and~~ other governmental entities, and nongovernmental entities;

19 (3) Entering into contracts with state agencies, ~~and~~ other
20 governmental entities, and nongovernmental entities for the purpose of
21 providing information technology services;

22 (4)(A) Establishing fair and reasonable schedules of rates or
23 fees to be paid by ~~state agencies and governmental entities~~ customers that
24 are provided service to enable the department to ~~defray the cost~~ recover all
25 allowable costs of providing the services as provided in this chapter.

26 (B) The same rate or fee structure will apply to all
27 customers receiving services;

28 (5)(A) Establishing ~~a billing rate plan~~ estimated billing rates
29 to be developed for a two-year period to coincide with the budgeting process.
30 ~~The same rate structure will apply to all agencies and entities receiving~~
31 ~~service.~~

32 (B) The department shall have the authority to adjust
33 billing as necessary to effect compliance with applicable state and federal
34 statutory and regulatory provisions.

35 (C) Billing adjustments shall be subject to the approval
36 of the Chief Fiscal Officer of the State and review by the Legislative

1 Council;

2 (6) Acquiring information technology on behalf of state
3 agencies, the cost of which shall be recovered through customer billings or
4 through direct funding;

5 (7) Promulgating rules and regulations that are necessary for
6 efficient administration and enforcement of the powers, functions, and duties
7 of the department as provided in this chapter;

8 (8) Developing a departmental plan to support the goals and
9 objectives set forth for it in the state information technology plans and
10 strategies. The department shall seek the advice of the Executive Chief
11 Information Officer in the development of its plan; ~~and~~

12 (9) Implementing systems to ensure the security of state data
13 and state data processing assets, to provide for disaster recovery and
14 continuity of operations to the state agencies served, and to recover its
15 costs from the customers benefited; and

16 ~~(9)~~(10) Performing any additional powers, functions, and duties
17 which are necessary and appropriate for the proper administration of the
18 provisions of this chapter.

19

20 SECTION 4. Arkansas Code §§ 25-4-107 and 25-4-108 are amended to read
21 as follows:

22 25-4-107. Office of Information Technology - General powers and duties.

23 The Office of Information Technology shall be vested with all the
24 powers and duties necessary to carry out regulations and laws relating to the
25 ~~department~~ Executive Chief Information Officer and to oversee and administer
26 information technology and shall:

27 (1) Assist the ~~department~~ Department of Information Systems in
28 performing its duties;

29 (2) Review agencies' information technology plans and requests;

30 (3) Provide leadership in coordinating information technology;

31 (4) Advise agencies in acquiring information technology service;

32 (5) Advise agencies regarding information technology contracts
33 and agreements;

34 (6) Monitor national and international standards relating to
35 information technology;

36 (7) Develop and publish policies, procedures, and standards

1 relating to information technology and ensure agencies' compliance with those
2 policies, procedures, and standards;

3 (8) Develop standards to promote and facilitate electronic
4 access to government information and interoperability of information systems;

5 (9) Develop a state information technology plan that shall
6 establish a state-level mission, goals, and objectives for the use of
7 information technology; and

8 (10) Foster interagency use of information technologies that is
9 consistent with the established strategic direction of information technology
10 and avoids unnecessary duplication.

11
12 25-4-108. Office of Information Technology - Working groups.

13 (a) ~~The Director of the Department of Information Systems~~ Executive
14 Chief Information Officer shall appoint working groups as necessary to
15 provide the office with expertise and advice on information technology.

16 (b) Members shall have knowledge and experience in information
17 technology.

18 (c) Members shall annually elect a chair.

19 (d) A working group may be convened by a majority of members, by its
20 chair, or by the administrator.

21 (e) Members shall not receive compensation for service to the working
22 groups.

23 (f) Members may receive reimbursement for actual and necessary
24 expenses reasonably incurred in performing board service, subject to
25 applicable limitations on reimbursement as provided by law.

26
27 SECTION 5. Arkansas Code § 25-4-109 is amended to read as follows:

28 25-4-109. Information technology centers.

29 (a) The Department of Information Systems is authorized to establish,
30 maintain, and operate information technology centers and, in connection
31 therewith, to rent, purchase, install, operate, and maintain information
32 technology for state agencies as authorized in this chapter.

33 (b) The Department is authorized to enter into contracts or agreements
34 with state agencies for the purpose of providing information technology.

35 (c) State agencies are authorized to enter into any contracts with the
36 department or its successor which may be necessary or desirable to effectuate

1 the purposes and policies of this chapter or for maximum utilization of
2 facilities and services which are the subject of this chapter.

3 (d) Agencies shall use the ~~state core telecommunications, data,~~
4 ~~application, and security infrastructures~~ core information technology
5 infrastructure.

6 (e) The department is authorized to enter into agreements and
7 contracts with public utilities for telecommunications service.

