
HOUSE BILL 1841

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By Representatives McCoy, Crouse, Dunshee, Short, Clibborn, Hudgins, Tharinger, and Ormsby; by request of Governor Gregoire

Read first time 02/04/11. Referred to Committee on Technology, Energy & Communications.

1 AN ACT Relating to management and consolidation of information
2 technology; amending RCW 43.105.835, 42.17A.705, 42.17.2401,
3 43.105.290, 43.105.020, 43.105.047, 43.105.052, 43.105.057, 43.105.060,
4 and 41.80.020; reenacting and amending RCW 39.29.040 and 41.06.070;
5 adding a new section to chapter 41.06 RCW; adding new sections to
6 chapter 43.105 RCW; adding a new chapter to Title 43 RCW; adding a new
7 chapter to Title 41 RCW; recodifying RCW 43.105.052, 43.105.172,
8 43.105.250, 43.105.260, 43.105.270, 43.105.280, 43.105.290, 43.105.310,
9 and 43.105.835; repealing RCW 43.105.005, 43.105.013, 43.105.019,
10 43.105.032, 43.105.041, 43.105.095, 43.105.105, 43.105.160, 43.105.170,
11 43.105.180, 43.105.190, 43.105.200, 43.105.210, 43.105.330, 43.105.805,
12 43.105.815, and 43.105.820; providing effective dates; providing an
13 expiration date; and declaring an emergency.

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

15 PART I

16 CREATING THE OFFICE OF CHIEF INFORMATION OFFICER

17 NEW SECTION. Sec. 101. Information technology is a tool used by
18 state agencies to improve their ability to deliver public services

1 efficiently and effectively. Advances in information technology -
2 including advances in hardware, software, and business processes for
3 implementing and managing these resources - offer new opportunities to
4 improve the level of support provided to citizens and state agencies
5 and to reduce the per-transaction cost of these services. These
6 advances are one component in the process of reengineering how
7 government delivers services to citizens.

8 To fully realize the service improvements and cost efficiency from
9 the effective application of information technology to its business
10 processes, state government must establish decision-making structures
11 that connect business processes and information technology in an
12 operating model. Many of these business practices transcend individual
13 agency processes and should be worked at the enterprise level. To do
14 this requires an effective partnership of executive management,
15 business processes owners, and providers of support functions necessary
16 to efficiently and effectively deliver services to citizens.

17 To maximize the potential for information technology to contribute
18 to government business process reengineering the state must establish
19 clear central authority to plan, set enterprise standards, and provide
20 project oversight and management analysis of the various aspects of a
21 business process.

22 Establishing the office of chief information officer and partnering
23 it with the director of financial management and the director of
24 personnel will provide state government with the cohesive structure
25 necessary to develop improved operating models with agency directors
26 and reengineer business process to enhance service delivery while
27 capturing savings.

28 NEW SECTION. **Sec. 102.** (1) The office of the chief information
29 officer is created within the office of financial management.

30 (2) Powers, duties, and functions assigned to the department of
31 information services as specified in this chapter shall be transferred
32 to the office of chief information officer as provided in this chapter.

33 (3) The primary duties of the office are:

34 (a) To prepare and lead the implementation of a strategic direction
35 and enterprise architecture for information technology for state
36 government;

1 (b) To enable the standardization and consolidation of information
2 technology infrastructure to support enterprise-based system
3 development and improve and maintain service delivery;

4 (c) To establish standards and policies for the consistent and
5 efficient operation of information technology services throughout state
6 government;

7 (d) To establish statewide enterprise architecture that will serve
8 as the organizing standard for information technology for state
9 agencies;

10 (e) Educate and inform state managers and policymakers on
11 technological developments, industry trends and best practices,
12 industry benchmarks that strengthen decision making and professional
13 development, and industry understanding for public managers and
14 decision makers.

15 (4) In the case of institutions of higher education, the powers of
16 the office and the provisions of this chapter apply to business and
17 administrative applications but do not apply to academic and research
18 applications.

19 NEW SECTION. **Sec. 103.** (1) The executive head and appointing
20 authority of the office is the chief information officer. The chief
21 information officer shall be appointed by the governor, subject to
22 confirmation by the senate. The chief information officer shall serve
23 at the pleasure of the governor. The chief information officer shall
24 be paid a salary fixed by the governor. If a vacancy occurs in the
25 position of chief information officer while the senate is not in
26 session, the governor shall make a temporary appointment until the next
27 meeting of the senate at which time he or she shall present to that
28 body his or her nomination for the position.

