

1                   **INFORMATION TECHNOLOGY COST-SAVINGS INCENTIVE**

2                                   2012 GENERAL SESSION

3                                   STATE OF UTAH

4                                   **Chief Sponsor: Lee B. Perry**

5                                   Senate Sponsor: \_\_\_\_\_

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7                   **LONG TITLE**

8                   **General Description:**

9                   This bill amends the Utah Technology Governance Act to, under certain circumstances,  
10 allow an executive branch agency to acquire information technology and related  
11 equipment without going through, or acquiring the information technology or  
12 equipment from, the Department of Technology Services, and creates a financial  
13 incentive for an agency that makes this type of acquisition if it results in a cost savings.

14                   **Highlighted Provisions:**

15                   This bill:

- 16                   ▶ defines terms;
- 17                   ▶ allows an executive branch agency to acquire information technology and related  
18 equipment without going through, or acquiring the information technology or  
19 equipment from, the Department of Technology Services, if the executive branch  
20 agency demonstrates that it can acquire the information technology or equipment:
- 21                   • at a level of quality that is at least as high as the level of quality that can be  
22 obtained from or through the department; and
  - 23                   • at a cost that is lower than the cost available from or through the department;
- 24                   ▶ permits an executive branch agency that realizes a cost savings by acquiring  
25 information technology or related equipment in the manner described above to  
26 apply for and, upon approval, use the cost-savings realized, in subsequent fiscal  
27 years, for another specified purpose that is in the interest of the executive branch



28 agency, the state, and the public;

29       ▶ modifies other provisions of the Utah Technology Governance Act to avoid

30 conflicts with the provisions of this bill; and

31       ▶ makes technical changes.

32 **Money Appropriated in this Bill:**

33       None

34 **Other Special Clauses:**

35       None

36 **Utah Code Sections Affected:**

37 AMENDS:

38       **63F-1-104**, as last amended by Laws of Utah 2011, Chapter 270

39       **63F-1-203**, as last amended by Laws of Utah 2011, Chapter 270

40       **63F-1-204**, as last amended by Laws of Utah 2008, Chapter 382

41       **63F-1-205**, as last amended by Laws of Utah 2011, Chapter 376

42       **63F-1-206**, as last amended by Laws of Utah 2008, Chapter 382

43       **63F-1-303**, as enacted by Laws of Utah 2005, Chapter 169

44       **63F-1-404**, as last amended by Laws of Utah 2011, Chapter 270

45       **63F-1-504**, as last amended by Laws of Utah 2011, Chapter 270

46 ENACTS:

47       **63F-1-901**, Utah Code Annotated 1953

48       **63F-1-902**, Utah Code Annotated 1953

49       **63F-1-903**, Utah Code Annotated 1953

50       **63F-1-904**, Utah Code Annotated 1953



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

53       Section 1. Section **63F-1-104** is amended to read:

54       **63F-1-104. Purposes.**

55       The department shall:

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

- 59 (a) ensures compliance with the executive branch agency strategic plan; and  
60 (b) ensures that cost-effective, efficient information and communication systems and  
61 resources are being used by agencies to:
- 62 (i) reduce data, hardware, and software redundancy;  
63 (ii) improve system interoperability and data accessibility between agencies; and  
64 (iii) meet the agency's and user's business and service needs;
- 65 (2) (a) coordinate an executive branch strategic plan for all agencies;  
66 (b) identify best practices from agencies and other public and private sector entities;  
67 and
- 68 (c) develop and implement processes to replicate information technology best practices  
69 and standards throughout the executive branch;
- 70 (3) oversee the expanded use and implementation of project and contract management  
71 principles as they relate to information technology projects within the executive branch;
- 72 (4) except as provided in Section 63F-1-903, serve as general contractor between the  
73 state's information technology users and private sector providers of information technology  
74 products and services;
- 75 (5) work toward building stronger partnering relationships with providers;
- 76 (6) develop service level agreements with executive branch departments and agencies  
77 to ensure quality products and services are delivered on schedule and within budget;
- 78 (7) develop standards for application development including a standard methodology  
79 and cost-benefit analysis that all agencies shall utilize for application development activities;
- 80 (8) determine and implement statewide efforts to standardize data elements and  
81 determine data ownership assignments among executive branch agencies;
- 82 (9) develop systems and methodologies to review, evaluate, and prioritize existing  
83 information technology projects within the executive branch and report to the governor and the  
84 Public Utilities and Technology Interim Committee on a semiannual basis regarding the status  
85 of information technology projects; [~~and~~]
- 86 (10) assist the Governor's Office of Planning and Budget with the development of  
87 information technology budgets for agencies[-]; and
- 88 (11) fulfill the duties described in this section in a manner that does not interfere with  
89 an executive branch agency's rights under Section 63F-1-903.