8 (f) The information technology centers operated by the department
9 shall be made available to all state agencies which fall within economical
10 and feasible boundaries.

11 (g) Agencies shall use project management for designated activities
12 defined as a project.

13
14 SECTION 6. Arkansas Code § 25-4-112 is amended to read as follows:

15 25-4-112. Application to educational institutions.

16 (a)(1) In the case of state-supported institutions of higher education
17 and state-supported postsecondary vocational-technical schools, the
18 provisions of this chapter shall apply to business and administrative
19 applications of information technology but do not apply to academic and
20 research applications.

21 (2) On-campus telecommunications systems shall also be exempt
22 from the provisions of this chapter except where they are connected to the
23 state telecommunications network infrastructure.

24 (3) On-campus telecommunications systems shall be defined as
25 those bounded by the outer perimeter of contiguous campus property.

26 (b)(1) A state-supported institution of higher education, a post-
27 secondary vocational-technical school, an area vocational school, or a public
28 school district may request technical assistance regarding information
29 technology from the ~~Office of Information Technology~~ Department of
30 Information Systems.

31 (2) Assistance shall be provided by the office free of charge
32 within a reasonable period. The requesting institution shall reimburse the
33 ~~Office of Information Technology~~ Department of Information Systems for any
34 actual expenses incurred while providing requested technical assistance.

35
36 SECTION 7. Arkansas Code § 25-4-119 is amended to read as follows:

1 25-4-119. Budget procedures.

2 (a)(1) Prior to the commencement of budget hearings conducted by the
3 Legislative Council, the Director of the Department of Information Systems
4 shall prepare an operating budget indicating the amount of money which will
5 be required to operate the department each year of the succeeding biennium.

6 (2) The director shall also provide cost information to users of
7 information technology centers, and those who require new or expanded
8 information technology shall be provided cost estimates for inclusion in
9 their budget requests.

10 (b)(1) When the General Assembly has completed the appropriation
11 process, the director shall oversee budgetary planning for the department for
12 each fiscal year of the biennium.

13 (2) The proposed annual operating budget shall be submitted to
14 the Governor for his or her approval prior to the beginning of each fiscal
15 year.

16 (3)(A) During the course of the biennium, the director shall
17 make certain that the expenditures of the department do not exceed the income
18 to be received by the department for the current fiscal year.

19 (B) Subject to the written approval of the Chief Fiscal
20 Officer of the State upon the written application of the department and
21 review by the Legislative Council, in order to effect compliance with state
22 and federal statutory and regulatory provisions:

23 (i) The director shall adjust rates for services or
24 issue billing adjustments as necessary; or

25 (ii) Funds sufficient to effect compliance shall be
26 provided to the department.

27 ~~(4)(A) If the director determines that rates charged to user~~
28 ~~agencies should be increased to meet the required expenditure level, he or~~
29 ~~she shall submit such proposed rate changes to the Governor for approval~~ If
30 rates charged to a customer are increased to ensure compliance with state and
31 federal statutory and regulatory provisions, the director shall promptly
32 notify the Governor, the Joint Committee on Advanced Communications and
33 Information Technology, and all state agencies and other customers before any
34 changes shall be effected.

35 (B) Rates shall be reviewed by the department on no less
36 than an annual basis in order to ensure compliance with state and federal

1 statutory and regulatory provisions.

2 (c) The quarterly allotment procedures applicable to state agencies,
3 as defined by the General Accounting and Budgetary Procedures Law, § 19-4-101
4 et seq., shall be applicable to all appropriations funded directly through
5 general revenue.

6
7 SECTION 8. Arkansas Code § 25-4-121 is amended to read as follows:
8 25-4-121. Department of Information Systems Revolving Fund.

9 (a) There is created and established on the books of the Treasurer of
10 State, the Auditor of State, and the Department of Finance and Administration
11 the Department of Information Systems Revolving Fund.

12 (b) The fund shall consist of nonrevenue receipts derived from
13 services provided to various agencies of the federal, state, city, and county
14 governments, and any other moneys which may be provided by law for credit to
15 the fund.

16 (c) All revenues received by the Department of Information Systems for
17 providing information technology services shall be deposited in the State
18 Treasury as nonrevenue receipts, there to be used for the maintenance,
19 operation, and improvement of the department.

20 (d) All revenues received from agencies or other governmental entities
21 for information technology services provided by contracts between the
22 Department of Information Systems and outside vendors may be deposited in the
23 State Treasury as refund to expenditures.

24 (e) The Director of the Department of Information Systems shall have
25 the authority to transfer funds between the Information Technology Reserve
26 Fund established by § 25-4-123 and the Department of Information Systems
27 Revolving Fund established under this section for cash management purposes.

28
29 SECTION 9. Arkansas Code § 25-4-122 is amended to read as follows:
30 25-4-122. Reserve for equipment acquisition - Loans.