29 (2) The chief information officer may employ staff members, who
30 shall be exempt from chapter 41.06 RCW, and any additional staff
31 members as are necessary to administer this chapter, and such other
32 duties as may be authorized by law. The chief information officer may
33 delegate any power or duty vested in him or her by this chapter or
34 other law.

35 (3) The internal affairs of the office shall be under the control
36 of the chief information officer in order that the chief information
37 officer may manage the office in a flexible and intelligent manner as

1 dictated by changing contemporary circumstances. Unless specifically
2 limited by law, the chief information officer shall have complete
3 charge and supervisory powers over the office. The chief information
4 officer may create such administrative structures as the chief
5 information officer deems appropriate, except as otherwise specified by
6 law, and the chief information officer may employ such personnel as may
7 be necessary in accordance with chapter 41.06 RCW, except as otherwise
8 provided by law.

9 NEW SECTION. **Sec. 104.** The chief information officer shall:

10 (1) Supervise and administer the activities of the office of chief
11 information officer;

12 (2) Exercise all the powers and perform all the duties prescribed
13 by law with respect to the administration of this chapter including:

14 (a) Appoint such professional, technical, and clerical assistants
15 and employees as may be necessary to perform the duties imposed by this
16 chapter; and

17 (b) Report to the governor any matters relating to abuses and
18 evasions of this chapter.

19 (3) In addition to other powers and duties granted, the chief
20 information officer has the following powers and duties:

21 (a) Enter into contracts on behalf of the state to carry out the
22 purposes of this chapter;

23 (b) Accept and expend gifts and grants that are related to the
24 purposes of this chapter, whether such grants be of federal or other
25 funds;

26 (c) Apply for grants from public and private entities, and receive
27 and administer any grant funding received for the purpose and intent of
28 this chapter;

29 (d) Adopt rules in accordance with chapter 34.05 RCW and perform
30 all other functions necessary and proper to carry out the purposes of
31 this chapter;

32 (e) Delegate powers, duties, and functions as the chief information
33 officer deems necessary for efficient administration, but the chief
34 information officer shall be responsible for the official acts of the
35 officers and employees of the office; and

36 (f) Perform other duties as are necessary and consistent with law.

1 NEW SECTION. **Sec. 105.** The definitions in this section apply

2 throughout this chapter unless the context clearly requires otherwise.

3 (1) "Backbone network" means the shared high-density portions of
4 the state's telecommunications transmission facilities. It includes
5 specially conditioned high-speed communications carrier lines,
6 multiplexors, switches associated with such communications lines, and
7 any equipment and software components necessary for management and
8 control of the backbone network.

9 (2) "Board" means the information technology advisory board.

10 (3) "Committee" means the state interoperability executive
11 committee.

12 (4) "Educational sectors" means those institutions of higher
13 education, school districts, and educational service districts that use
14 the network for distance education, data transmission, and other uses
15 permitted by the board.

16 (5) "Enterprise architecture" means an ongoing program for
17 translating business vision and strategy into effective enterprise
18 change. It is a continuous activity. Enterprise architecture creates,
19 communicates, and improves the key principles and models that describe
20 the enterprise's future state and enable its evolution. The intent of
21 enterprise architecture is to provide guidance to projects that will
22 improve the reliability, interoperability, and sustainability of the
23 information, services, and business processes that Washington
24 government uses, assisted where appropriate by common and standardized
25 technologies.

26 (6) "Equipment" means the machines, devices, and transmission
27 facilities used in information processing, including but not limited to
28 computers, terminals, telephones, wireless communications system
29 facilities, cables, and any physical facility necessary for the
30 operation of such equipment.

31 (7) "Information" includes, but is not limited to, data, text,
32 voice, and video.

33 (8) "Information technology" includes, but is not limited to, all
34 electronic technology systems and services, automated information
35 handling, system design and analysis, conversion of data, computer
36 programming, information storage and retrieval, telecommunications,
37 requisite system controls, simulation, electronic commerce, and all
38 related interactions between people and machines.

1 (9) "Information technology portfolio" or "portfolio" means a
2 strategic management process documenting relationships between agency
3 missions and information technology and telecommunications investments.

4 (10) "K-20 network" means the network established in section 117 of
5 this act.