90 Section 2. Section **63F-1-203** is amended to read:

91 **63F-1-203. Executive branch information technology strategic plan.**

92 (1) In accordance with this section, the chief information officer shall prepare an  
93 executive branch information technology strategic plan:

94 (a) that complies with this chapter; and

95 (b) which shall include:

96 (i) a strategic plan for the:

97 (A) interchange of information related to information technology between executive  
98 branch agencies;

99 (B) coordination between executive branch agencies in the development and  
100 maintenance of information technology and information systems, including the coordination of  
101 agency information technology plans described in Section 63F-1-204; and

102 (C) protection of the privacy of individuals who use state information technology or  
103 information systems;

104 (ii) priorities for the development and implementation of information technology or  
105 information systems including priorities determined on the basis of:

106 (A) the importance of the information technology or information system; and

107 (B) the time sequencing of the information technology or information system; and

108 (iii) maximizing the use of existing state information technology resources.

109 (2) (a) In the development of the executive branch strategic plan, the chief information  
110 officer shall consult with all cabinet level officials and the advisory board created in Section  
111 63F-1-202.

112 (b) The executive branch strategic plan may not prohibit or interfere with an executive  
113 branch agency's rights under Section 63F-1-903.

114 (3) (a) Unless withdrawn by the chief information officer or the governor in accordance  
115 with Subsection (3)(b), the executive branch strategic plan takes effect 30 days after the day on  
116 which the executive branch strategic plan is submitted to:

117 (i) the governor; and

118 (ii) the Public Utilities and Technology Interim Committee.

119 (b) The chief information officer or the governor may withdraw the executive branch  
120 strategic plan submitted under Subsection (3)(a) if the governor or chief information officer

121 determines that the executive branch strategic plan:

- 122 (i) should be modified; or
- 123 (ii) for any other reason should not take effect.

124 (c) The Public Utilities and Technology Interim Committee may make  
125 recommendations to the governor and to the chief information officer if the commission  
126 determines that the executive branch strategic plan should be modified or for any other reason  
127 should not take effect.

128 (d) Modifications adopted by the chief information officer shall be resubmitted to the  
129 governor and the Public Utilities and Technology Interim Committee for their review or  
130 approval as provided in Subsections (3)(a) and (b).

131 (4) The executive branch strategic plan is to be implemented by executive branch  
132 agencies through each executive branch agency adopting an agency information technology  
133 plan in accordance with Section 63F-1-204.

134 Section 3. Section **63F-1-204** is amended to read:

135 **63F-1-204. Agency information technology plans.**

136 (1) (a) By July 1 of each year, each executive branch agency shall submit an agency  
137 information technology plan to the chief information officer at the department level, unless the  
138 governor or the chief information officer request an information technology plan be submitted  
139 by a subunit of a department, or by an executive branch agency other than a department.

140 (b) ~~[The]~~ Subject to Subsection (7), the information technology plans required by this  
141 section shall be in the form and level of detail required by the chief information officer, by  
142 administrative rule adopted in accordance with Section 63F-1-206, and shall include, at least:

- 143 (i) the information technology objectives of the agency;
- 144 (ii) any performance measures used by the agency for implementing the agency's  
145 information technology objectives;
- 146 (iii) any planned expenditures related to information technology;
- 147 (iv) the agency's need for appropriations for information technology;
- 148 (v) how the agency's development of information technology coordinates with other  
149 state and local governmental entities;
- 150 (vi) any efforts the agency has taken to develop public and private partnerships to  
151 accomplish the information technology objectives of the agency; and

152 (vii) the efforts the executive branch agency has taken to conduct transactions  
153 electronically in compliance with Section 46-4-503.

