S T A T E O F N E W Y O R K

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I N S E N A T E

June 4, 2010

Introduced by Sen. ADAMS -- (at request of the Office for Technology) -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the state technology law and the state finance law, in relation to renaming the office for technology as the office of the chief information officer

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Legislative intent. The New York state office for technology was created by chapter 430 of the laws of 1997. The office was given authority for technology planning and operation to improve delivery of government service, especially by leveraging opportunities for coordination and consolidation of the state's technology assets. Subsequently, the position of chief information officer was established by executive order number 117 in 2002 to oversee the office and enhance enterprise information technology planning for the state, among other responsibilities. The legislature intends to align the responsibilities of the New York state chief information officer with the functions, powers and duties of the New York state office for technology in order to improve strategic leadership in the leveraging of information technology to (i) streamline and enhance government services to citizens, businesses and visitors to the state, (ii) facilitate development of a skilled technology workforce, (iii) enable an innovation economy in New York and (iv) provide strategic and operational leadership in critical technology infrastructure acquisition, coordination, consolidation, modernization, deployment and operations.

The legislature recognizes that a driving force for economic development is universal access to high-speed broadband internet service. This is increasingly critical to economic competitiveness and educational and social opportunities. In recognition of this fact, this legislation broadens the authority of the office to use and deploy the state's technology to serve important public purposes such as affordable and accessible broadband services. Specifically, economic welfare and development will be fostered by the deployment of the state's technology to make

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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affordable high-speed broadband services available to all citizens and businesses statewide. Such deployment will enhance opportunities for citizens, businesses and communities to compete in today's knowledge-based economy, especially in underserved and unserved urban and rural economies.

The legislature also recognizes the need to support collaborative programs for developing and training a skilled information technology workforce and address barriers such as the digital divide so that all New York citizens can participate in opportunities for economic growth and development.

S 2. The article heading of article 1 of the state technology law, as added by chapter 430 of the laws of 1997, and as renumbered by chapter 437 of the laws of 2004, is amended to read as follows:

ARTICLE I

OFFICE [FOR TECHNOLOGY] OF THE CHIEF INFORMATION OFFICER

S 3. Sections 101, 102, 103, 104 and 105 of the state technology law, as added by chapter 430 of the laws of 1997 and subdivisions 12, 12-a and 12-b of section 103 as added by section 1 of part B of chapter 56 of the laws of 2000, subdivision 17 of section 103 as added by chapter 4 of the laws of 1999, and such sections as renumbered by chapter 437 of the laws of 2004, are amended to read as follows:

S 101. Definitions. As used in this article the following terms shall mean:

1. "Council" means the INFORMATION TECHNOLOGY EXECUTIVE STRATEGIC advisory council [for technology].

2. ["Director" means the director of the office] "CHIEF INFORMATION OFFICER" MEANS THE NEW YORK STATE CHIEF INFORMATION OFFICER.

3. "Office" means the office [for technology] OF THE CHIEF INFORMATION OFFICER.

4. "State agency" means any department, board, bureau, commission, division, office, council, committee or officer of the state; ALL PUBLIC BENEFIT CORPORATIONS AND PUBLIC AUTHORITIES, THE HEADS OF WHICH ARE APPOINTED BY THE GOVERNOR; AND THE STATE UNIVERSITY OF NEW YORK AND THE CITY UNIVERSITY OF NEW YORK, PROVIDED, HOWEVER, THAT THE POWERS AND DUTIES OF THE OFFICE SHALL EXTEND ONLY TO BUSINESS AND ADMINISTRATIVE FUNCTIONS OF SUCH UNIVERSITIES COMMON TO STATE GOVERNMENT. Such term shall not include the legislature or judiciary.

5. "Technology" means a good, service, or good and service that results in a digital, electronic or similar technical method of achieving a practical purpose or in improvements in productivity, including but not limited to information management, equipment, software, operating systems, interface systems, interconnected systems, telecommunications, data management, VOICE AND DATA networks, and network management, consulting, supplies, facilities, ANCILLARY PRODUCTS AND SERVICES, maintenance [and], SUPPORT, PROGRAMMING, PROJECT MANAGEMENT, training AND ANY OTHER RELATED GOODS AND SERVICES.