6 (11) "Local governments" includes all municipal and quasi-municipal
7 corporations and political subdivisions, and all agencies of such
8 corporations and subdivisions authorized to contract separately.

9 (12) "Office" means the office of the chief information officer.

10 (13) "Oversight" means a process of comprehensive risk analysis and
11 management designed to ensure optimum use of information technology
12 resources and telecommunications.

13 (14) "Proprietary software" means that software offered for sale or
14 license.

15 (15) "State agency" or "agency" means every state office,
16 department, division, bureau, board, commission, or other state agency,
17 including offices headed by a statewide elected official.

18 (16) "Telecommunications" includes, but is not limited to, wireless
19 or wired systems for transport of voice, video, and data
20 communications, network systems, requisite facilities, equipment,
21 system controls, simulation, electronic commerce, and all related
22 interactions between people and machines. "Telecommunications" does
23 not include public safety communications.

24 **STANDARDS AND POLICIES**

25 NEW SECTION. **Sec. 106.** (1) The chief information officer shall
26 establish standards and policies to govern information technology in
27 the state of Washington.

28 (2) The office shall have the following powers and duties related
29 to information services:

30 (a) To develop standards and policies governing the acquisition and
31 disposition of equipment, software, and personal and purchased
32 services, licensing of the radio spectrum by or on behalf of state
33 agencies, and confidentiality of computerized data;

34 (b) To develop statewide or interagency technical policies,
35 standards, and procedures;

1 (c) To review and approve standards and common specifications for
2 new or expanded telecommunications networks proposed by agencies,
3 public postsecondary education institutions, educational service
4 districts, or statewide or regional providers of K-12 information
5 technology services;

6 (d) To provide direction concerning strategic planning goals and
7 objectives for the state. The office shall seek input from the
8 legislature and the judiciary; and

9 (e) To establish policies for the periodic review by the office of
10 agency performance which may include but are not limited to analysis
11 of:

- 12 (i) Planning, management, control, and use of information services;
- 13 (ii) Training and education; and
- 14 (iii) Project management.

15 (3) Statewide technical standards to promote and facilitate
16 electronic information sharing and access are an essential component of
17 acceptable and reliable public access service and complement content-
18 related standards designed to meet those goals. The office shall:

19 (a) Establish technical standards to facilitate electronic access
20 to government information and interoperability of information systems,
21 including wireless communications systems; and

22 (b) Require agencies to consider electronic public access needs
23 when planning new information systems or major upgrades of systems.

24 In developing these standards, the office is encouraged to include
25 the state library, state archives, and appropriate representatives of
26 state and local government.

27 (4) The office shall perform other matters and things necessary to
28 carry out the purposes and provisions of this chapter.

29 **STRATEGIC PLANNING**

30 NEW SECTION. **Sec. 107.** (1) The office shall prepare a state
31 strategic information technology plan which shall establish a statewide
32 mission, goals, and objectives for the use of information technology,
33 including goals for electronic access to government records,
34 information, and services. The plan shall be developed in accordance
35 with the standards and policies established by the office. The office
36 shall seek the advice of the board in the development of this plan.

1 The plan shall be updated as necessary and submitted to the
2 governor and the legislature.

3 (2) The office shall prepare a biennial state performance report on
4 information technology based on agency performance reports required
5 under section 110 of this act and other information deemed appropriate
6 by the office. The report shall include, but not be limited to:

7 (a) An analysis, based upon agency portfolios, of the state's
8 information technology infrastructure, including its value, condition,
9 and capacity;

10 (b) An evaluation of performance relating to information
11 technology;

12 (c) An assessment of progress made toward implementing the state
13 strategic information technology plan, including progress toward
14 electronic access to public information and enabling citizens to have
15 two-way access to public records, information, and services; and

16 (d) An analysis of the success or failure, feasibility, progress,
17 costs, and timeliness of implementation of major information technology
18 projects under section 112 of this act. At a minimum, the portion of
19 the report regarding major technology projects must include:

20 (i) The total cost data for the entire life-cycle of the project,
21 including capital and operational costs, broken down by staffing costs,
22 contracted service, hardware purchase or lease, software purchase or
23 lease, travel, and training. The original budget must also be shown
24 for comparison;

25 (ii) The original proposed project schedule and the final actual
26 project schedule;

27 (iii) Data regarding progress towards meeting the original goals
28 and performance measures of the project;

29 (iv) Discussion of lessons learned on the project, performance of
30 any contractors used, and reasons for project delays or cost increases;
31 and

32 (v) Identification of benefits generated by major information
33 technology projects developed under section 112 of this act.