154 (2) (a) Except as provided in Subsection (2)(b), an agency information technology plan  
155 described in Subsection (1) shall comply with the executive branch strategic plan established in  
156 accordance with Section 63F-1-203.

157 (b) If the executive branch agency submitting the agency information technology plan  
158 justifies the need to depart from the executive branch strategic plan, an agency information  
159 technology plan may depart from the executive branch strategic plan to the extent approved by  
160 the chief information officer.

161 (3) (a) On receipt of a state agency information technology plan, the chief information  
162 officer shall forward a complete copy of the agency information technology plan to the  
163 Division of Enterprise Technology created in Section 63F-1-401 and the Division of Integrated  
164 Technology created in Section 63F-1-501.

165 (b) The divisions shall provide the chief information officer a written analysis of each  
166 agency plan submitted in accordance with Sections 63F-1-404 and 63F-1-504.

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

168 (i) (A) whether the agency plan complies with the executive branch strategic plan and  
169 state information architecture; or

170 (B) to the extent that the agency plan does not comply with the executive branch  
171 strategic plan or state information architecture, whether the executive branch entity is justified  
172 in departing from the executive branch strategic plan, or state information architecture; and

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

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

175 (B) the state.

176 (b) In conducting the review required by Subsection (4)(a), the chief information  
177 officer shall consider the analysis submitted by the divisions under Subsection (3).

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

180 (a) approve the agency information technology plan;

181 (b) disapprove the agency information technology plan; or

182 (c) recommend modifications to the agency information technology plan.

183 (6) An executive branch agency or the department may not submit a request for  
184 appropriation related to information technology or an information technology system to the  
185 governor in accordance with Section 63J-1-201 until after the executive branch agency's  
186 information technology plan is approved by the chief information officer.

187 (7) The chief information officer may not:

188 (a) require that a plan submitted by an executive branch agency disclose whether the  
189 executive branch agency is planning to obtain information technology or equipment from or  
190 through a source other than the department; or

191 (b) make approval of a plan, or any portion of a plan, subject to an executive branch  
192 agency not exercising its rights under Section 63F-1-903.

193 Section 4. Section **63F-1-205** is amended to read:

194 **63F-1-205. Approval of acquisitions of information technology.**

195 (1) (a) Except as provided in Title 63M, Chapter 1, Part 26, Government Procurement  
196 Private Proposal Program, in accordance with Subsection (2), the chief information officer  
197 shall approve the acquisition by an executive branch agency of:

198 (i) information technology equipment;

199 (ii) telecommunications equipment;

200 (iii) software;

201 (iv) services related to the items listed in Subsections (1)(a)(i) through (iii); and

202 (v) data acquisition.

203 (b) The chief information officer may negotiate the purchase, lease, or rental of private  
204 or public information technology or telecommunication services or facilities in accordance with  
205 this section.

206 (c) Where practical, efficient, and economically beneficial, the chief information  
207 officer shall use existing private and public information technology or telecommunication  
208 resources.

209 (d) Notwithstanding another provision of this section, an acquisition authorized by this  
210 section shall comply with rules made by the State Procurement Policy Board under Title 63G,  
211 Chapter 6, Utah Procurement Code.

212 (2) Before negotiating a purchase, lease, or rental under Subsection (1) for an amount  
213 that exceeds the value established by the chief information officer by rule in accordance with

214 Section 63F-1-206, the chief information officer shall:

215 (a) conduct an analysis of the needs of executive branch agencies and subscribers of  
216 services and the ability of the proposed information technology or telecommunications services  
217 or supplies to meet those needs; and

218 (b) for purchases, leases, or rentals not covered by an existing statewide contract,  
219 provide in writing to the chief procurement officer in the Division of Purchasing and General  
220 Services that:

221 (i) the analysis required in Subsection (2)(a) was completed; and

222 (ii) based on the analysis, the proposed purchase, lease, rental, or master contract of  
223 services, products, or supplies is practical, efficient, and economically beneficial to the state  
224 and the executive branch agency or subscriber of services.