6. "LOCAL GOVERNMENT" MEANS ANY COUNTY, CITY, TOWN, VILLAGE, SCHOOL DISTRICT, BOARD OF COOPERATIVE EDUCATIONAL SERVICES, LOCAL PUBLIC BENEFIT CORPORATION OR OTHER MUNICIPAL CORPORATION OR POLITICAL SUBDIVISION OF THE STATE.

S 102. Office [for technology; director] OF THE CHIEF INFORMATION OFFICER; HEAD, organization and employees. 1. The office [for technology] OF THE CHIEF INFORMATION OFFICER is hereby created within the executive department to have and exercise the functions, powers and duties provided by the provisions of this article and any other provision of law.

2. The head of the office shall be the [director of the office, who shall serve as the chief technology officer for the state of New York and shall be designated as management confidential in the noncompetitive class in accordance with the civil service law. The director] CHIEF INFORMATION OFFICER, WHO shall be the chief executive [officer] of and in sole charge of the administration of the office. The [director] CHIEF INFORMATION OFFICER shall be entitled to receive reimbursement for expenses actually and necessarily incurred by him or her in the performance of his or her duties.

3. The [director] CHIEF INFORMATION OFFICER may, from time to time, create, abolish, transfer and consolidate bureaus and other units within the office not expressly established by law as he or she may determine necessary for the efficient operation of the office, subject to the approval of the director of the budget.

4. The [director] CHIEF INFORMATION OFFICER may appoint, in accordance with the civil service law, such deputies, assistants, and other officers and employees, committees and consultants as he or she may deem necessary[,] prescribe their powers and duties, fix their compensation, and provide for reimbursement of their expenses within the amounts appropriated therefor. THE CHIEF INFORMATION OFFICER MAY APPOINT WORK GROUPS, COMMITTEES, COUNCILS, TASK FORCES OR OTHER SUCH ENTITIES NECESSARY TO CARRY OUT THE FUNCTIONS, POWERS AND DUTIES OF THE OFFICE.

5. The [director] CHIEF INFORMATION OFFICER may request and receive from any [department, division, board, bureau, commission or other agency of the state] STATE AGENCY or any [political subdivision thereof or any public authority, staff and other] LOCAL GOVERNMENT, assistance, information, and resources as will enable the office to properly carry out its functions, powers and duties.

6. THE CHIEF INFORMATION OFFICER SHALL, AMONG OTHER DUTIES:

(A) OVERSEE, DIRECT AND COORDINATE THE ESTABLISHMENT OF INFORMATION TECHNOLOGY PLANS, POLICIES, PROCEDURES, PROTOCOLS AND STANDARDS FOR STATE GOVERNMENT, INCLUDING HARDWARE, SOFTWARE, SERVICES AND OPERATIONS;

(B) OVERSEE AND COORDINATE THE DEVELOPMENT, ACQUISITION, DEPLOYMENT AND MANAGEMENT OF INFORMATION TECHNOLOGY RESOURCES FOR STATE GOVERNMENT;

(C) COORDINATE AND FACILITATE INFORMATION SHARING BETWEEN AND AMONG STATE GOVERNMENT, LOCAL GOVERNMENTS, OTHER STATES, THE FEDERAL GOVERNMENT, OTHER TECHNOLOGY-RELATED PUBLIC AND PRIVATE ENTITIES AND INSTITUTIONS OF HIGHER LEARNING TO PROMOTE THE USE AND DEPLOYMENT OF INFORMATION TECHNOLOGY THAT WILL IMPROVE THE DELIVERY OF GOVERNMENT SERVICES;

(D) WORK WITH STATE GOVERNMENT, LOCAL GOVERNMENTS, THE FEDERAL GOVERNMENT, OTHER TECHNOLOGY-RELATED PUBLIC AND PRIVATE ENTITIES AND INSTITUTIONS OF HIGHER LEARNING AND PRIVATE ENTERPRISES TO FURTHER THE STATE'S ENTERPRISE STRATEGIC TECHNOLOGY PLAN;