34 Copies of the report shall be distributed biennially to the
35 governor and the legislature. The major technology section of the
36 report must examine major information technology projects completed in
37 the previous biennium.

1 **PORTFOLIO MANAGEMENT**

2 NEW SECTION. **Sec. 108.** Management of information technology
3 across state government requires managing resources and business
4 processes across multiple agencies. It is no longer sufficient to
5 pursue efficiencies within agency or individual business process
6 boundaries. The state must manage the business process changes and
7 information technology in support of business processes as a statewide
8 portfolio. The chief information officer will use agency information
9 technology portfolio planning to build a statewide portfolio to guide
10 resource allocation and prioritization decisions.

11 NEW SECTION. **Sec. 109.** An agency information technology portfolio
12 shall serve as the basis for making information technology decisions
13 and plans including:

- 14 (1) System refurbishment, acquisitions, and development efforts;
15 (2) Setting goals and objectives for using information technology;
16 (3) Assessments of information processing performance, resources,
17 and capabilities;
18 (4) Ensuring the appropriate transfer of technological expertise
19 for the operation of new systems developed using external resources;
20 and
21 (5) Progress toward providing electronic access to public
22 information.

23 NEW SECTION. **Sec. 110.** (1) Each agency shall develop an
24 information technology portfolio consistent with RCW 43.105.172 (as
25 recodified by this act). The superintendent of public instruction
26 shall develop its portfolio in conjunction with educational service
27 districts and statewide or regional providers of K-12 education
28 information technology services.

29 (2) Agency portfolios shall include, but not be limited to, the
30 following:

31 (a) A baseline assessment of the agency's information technology
32 resources and capabilities that will serve as the benchmark for
33 subsequent planning and performance measures;

34 (b) A statement of the agency's mission, goals, and objectives for
35 information technology, including goals and objectives for achieving
36 electronic access to agency records, information, and services;

1 (c) An explanation of how the agency's mission, goals, and
2 objectives for information technology support and conform to the state
3 strategic information technology plan developed under section 107 of
4 this act;

5 (d) An implementation strategy to provide electronic access to
6 public records and information. This implementation strategy must be
7 assembled to include:

8 (i) Compliance with Title 40 RCW;

9 (ii) Adequate public notice and opportunity for comment;

10 (iii) Consideration of a variety of electronic technologies,
11 including those that help transcend geographic locations, standard
12 business hours, economic conditions of users, and disabilities;

13 (iv) Methods to educate both state employees and the public in the
14 effective use of access technologies;

15 (e) Projects and resources required to meet the objectives of the
16 portfolio; and

17 (f) Where feasible, estimated schedules and funding required to
18 implement identified projects.

19 (3) Portfolios developed under subsection (1) of this section shall
20 be submitted to the office for review and approval. The chief
21 information officer may reject, require modification to, or approve
22 portfolios as deemed appropriate. Portfolios submitted under this
23 subsection shall be updated and submitted for review and approval as
24 necessary.

25 (4) Each agency shall prepare and submit to the office a biennial
26 performance report that evaluates progress toward the objectives
27 articulated in its information technology portfolio. The
28 superintendent of public instruction shall develop its portfolio in
29 conjunction with educational service districts and statewide or
30 regional providers of K-12 education information technology services.
31 The report shall include:

32 (a) An evaluation of the agency's performance relating to
33 information technology;

34 (b) An assessment of progress made toward implementing the agency
35 information technology portfolio;

36 (c) Progress toward electronic access to public information and
37 enabling citizens to have two-way interaction for obtaining information
38 and services from agencies; and

1 (d) An inventory of agency information services, equipment, and
2 proprietary software.

3 (5) The office shall establish standards, elements, form, and
4 format for plans and reports developed under this section.

5 (6) Agency activities to increase electronic access to public
6 records and information, as required by this section, must be
7 implemented within available resources and existing agency planning
8 processes.

9 (7) The office may exempt any agency from any or all of the
10 requirements of this section.