225 (3) In approving an acquisition described in Subsections (1) and (2), the chief  
226 information officer shall:

227 (a) establish by administrative rule, in accordance with Section 63F-1-206, standards  
228 under which an agency must obtain approval from the chief information officer before  
229 acquiring the items listed in Subsections (1) and (2);

230 (b) for those acquisitions requiring approval, determine whether the acquisition is in  
231 compliance with:

232 (i) the executive branch strategic plan;

233 (ii) the applicable agency information technology plan;

234 (iii) the budget for the executive branch agency or department as adopted by the  
235 Legislature; and

236 (iv) Title 63G, Chapter 6, Utah Procurement Code; and

237 (c) in accordance with Section 63F-1-207, require coordination of acquisitions between  
238 two or more executive branch agencies if it is in the best interests of the state.

239 (4) (a) Each executive branch agency shall provide the chief information officer with  
240 complete access to all information technology records, documents, and reports:

241 (i) at the request of the chief information officer; and

242 (ii) related to the executive branch agency's acquisition of any item listed in Subsection  
243 (1).

244 (b) Beginning July 1, 2006 and in accordance with administrative rules established by



245 the department under Section 63F-1-206, no new technology projects may be initiated by an  
246 executive branch agency or the department unless the technology project is described in a  
247 formal project plan and the business case analysis has been approved by the chief information  
248 officer and agency head. The project plan and business case analysis required by this  
249 Subsection (4) shall be in the form required by the chief information officer, and shall include:

- 250 (i) a statement of work to be done and existing work to be modified or displaced;
- 251 (ii) total cost of system development and conversion effort, including system analysis  
252 and programming costs, establishment of master files, testing, documentation, special  
253 equipment cost and all other costs, including overhead;
- 254 (iii) savings or added operating costs that will result after conversion;
- 255 (iv) other advantages or reasons that justify the work;
- 256 (v) source of funding of the work, including ongoing costs;
- 257 (vi) consistency with budget submissions and planning components of budgets; and
- 258 (vii) whether the work is within the scope of projects or initiatives envisioned when the  
259 current fiscal year budget was approved.

260 (5) (a) The chief information officer and the Division of Purchasing and General  
261 Services shall work cooperatively to establish procedures under which the chief information  
262 officer shall monitor and approve acquisitions as provided in this section.

263 (b) The procedures established under this section shall include at least the written  
264 certification required by Subsection 63G-6-204(8).

265 (6) This section does not apply to acquisitions under Section 63F-1-903.

266 Section 5. Section **63F-1-206** is amended to read:

267 **63F-1-206. Rulemaking -- Policies.**

268 (1) (a) Except as provided in Subsection (2), in accordance with Title 63G, Chapter 3,  
269 Utah Administrative Rulemaking Act, the chief information officer shall make rules that:

270 (i) provide standards that impose requirements on executive branch agencies that:

271 (A) are related to the security of the statewide area network; and

272 (B) establish standards for when an agency must obtain approval before obtaining  
273 items listed in Subsection 63F-1-205(1);

274 (ii) specify the detail and format required in an agency information technology plan  
275 submitted in accordance with Section 63F-1-204;

276 (iii) provide for standards related to the privacy policies of websites operated by or on  
277 behalf of an executive branch agency;

278 (iv) provide for the acquisition, licensing, and sale of computer software;

279 (v) specify the requirements for the project plan and business case analysis required by  
280 Section 63F-1-205;

281 (vi) provide for project oversight of agency technology projects when required by  
282 Section 63F-1-205;

283 (vii) establish, in accordance with Subsection 63F-1-205(2), the implementation of the  
284 needs assessment for information technology purchases; and

285 (viii) establish telecommunications standards and specifications in accordance with  
286 Section 63F-1-404.

287 (b) The rulemaking authority in this Subsection (1) is in addition to any other  
288 rulemaking authority granted by this title.