31 (a)(1) The Department of Information Systems is authorized to
32 accumulate a reserve for equipment acquisition in an amount not to exceed the
33 department's depreciation expense per fiscal year. ~~The reserve shall be~~
34 ~~excluded from calculation of the department's fiscal year surplus.~~

35 (2)(A) In addition, the department is authorized to obtain from
36 the State Board of Finance loans from the Budget Stabilization Trust Fund to

1 supplement the reserve if the reserve is insufficient to handle the total
2 cost of required equipment acquisitions.

3 (B) These loans and the reserve for equipment acquisition
4 shall be used exclusively for major equipment acquisitions or improvements of
5 information technology required in order to fulfill the requirements for one
6 (1) or more user agencies.

7 (C) The loans from the Budget Stabilization Trust Fund to
8 the Information Technology Reserve Fund shall be repaid within five (5) years
9 from revenues derived from charges to users, and the annual loan repayment
10 amount shall be computed as a part of the total yearly expenses of the
11 department and shall be charged proportionately to users.

12 (b)(1)(A) However, before the State Board of Finance shall approve any
13 requests for loans by the department authorized in subdivision (a)(2) of this
14 section, the requests shall be submitted to the Governor for his or her
15 approval after the Governor has first obtained the advice of the Legislative
16 Council in regard thereto.

17 (B) After having obtained advice, the Governor may in
18 writing approve or reject the request.

19 (C) However, if the Legislative Council shall fail to give
20 its written advice or opinion to the Governor within thirty (30) days after
21 receiving notice of the request for loans, the Governor may proceed to act on
22 the matter without the advice of the Legislative Council.

23 (2) The State Board of Finance shall make no loans if the
24 approval of the Governor has not been obtained therefor.

25 (3) The State Board of Finance, after obtaining the approval in
26 writing of the Governor, shall also review and may approve the loans and
27 establish terms of repayment and a rate of interest to be paid by the
28 Department of Information Systems Revolving Fund to the Budget Stabilization
29 Trust Fund. The rate shall be approximately equivalent to the rate of
30 interest the State Board of Finance is receiving on other investments at the
31 time of approving the loan request.

32
33 SECTION 10. Arkansas Code § 25-4-124 is amended to read as follows:
34 25-4-124. Yearly computation of expenses - Disposition of surplus
35 funds.

36 (a) ~~Within thirty (30) days following the closing of each fiscal year,~~

1 ~~the Director of the Department of Information Systems shall compute the total~~
2 ~~yearly expenses, related to the services provided, incurred by the department~~
3 ~~and compare this figure to the amounts billed and paid by the various users~~
4 ~~of information technology services for the fiscal year. Within sixty (60)~~
5 ~~days following the final closing entries for the consolidated annual~~
6 ~~financial report for each fiscal year, the Director of the Department of~~
7 ~~Information Systems shall obtain from the Chief Fiscal Officer of the State~~
8 ~~the written approval of a plan that shall include a proposed methodology to~~
9 ~~make all appropriate adjustments to effect compliance with state and federal~~
10 ~~statutory and regulatory provisions for the fiscal year.~~

11 (b)(1) ~~After the close of the fiscal year, any surplus of receipts~~
12 ~~over expenses less the reserve for equipment acquisition shall be credited to~~
13 ~~the various like users' accounts within the Department of Information Systems~~
14 ~~Revolving Fund on a pro rata basis so that each user shall receive a~~
15 ~~percentage of the surplus which corresponds to the user's percentage of the~~
16 ~~total billings for that type of service to all users. If the plan under~~
17 ~~subsection (a) of this section requires appropriate credits or debits to~~
18 ~~customer accounts to effect compliance with state and federal statutory and~~
19 ~~regulatory provisions, the department shall make any adjustments within sixty~~
20 ~~(60) days after approval of the plan.~~

21 (2) ~~Alternatively, In the event that a ~~user~~ customer no longer~~
22 ~~requires uses the services of the department, a fund transfer in the amount~~
23 ~~of that ~~user's~~ share of the calculated surplus customer's credits under the~~
24 ~~plan described in subsection (a) of this section shall be made from the~~
25 ~~Department of Information Systems Revolving Fund to the ~~user's~~ customer's~~
26 ~~treasury fund, upon certification of the amount ~~thereof~~ by the director to~~
27 ~~the Chief Fiscal Officer of the State and the Treasurer of State. In the~~
28 ~~event the ~~user~~ customer does not have a treasury fund, a warrant shall be~~
29 ~~issued by the department in payment of the ~~user's~~ proportionate share~~
30 ~~customer's credit.~~

31 (c) In the event that the ~~user~~ customer has an unpaid account balance
32 ~~for the preceding fiscal year due to the department, the ~~user's~~ share of the~~
33 ~~calculated surplus customer's credit shall be withheld until the account~~
34 ~~balance is satisfied.~~

35
36