11 BUDGET REVIEW

12 NEW SECTION. **Sec. 111.** (1) At the request of the director of
13 financial management, the office shall evaluate state agency
14 information technology budget requests, including those proposed by the
15 superintendent of public instruction, in conjunction with educational
16 service districts, or statewide or regional providers of K-12 education
17 information technology services. The office shall submit
18 recommendations for funding all or part of such requests to the
19 director of financial management. The office shall also submit
20 recommendations regarding consolidation and coordination of similar
21 proposals or other efficiencies it finds in reviewing proposals.

22 (2) The office shall establish criteria, consistent with portfolio-
23 based information technology management, for the evaluation of agency
24 budget requests under this section. These budget requests shall be
25 made in the context of an agency's information technology portfolio;
26 technology initiatives underlying budget requests are subject to review
27 by the office. Criteria shall include, but not be limited to:
28 Feasibility of the proposed projects, consistency with the state
29 strategic information technology plan and the state enterprise
30 architecture, consistency with information technology portfolios,
31 appropriate provision for public electronic access to information,
32 evidence of business process streamlining and gathering of business and
33 technical requirements, and services, costs, and benefits.

34 PROJECT MANAGEMENT OVERSIGHT

1 NEW SECTION. **Sec. 112.** (1) The office shall establish standards
2 and policies governing the planning, implementation, and evaluation of
3 major information technology projects, including those proposed by the
4 superintendent of public instruction, in conjunction with educational
5 service districts, or statewide or regional providers of K-12 education
6 information technology services. The standards and policies shall:

7 (a) Establish criteria to identify projects which are subject to
8 this section. Such criteria shall include, but not be limited to,
9 significant anticipated cost, complexity, or statewide significance of
10 the project; and

11 (b) Establish a model process and procedures which state agencies
12 shall follow in developing and implementing projects within their
13 information technology portfolios. This process may include project
14 oversight experts or panels, as appropriate. Agencies may propose, for
15 approval by the office, a process and procedures unique to the agency.
16 The office may accept or require modification of such agency proposals
17 or the office may reject such agency proposals and require use of the
18 model process and procedures established under this subsection. Any
19 process and procedures developed under this subsection shall require
20 (i) distinct and identifiable phases upon which funding may be based,
21 (ii) user validation of products through system demonstrations and
22 testing of prototypes and deliverables, and (iii) other elements
23 identified by the board.

24 The chief information officer may suspend or terminate a major
25 project, and direct that the project funds be placed into unallotted
26 reserve status, if the chief information officer determines that the
27 project is not meeting or is not expected to meet anticipated
28 performance standards.

29 (2) The office of financial management shall establish policies and
30 standards consistent with portfolio-based information technology
31 management to govern the funding of projects developed under this
32 section. The policies and standards shall provide for:

33 (a) Funding of a project under terms and conditions mutually agreed
34 to by the chief information officer, the director of financial
35 management, and the head of the agency proposing the project. However,
36 the office of financial management may require incremental funding of
37 a project on a phase-by-phase basis whereby funds for a given phase of

1 a project may be released only when the office of financial management
2 determines, with the advice of the office, that the previous phase is
3 satisfactorily completed; and

4 (b) Other elements deemed necessary by the office of financial
5 management.

6 **ENTERPRISE ARCHITECTURE**

7 NEW SECTION. **Sec. 113.** (1) The office shall develop an
8 enterprise-based strategy for information technology in state
9 government informed by portfolio management planning and information
10 technology expenditure information collected from state agencies
11 pursuant to RCW 43.88.092.

12 (2)(a) The office shall develop an ongoing enterprise architecture
13 program for translating business vision and strategy into effective
14 enterprise change. This program will create, communicate, and improve
15 the key principles and models that describe the enterprise's future
16 state and enable its evolution, in keeping with the priorities of
17 government and the information technology strategic plan.

18 (b) The enterprise architecture program will facilitate business
19 process specific collaboration subject matter experts from agencies
20 statewide; improving the reliability, interoperability, and
21 sustainability of the business processes that state agencies use.

22 In developing an enterprise-based strategy for the state, the
23 office is encouraged to consider the following strategies as possible
24 opportunities for achieving greater efficiency:

25 (i) Developing evaluation criteria for deciding which common
26 enterprise-wide business processes should become managed as enterprise
27 systems;

28 (ii) Developing a roadmap of priorities for creating enterprise
29 systems;

30 (iii) Developing decision criteria for determining implementation
31 criteria for centralized or decentralized enterprise systems;

32 (iv) Developing evaluation criteria for deciding which technology
33 investments to continue, hold, or drop; and

34 (v) Performing such other duties as may be assigned by the office
35 to promote effective enterprise change.