289 (2) (a) Notwithstanding Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
290 and subject to Subsection (2)(b), the chief information officer may adopt a policy that outlines  
291 procedures to be followed by the chief information officer in facilitating the implementation of  
292 this title by executive branch agencies if the policy:

293 (i) is consistent with the executive branch strategic plan; and

294 (ii) is not required to be made by rule under Subsection (1) or Section 63G-3-201.

295 (b) (i) A policy adopted by the chief information officer under Subsection (2)(a) may  
296 not take effect until 30 days after the day on which the chief information officer submits the  
297 policy to:

298 (A) the governor; and

299 (B) all cabinet level officials.

300 (ii) During the 30-day period described in Subsection (2)(b)(i), cabinet level officials  
301 may review and comment on a policy submitted under Subsection (2)(b)(i).

302 (3) (a) Notwithstanding Subsection (1) or (2) or Title 63G, Chapter 3, Utah  
303 Administrative Rulemaking Act, without following the procedures of Subsection (1) or (2), the  
304 chief information officer may adopt a security procedure to be followed by executive branch  
305 agencies to protect the statewide area network if:

306 (i) broad communication of the security procedure would create a significant potential

307 for increasing the vulnerability of the statewide area network to breach or attack; and

308 (ii) after consultation with the chief information officer, the governor agrees that broad  
309 communication of the security procedure would create a significant potential increase in the  
310 vulnerability of the statewide area network to breach or attack.

311 (b) A security procedure described in Subsection (3)(a) is classified as a protected  
312 record under Title 63G, Chapter 2, Government Records Access and Management Act.

313 (c) The chief information officer shall provide a copy of the security procedure as a  
314 protected record to:

315 (i) the chief justice of the Utah Supreme Court for the judicial branch;

316 (ii) the speaker of the House of Representatives and the president of the Senate for the  
317 legislative branch;

318 (iii) the chair of the Board of Regents; and

319 (iv) the chair of the State Board of Education.

320 (4) (a) Rules made under Subsection (1), and policies made under Subsection (2), may  
321 not interfere with an executive branch agency's rights under Section 63F-1-903.

322 (b) A security procedure described in Subsection (3)(a) may not unreasonably interfere  
323 with an executive branch agency's rights under Section 63F-1-903.

324 Section 6. Section **63F-1-303** is amended to read:

325 **63F-1-303. Executive branch agencies -- Subscription by institutions.**

326 (1) ~~[An]~~ Except as provided in Section 63F-1-903, an executive branch agency in  
327 accordance with its agency information technology plan approved by the chief information  
328 officer shall:

329 (a) subscribe to the information technology services provided by the department; or

330 (b) contract with one or more alternate private providers of information technology  
331 services if the chief information officer determines that the purchase of the services from a  
332 private provider will:

333 (i) result in:

334 (A) cost savings;

335 (B) increased efficiency; or

336 (C) improved quality of services; and

337 (ii) not impair the interoperability of the state's information technology services.

338 (2) An institution of higher education may subscribe to the services provided by the  
339 department if:

340 (a) the president of the institution recommends that the institution subscribe to the  
341 services of the department; and

342 (b) the Board of Regents determines that subscription to the services of the department  
343 will result in cost savings or increased efficiency to the institution.

344 (3) The following may subscribe to information technology services by requesting that  
345 the services be provided from the department:

346 (a) the legislative branch;

347 (b) the judicial branch;

348 (c) the State Board of Education;

349 (d) a political subdivision of the state;

350 (e) an agency of the federal government;

351 (f) an independent entity as defined in Section 63E-1-102; and

352 (g) an elective constitutional officer of the executive department as defined in  
353 Subsection 63F-1-102(7)(b).