(E) DEVELOP STRATEGIES TO IMPROVE THE STATE WORKFORCE'S ABILITY TO EMPLOY NEEDED INFORMATION TECHNOLOGIES, AND OVERSEE AND COORDINATE THE IMPLEMENTATION OF SUCH STRATEGIES; AND

(F) DEVELOP, IN CONSULTATION WITH THE DEPARTMENT OF ECONOMIC DEVELOPMENT, EDUCATION DEPARTMENT, DEPARTMENT OF LABOR, DEPARTMENT OF STATE, DEPARTMENT OF PUBLIC SERVICE AND OTHER STATE AGENCIES, PUBLIC AUTHORITIES, LOCAL GOVERNMENTS, FEDERAL GOVERNMENT, PUBLIC AND PRIVATE EDUCATIONAL INSTITUTIONS, AND OTHER PUBLIC AND PRIVATE ENTITIES, OPPORTUNITIES FOR CITIZENS, BUSINESSES AND COMMUNITIES ACROSS THE STATE THROUGH THE USE OF INFORMATION TECHNOLOGY FOR WORKFORCE DEVELOPMENT AND TO ENHANCE EDUCATIONAL AND ECONOMIC OPPORTUNITIES.

7. ALL REFERENCES IN LAW AND REGULATION TO THE OFFICE FOR TECHNOLOGY AND THE DIRECTOR OF THE OFFICE FOR TECHNOLOGY SHALL BE DEEMED TO BE

REFERENCES TO THE OFFICE OF THE CHIEF INFORMATION OFFICER AND THE CHIEF INFORMATION OFFICER, RESPECTIVELY.

8. THE OFFICE OF THE CHIEF INFORMATION OFFICER SHALL, ON THE EFFECTIVE DATE OF THIS SUBDIVISION, BE AUTOMATICALLY AND WITHOUT FURTHER PROCESS, CONSIDERED A SUCCESSOR IN INTEREST TO, AND ASSUME ALL RIGHTS AND RESPONSIBILITIES OF, THE OFFICE FOR TECHNOLOGY UNDER ANY CONTRACTS, SERVICE LEVEL AGREEMENTS, SITE LICENSE AGREEMENTS, LEASES, PERMITS, MEMORANDA OF UNDERSTANDING, AND ALL OTHER SUCH DOCUMENTS, AS WELL AS ANY LEAD AGENCY DESIGNATIONS UNDER, BUT NOT LIMITED TO, THE STATE ENVIRONMENTAL QUALITY REVIEW ACT.

S 103. Functions, powers and duties of the office. The office shall have the following functions, powers and duties:

1. To act as the official state planning and coordinating office for the advancement of technology to improve government efficiency and effectiveness, and perform all necessary and appropriate services required to fulfill these duties;

2. To advise and assist [the] state agencies in developing STRATEGIC AND OPERATIONAL policies, plans and programs for improving the statewide coordination, administration, [security,] confidentiality, program effectiveness, acquisition and deployment of [technology] TECHNOLOGIES WHICH ALIGN THE POLICIES AND STRATEGIES DEVELOPED BY THE OFFICE;

3. To perform technology reviews and make recommendations for improving management and program effectiveness pertaining to technology ACQUISITION, DEPLOYMENT AND OPERATIONS;

4. To review and coordinate the purchase of technology by state agencies AS SET FORTH IN POLICIES AND PROCEDURES FOR PLANS TO PROCURE TECHNOLOGY. Where applicable, such review shall include but not be limited to[:] assessing: consistency with the statewide strategic technology plan and agency technology [plan] PLANS; statewide technology standards; [the safeguarding of information privacy; security of confidential records; and] proper dissemination of public information; STATEWIDE INFORMATION SECURITY POLICIES, STANDARDS, PROTOCOLS AND PROCEDURES ESTABLISHED BY THE OFFICE OF CYBER SECURITY AND CRITICAL INFRASTRUCTURE COORDINATION; AND DISASTER RECOVERY PLANNING;