1 (c) The program will establish performance measurement criteria for
2 each of its initiatives; will measure the success of those initiatives;
3 and will assess its quarterly results with the chief information
4 officer to determine whether to continue, revise, or disband the
5 initiative.

6 **ADVISORY BOARD--CREATION AND DUTIES**

7 NEW SECTION. **Sec. 114.** (1) The information technology advisory
8 board is created within the office of chief information officer. The
9 board shall be composed of nine members appointed by the governor. The
10 board members shall consist of:

11 (a) The chief information officer, who shall serve as the board
12 chair;

13 (b) No more than four members who are representatives of state
14 agencies, at least one of whom must have direct experience using the
15 software projects overseen by the office or reasonably expects to use
16 the new software developed under the oversight of the office; and

17 (c) At least four members who are representatives of the private
18 sector.

19 (2)(a) Members shall serve three-year terms. Members may not serve
20 more than two consecutive terms.

21 (b) Of the initial members, two must be appointed for a one-year
22 term, three must be appointed for a two-year term, and three must be
23 appointed for a three-year term. Thereafter, members must be appointed
24 for three-year terms.

25 (c) Vacancies shall be filled in the same manner that the original
26 appointments were made for the remainder of the member's term.

27 (3) Members of the board shall be reimbursed for travel expenses as
28 provided in RCW 43.03.050 and 43.03.060.

29 (4) The office shall provide staff support to the board.

30 NEW SECTION. **Sec. 115.** The board shall advise the chief
31 information officer on information technology related matters and:

32 (1) Review policies and standards brought by the chief information
33 officer or requested by a board member, receive comments from agency
34 executives on the implications of proposed policies and standards, and
35 provide recommendations to the chief information officer;

1 (2) Provide a forum to solicit external expertise and perspective
2 on developments in information technology, enterprise architecture,
3 standards, and policy development; and

4 (3) Provide a forum where ideas and issues related to information
5 technology plans, policies, and standards can be reviewed.

6 **INTEROPERABILITY COMMITTEE--TRANSFER FROM DEPARTMENT OF**
7 **INFORMATION SERVICES**

8 NEW SECTION. **Sec. 116.** (1) The chief information officer shall
9 appoint a state interoperability executive committee, the membership of
10 which must include, but not be limited to, representatives of the
11 military department, the Washington state patrol, the department of
12 transportation, the department of information services, the department
13 of natural resources, city and county governments, state and local fire
14 chiefs, police chiefs, and sheriffs, and state and local emergency
15 management directors. The chair and legislative members of the board
16 will serve as nonvoting ex officio members of the committee. Voting
17 membership may not exceed fifteen members.

18 (2) The chief information officer shall appoint the chair of the
19 committee from among the voting members of the committee.

20 (3) The state interoperability executive committee has the
21 following responsibilities:

22 (a) Develop policies and make recommendations to the office for
23 technical standards for state wireless radio communications systems,
24 including emergency communications systems. The standards must
25 address, among other things, the interoperability of systems, taking
26 into account both existing and future systems and technologies;

27 (b) Coordinate and manage on behalf of the board the licensing and
28 use of state-designated and state-licensed radio frequencies, including
29 the spectrum used for public safety and emergency communications, and
30 serve as the point of contact with the federal communications
31 commission on matters relating to allocation, use, and licensing of
32 radio spectrum;

33 (c) Coordinate the purchasing of all state wireless radio
34 communications system equipment to ensure that:

35 (i) After the transition from a radio over internet protocol
36 network, any new trunked system shall be, at a minimum, project-25;

1 (ii) Any new system that requires advanced digital features shall
2 be, at a minimum, project-25; and

3 (iii) Any new system or equipment purchases shall be, at a minimum,
4 upgradeable to project-25;

5 (d) Seek support, including possible federal or other funding, for
6 state-sponsored wireless communications systems;

7 (e) Develop recommendations for legislation that may be required to
8 promote interoperability of state wireless communications systems;

9 (f) Foster cooperation and coordination among public safety and
10 emergency response organizations;

11 (g) Work with wireless communications groups and associations to
12 ensure interoperability among all public safety and emergency response
13 wireless communications systems; and

14 (h) Perform such other duties as may be assigned by the office to
15 promote interoperability of wireless communications systems.