354 Section 7. Section **63F-1-404** is amended to read:

355 **63F-1-404. Duties of the division.**

356 The division shall:

357 (1) develop and implement an effective enterprise architecture governance model for  
358 the executive branch;

359 (2) provide oversight of information technology projects that impact statewide  
360 information technology services, assets, or functions of state government to:

361 (a) control costs;

362 (b) ensure business value to a project;

363 (c) maximize resources;

364 (d) ensure the uniform application of best practices; and

365 (e) avoid duplication of resources;

366 (3) develop a method of accountability to agencies for services provided by the  
367 division through service agreements with the agencies;

368 (4) [~~beginning~~] on September 1[, 2006, and each September 1 thereafter] of each year,

369 provide the chief information officer and the Public Utilities and Technology Interim  
370 Committee with performance measures used by the division to measure the quality of service  
371 delivered by the division and the results of the performance measures;

372 (5) serve as a project manager for enterprise architecture which includes the  
373 management of applications, standards, and procurement of enterprise architecture;

374 (6) coordinate the development and implementation of advanced state  
375 telecommunication systems;

376 (7) provide services including technical assistance:

377 (a) to executive branch agencies and subscribers to the services; and

378 (b) related to information technology or telecommunications;

379 (8) establish telecommunication system specifications and standards for use by:

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

381 (b) one or more entities that subscribe to the telecommunication systems in accordance  
382 with Section 63F-1-303;

383 (9) coordinate state telecommunication planning in cooperation with:

384 (a) state telecommunication users;

385 (b) executive branch agencies; and

386 (c) other subscribers to the state's telecommunication systems;

387 (10) cooperate with the federal government, other state entities, counties, and  
388 municipalities in the development, implementation, and maintenance of:

389 (a) (i) governmental information technology; or

390 (ii) governmental telecommunication systems; and

391 (b) (i) as part of a cooperative organization; or

392 (ii) through means other than a cooperative organization;

393 (11) establish, operate, manage, and maintain:

394 (a) one or more state data centers; and

395 (b) one or more regional computer centers;

396 (12) design, implement, and manage all state-owned, leased, or rented land, mobile, or  
397 radio telecommunication systems that are used in the delivery of services for state government  
398 or its political subdivisions;

399 (13) in accordance with the executive branch strategic plan, implement minimum

400 standards to be used by the division for purposes of compatibility of procedures, programming  
401 languages, codes, and media that facilitate the exchange of information within and among  
402 telecommunication systems; [~~and~~]

403 (14) provide the chief information officer with an analysis of an executive branch  
404 agency information technology plan that includes:

405 (a) an assessment of how the implementation of the agency information technology  
406 plan will affect the costs, operations, and services of:

407 (i) the department; and

408 (ii) other executive branch agencies; and

409 (b) any recommended changes to the plan[:]; and

410 (15) fulfill the duties described in this section in a manner that does not interfere with  
411 an executive branch agency's rights under Section 63F-1-903.

412 Section 8. Section **63F-1-504** is amended to read:

413 **63F-1-504. Duties of the division.**

414 The division shall:

415 (1) establish standards for the information technology needs of a collection of  
416 executive branch agencies or programs that share common characteristics relative to the types  
417 of stakeholders they serve, including:

418 (a) project management;

419 (b) application development; and

420 (c) procurement;

421 (2) provide oversight of information technology standards that impact multiple  
422 executive branch agency information technology services, assets, or functions to:

423 (a) control costs;

424 (b) ensure business value to a project;

425 (c) maximize resources;

426 (d) ensure the uniform application of best practices; and

427 (e) avoid duplication of resources;

428 (3) in accordance with Section 63F-1-204, provide the chief information officer a  
429 written analysis of any agency information technology plan provided to the division, which  
430 shall include:

431 (a) a review of whether the agency's technology projects impact multiple agencies and  
 432 if so, whether the information technology projects are appropriately designed and developed;

433 (b) an assessment of whether the agency plan complies with the state information  
 434 architecture; and

435 (c) an assessment of whether the information technology projects included in the  
 436 agency plan comply with policies, procedures, and rules adopted by the department to ensure  
 437 that:

438 (i) information technology projects are phased in;

439 (ii) funding is released in phases;

440 (iii) an agency's authority to proceed to the next phase of an information technology  
 441 project is contingent upon the successful completion of the prior phase; and

442 (iv) one or more specific deliverables is identified for each phase of a technology  
 443 project;

444 (4) establish a system of accountability to user agencies through the use of service  
 445 agreements;

446 (5) each year, provide the chief information officer and the Public Utilities and  
 447 Technology Interim Committee with performance measures used by the division to measure the  
 448 quality of services delivered by the division and results of those measures; ~~and~~

449 (6) establish administrative rules in accordance with Section 63F-1-206 and as required  
 450 by Section 63F-1-506[-]; and

451 (7) fulfill the duties described in this section in a manner that does not interfere with an  
 452 executive branch agency's rights under Section 63F-1-903.