5. To establish, oversee, manage, coordinate and facilitate the planning, design [and], implementation, DEVELOPMENT AND USE of the state's common technology networks;

6. To undertake research, studies and analyses, and act as a central repository, clearinghouse and disseminator of research studies, with respect to technology;

7. To facilitate and coordinate the improvement of program delivery services through technology with and among other departments, divisions and agencies of the state, AND its [political subdivisions and municipalities] LOCAL GOVERNMENTS;

7-A. TO PROVIDE TECHNOLOGY SERVICES WHEN APPROPRIATE TO STATE AGENCIES, AND WHEN REQUESTED AND APPROPRIATE TO LOCAL GOVERNMENTS, PRIVATE ENTITIES TO THE EXTENT NOT OTHERWISE PROHIBITED BY LAW, AND ANY OTHER BRANCHES OF STATE GOVERNMENT;

8. To encourage and foster the exchange of and increase access to information within and among STATE AGENCIES, LOCAL GOVERNMENTS, THE FEDERAL GOVERNMENT, public and private entities and individuals AND INSTITUTIONS OF HIGHER LEARNING in order to improve the delivery of state programs and services of the state;

9. To undertake technology projects with a statewide or multi-agency impact and, where appropriate, designate agencies to act as lead agency for the project;

10. To establish statewide [technology policies, including but not limited to preferred technology standards and security] POLICIES, STANDARDS AND PROGRAMS CONCERNING THE IMPLEMENTATION AND OPERATIONS OF TECHNOLOGY ACROSS THE STATE ENTERPRISE INCLUDING LOCAL GOVERNMENTS;

10-A. TO IMPLEMENT THE SECURITY POLICIES, PROTOCOLS AND PROCEDURES ESTABLISHED BY THE OFFICE OF CYBER SECURITY AND CRITICAL INFRASTRUCTURE COORDINATION FOR THOSE STATE INFORMATION TECHNOLOGY ASSETS MANAGED BY THE OFFICE;

11. To adopt, amend, or rescind rules and regulations necessary or convenient to the performance of the functions, powers and duties of the office pursuant to the state administrative procedure act;

12. [To complete a comprehensive study of existing state information resource technology infrastructure to the extent that the information is available.

Such study shall include, but not be limited to, inventories of:

(a) state operations' computer hardware and software;

(b) major physical infrastructures supporting existing operations, including power, air conditioning, space and other environmental needs;

(c) the telecommunications and other networks supporting existing operations;

(d) personnel associated with existing operations and management;

(e) expected retirement schedule of existing computer hardware and software and replacement costs; and

(f) data processing consulting and contracting services utilized.

Such study shall be completed and submitted to the governor, the temporary president of the senate and the speaker of the assembly on or before October first, two thousand two. The office shall provide interim reports on October first, two thousand and October first, two thousand one.

12-a.] To develop:

(a) a methodology to ascertain how much the state spends on technology goods and services;

(b) a process to PERIODICALLY update the STATEWIDE computer hardware and software inventory [periodically];

(c) a methodology to determine the expected life-cycle of state operations' computer hardware and software which shall include the total cost of ownership; and

(d) formal BUSINESS CONTINUITY AND disaster recovery plans for the state data center FACILITIES, INCLUDING THE ENTERPRISE TECHNOLOGY CENTER, and statewide [network] VOICE AND DATA, WIRED OR WIRELESS NETWORKS, NY e-net, FUTURE NETWORKS AND DATA CENTERS OR COMPUTING OPERATIONS AND SERVICES OF ANY SIZE AND TYPE; such plans shall be confidential.

Such developments shall be completed and submitted to the governor, the temporary president of the senate and the speaker of the assembly on [or before October first, two thousand three] A PERIODIC BASIS AS UPDATES ARE REQUESTED OR REQUIRED.

[12-b.] 12-A. To request and shall receive from any department, division, board, commission or other agency of the state any information and resources necessary to carry out the responsibilities and provisions set forth in [subdivisions] SUBDIVISION twelve [and twelve-a] of this section.