16 (4) The office shall provide administrative support to the
17 committee.

18 **K-20 GOVERNANCE AND OPERATIONS OVERSIGHT--TRANSFER FROM**
19 **DEPARTMENT OF INFORMATION SERVICES**

20 NEW SECTION. **Sec. 117.** (1) The office has the duty to govern,
21 operate, and oversee the technical design, implementation, and
22 operation of the K-20 network including, but not limited to, the
23 following duties: Establishment and implementation of K-20 network
24 technical policy, including technical standards and conditions of use;
25 review and approval of network design; procurement of shared network
26 services and equipment; and resolving user/provider disputes concerning
27 technical matters.

28 (2) The office has the following powers and duties:

29 (a) In cooperation with the educational sectors and other
30 interested parties, to establish goals and measurable objectives for
31 the network;

32 (b) To ensure that the goals and measurable objectives of the
33 network are the basis for any decisions or recommendations regarding
34 the technical development and operation of the network;

35 (c) To adopt, modify, and implement policies to facilitate network
36 development, operation, and expansion. Such policies may include but

1 need not be limited to the following issues: Quality of educational
2 services; access to the network by recognized organizations and
3 accredited institutions that deliver educational programming, including
4 public libraries; prioritization of programming within limited
5 resources; prioritization of access to the system and the sharing of
6 technological advances; network security; identification and evaluation
7 of emerging technologies for delivery of educational programs; future
8 expansion or redirection of the system; network fee structures; and
9 costs for the development and operation of the network;

10 (d) To prepare and submit to the governor and the legislature a
11 coordinated budget for network development, operation, and expansion.
12 The budget shall include the chief information officer's
13 recommendations on (i) any state funding requested for network
14 transport and equipment, distance education facilities and hardware or
15 software specific to the use of the network, and proposed new network
16 end sites, (ii) annual copayments to be charged to public educational
17 sector institutions and other public entities connected to the network,
18 and (iii) charges to nongovernmental entities connected to the network;

19 (e) To adopt and monitor the implementation of a methodology to
20 evaluate the effectiveness of the network in achieving the educational
21 goals and measurable objectives;

22 (f) To establish by rule acceptable use policies governing user
23 eligibility for participation in the K-20 network, acceptable uses of
24 network resources, and procedures for enforcement of such policies.
25 The office shall set forth appropriate procedures for enforcement of
26 acceptable use policies, that may include suspension of network
27 connections and removal of shared equipment for violations of network
28 conditions or policies. The office shall have sole responsibility for
29 the implementation of enforcement procedures relating to technical
30 conditions of use.

31 NEW SECTION. **Sec. 118.** The office shall maintain, in consultation
32 with the K-20 network users and the board, the K-20 operations
33 cooperative, which shall be responsible for day-to-day network
34 management, technical network status monitoring, technical problem
35 response coordination, and other duties as agreed to by the department
36 of information services, the educational sectors, and the information

1 services board. Funding for the K-20 operations cooperative shall be
2 provided from the education technology revolving fund under RCW
3 43.105.835 (as recodified by this act).

4 NEW SECTION. **Sec. 119.** The chief information officer shall
5 delegate the maintenance of the technical plan of the K-20
6 telecommunications system and ongoing system enhancements to the
7 department of information services. The office shall ensure that the
8 technical plan adheres to the goals and objectives established under
9 section 106 of this act. The technical plan shall provide for:

10 (1) A telecommunications backbone connecting educational service
11 districts, the main campuses of public baccalaureate institutions, the
12 branch campuses of public research institutions, and the main campuses
13 of community colleges and technical colleges.

14 (2)(a) Connection to the K-20 network by entities that include, but
15 need not be limited to: School districts, public higher education off-
16 campus and extension centers, and branch campuses of community colleges
17 and technical colleges, as prioritized by the chief information
18 officer; (b) distance education facilities and components for entities
19 listed in this subsection and subsection (1) of this section; and (c)
20 connection for independent nonprofit institutions of higher education,
21 provided that:

22 (i) The chief information officer and each independent nonprofit
23 institution of higher education to be connected agree in writing to
24 terms and conditions of connectivity. The terms and conditions shall
25 ensure, among other things, that the provision of K-20 services does
26 not violate Article VIII, section 5 of the state Constitution and that
27 the institution shall adhere to K-20 network policies; and

28 (ii) The chief information officer determines that inclusion of the
29 independent nonprofit institutions of higher education will not
30 significantly affect the network's eligibility for federal universal
31 service fund discounts or subsidies.