453 Section 9. Section **63F-1-901** is enacted to read:

454 **Part 9. Exceptions**

455 **63F-1-901. Title.**

456 This part is known as "Exceptions."

457 Section 10. Section **63F-1-902** is enacted to read:

458 **63F-1-902. Definitions.**

459 As used in this part:

460 (1) "Budget savings" means the amount appropriated for a fiscal year to an executive  
 461 branch agency for information technology that is not spent during that fiscal year, to the extent

462 that the amount not spent was due to a cost savings realized under Section 63F-1-903.

463 (2) "Cost savings" means that the actual expenditure by an executive branch agency for  
464 the information technology and equipment acquired from or through a person other than the  
465 department, under Section 63F-1-903, is less than the amount that it would have cost to acquire  
466 the information technology and equipment from or through the department.

467 (3) "Equipment" means:

468 (a) information technology equipment;

469 (b) telecommunications equipment; or

470 (c) software.

471 Section 11. Section **63F-1-903** is enacted to read:

472 **63F-1-903. Direct acquisition of information technology or equipment.**

473 (1) Notwithstanding any provision of this chapter to the contrary, an executive branch  
474 agency may acquire information technology or equipment from a person other than the  
475 department without going through the department and without approval from the department,  
476 if:

477 (a) the chief information officer, under Section 63F-1-204, has already given approval  
478 for the executive branch agency to acquire the information technology or equipment directly  
479 from or through the department;

480 (b) an appropriation is made by the Legislature for acquisition of the information  
481 technology or equipment; and

482 (c) the executive branch agency:

483 (i) establishes, in writing, that it can acquire the information technology or equipment:

484 (A) at a level of quality that is at least as high as the level of quality that can be  
485 obtained from or through the department; and

486 (B) at a cost that is lower than the cost available from or through the department;

487 (ii) provides a copy of the written document described in Subsection (1)(c)(i) to the  
488 department and the Division of Finance; and

489 (iii) except as provided in Subsection (2), acquires the property in accordance with  
490 Title 63G, Chapter 6, Utah Procurement Code.

491 (2) An executive branch agency that otherwise complies with Subsection (1) is, with  
492 respect to the acquisition described in Subsection (1), exempt from a provision of Title 63G,



493 Chapter 6, Utah Procurement Code, or a rule made under Title 63G, Chapter 6, Utah  
494 Procurement Code, that requires an executive branch agency to purchase under an existing state  
495 contract.

496 Section 12. Section **63F-1-904** is enacted to read:

497 **63F-1-904. Application to use cost savings for specified purpose.**

498 (1) An executive branch agency that is able to demonstrate that it realized a cost  
499 savings through an acquisition described in Section 63F-1-903 may, in the fiscal year following  
500 the fiscal year in which the cost savings occurred, apply, to the appropriations subcommittee  
501 responsible for making budget recommendations relating to the executive branch agency, for  
502 permission to use the cost savings realized for another specified purpose that is in the interest  
503 of the executive branch agency, the state, and the public, in subsequent fiscal years.

504 (2) Upon receipt of an application described in Subsection (1), the subcommittee is  
505 encouraged to recommend to the Executive Appropriations Committee that the executive  
506 branch agency be permitted to use some or all of the cost savings, in subsequent fiscal years,  
507 for a specified purpose that is in the interest of the executive branch agency, the state, and the  
508 public.

509 (3) The Executive Appropriations Committee is encouraged to approve the  
510 recommendation, described in Subsection (2), of the appropriations subcommittee.

511 (4) The Legislature is encouraged to appropriate money approved by the Executive  
512 Appropriations Committee, under Subsection (3), for the specified purpose recommended  
513 under Subsection (2).

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**Legislative Review Note**  
as of 1-27-12 10:26 AM

**Office of Legislative Research and General Counsel**