13. To establish a multi-year statewide [strategy] ENTERPRISE STRATEGIC plan covering a time period of not less than three years to promote and coordinate interagency AND INTERGOVERNMENTAL technology efforts and initiatives that conform to the state's overarching programmatic [poli-

cy] STRATEGIC PRIORITIES AND POLICIES, under which state agencies shall develop their information TECHNOLOGY resource management STRATEGIES AND OPERATIONAL plans AS SUBPLANS TO THE STATE'S ENTERPRISE STRATEGIC PLAN. Such [plan] SUBPLANS shall be ADDENDUMS TO THE STATE'S ENTERPRISE STRATEGIC PLAN, AND THE PLAN SHALL BE submitted to the governor, the temporary president of the senate and the speaker of the assembly upon completion on or before October first, two thousand. Such plan shall be updated as needed, but not less than once every three years;

14. [To coordinate state budget submission to address known year two thousand conversion issues;

15.] To conduct selective evaluations of technology activities in state agencies; [and]

[16.] 15. To perform such acts, directly or by other means, as are necessary or convenient to carry out the office's functions, powers and duties[.];

[17.] 16. To enter into contracts with any person, firm, corporation, not-for-profit corporation, [political subdivision of the state,] or governmental entity[.];

17. TO ESTABLISH A NEW YORK STATE WEB PORTAL AND APPROPRIATE ELECTRONIC GOVERNMENT POLICIES TO ENSURE THE MOST EFFECTIVE USE OF INTERNET TECHNOLOGY TO IMPROVE SERVICE TO CITIZENS, BUSINESSES AND VISITORS TO THE STATE; AND

18. TO OVERSEE AND COORDINATE THE DEPLOYMENT OF BROADBAND INTERNET ACCESS AROUND THE STATE.

S 104. [Advisory] INFORMATION TECHNOLOGY EXECUTIVE STRATEGIC council [for technology]. 1. There shall be within the office, an [advisory] EXECUTIVE STRATEGIC council [for technology], WHOSE PURPOSE SHALL BE TO PROVIDE ADVICE ON ENTERPRISE INFORMATION TECHNOLOGY INVESTMENTS FOR NEW YORK STATE, REFERRED TO HEREAFTER AS THE COUNCIL. [The director of the office shall serve as chair of the council.] The council shall be composed of [a minimum of] nine [information resource management directors or their equivalent] AGENCY HEADS appointed by the governor INCLUDING THE NEW YORK STATE CHIEF INFORMATION OFFICER WHO SHALL SERVE AS CHAIR OF THE COUNCIL. [The governor's appointments shall be selected from state agencies.] THE AGENCY HEADS MAY APPOINT IN WRITING A DESIGNEE TO SERVE ON THE COUNCIL. In addition, one MEMBER shall be appointed TO SERVE FROM WITHIN THE SENATE OR FROM SENATE STAFF upon recommendation of the temporary president of the senate and one MEMBER shall be appointed TO SERVE FROM WITHIN THE ASSEMBLY OR FROM ASSEMBLY STAFF upon the recommendation of the speaker of the assembly.

2. The members of the council shall receive no compensation for their services, but shall be allowed their actual and necessary expenses incurred in the performance of their duties.

S 105. Functions, powers and duties of the council. The council shall have the following functions, powers and duties:

1. [To] UPON THE REQUEST OF THE CHIEF INFORMATION OFFICER, TO review and comment on all rules and regulations of the office;

2. To provide guidance and support to the office in the development of any statewide plan for the further development and improvement of the state's technology acquisitions;

3. To recommend surveys and reports to be completed by the [director] CHIEF INFORMATION OFFICER to carry out all of the objectives and purposes of this article; and

4. To perform such other acts as may be assigned by the chairperson of the council which are necessary or appropriate to carry out the functions of the council.

S 4. Subdivision 4 of section 163-a of the state finance law, as amended by chapter 437 of the laws of 2004, is amended to read as follows:

4. The state agency together with the office [for technology] OF THE CHIEF INFORMATION OFFICER determines that the restriction is not in the best interest of the state. Such office shall notify each member of the advisory council established in article one of the state technology law of any such waiver of these restrictions.

S 5. This act shall take effect immediately.