32 (3) Subsequent phases may include, but need not be limited to,
33 connections to public libraries, state and local governments, community
34 resource centers, and the private sector.

35 NEW SECTION. **Sec. 120.** (1) In overseeing the technical aspects of
36 the K-20 network, the office is not intended to duplicate the statutory

1 responsibilities of the higher education coordinating board, the
2 superintendent of public instruction, the state librarian, or the
3 governing boards of the institutions of higher education.

4 (2) The office may not interfere in any curriculum or legally
5 offered programming offered over the K-20 network.

6 (3) The responsibility to review and approve standards and common
7 specifications for the K-20 network remains the responsibility of the
8 office under section 106 of this act.

9 (4) The coordination of telecommunications planning for the common
10 schools remains the responsibility of the superintendent of public
11 instruction. Except as set forth in section 106(2)(e) of this act, the
12 office may recommend, but not require, revisions to the
13 superintendent's telecommunications plans.

14 **Sec. 121.** RCW 43.105.835 and 2004 c 276 s 910 are each amended to
15 read as follows:

16 (1) The education technology revolving fund is created in the
17 custody of the state treasurer. All receipts from billings under
18 subsection (2) of this section must be deposited in the revolving fund.
19 Only the (~~director of the department of information services or the~~
20 ~~director's designee~~) chief information officer or the chief
21 information officer's designee may authorize expenditures from the
22 fund. The revolving fund shall be used to pay for K-20 network
23 operations, transport, equipment, software, supplies, and services,
24 maintenance and depreciation of on-site data, and shared
25 infrastructure, and other costs incidental to the development,
26 operation, and administration of shared educational information
27 technology services, telecommunications, and systems. The revolving
28 fund shall not be used for the acquisition, maintenance, or operations
29 of local telecommunications infrastructure or the maintenance or
30 depreciation of on-premises video equipment specific to a particular
31 institution or group of institutions.

32 (2) The revolving fund and all disbursements from the revolving
33 fund are subject to the allotment procedure under chapter 43.88 RCW,
34 but an appropriation is not required for expenditures. The
35 (~~department of information services~~) office shall, (~~in consultation~~
36 ~~with entities connected to the network under RCW 43.105.820 and~~)

1 subject to the review and approval of the office of financial
2 management, establish and implement a billing structure for network
3 services identified in subsection (1) of this section.

4 (3) The (~~department~~) office shall charge those public entities
5 connected to the K-20 (~~telecommunications [telecommunication system]~~
6 ~~under RCW 43.105.820~~) telecommunications system under section 119 of
7 this act an annual copayment per unit of transport connection as
8 determined by the legislature after consideration of the (~~K-20~~)
9 board's recommendations. This copayment shall be deposited into the
10 revolving fund to be used for the purposes in subsection (1) of this
11 section. It is the intent of the legislature to appropriate to the
12 revolving fund such moneys as necessary to cover the costs for
13 transport, maintenance, and depreciation of data equipment located at
14 the individual public institutions, maintenance and depreciation of the
15 K-20 network backbone, and services provided to the network under (~~RCW~~
16 ~~43.105.815~~).

17 (~~4) During the 2003-05 biennium, the legislature may transfer~~
18 ~~moneys from the education technology revolving fund to the state~~
19 ~~general fund and the data processing revolving fund such amounts as~~
20 ~~reflect the excess fund balance of the account~~) section 119 of this
21 act.

22 GENERAL PROVISIONS RELATED TO OFFICE OF CHIEF INFORMATION OFFICER

23 NEW SECTION. Sec. 122. A new section is added to chapter 41.06
24 RCW to read as follows:

25 In addition to the exemptions under RCW 41.06.070, the provisions
26 of this chapter do not apply in the office of the chief information
27 officer to the chief information officer, the chief information
28 officer's confidential secretary, assistant directors, and any other
29 exempt staff members provided for in section 104 of this act.

30 **Sec. 123.** RCW 42.17A.705 and 2010 c 204 s 902 are each amended to
31 read as follows:

32 For the purposes of RCW 42.17A.700, "executive state officer"
33 includes:

34 (1) The chief administrative law judge, the director of
35 agriculture, the director of the department of services for the blind,

1 the chief information officer of the office of the chief information
2 officer, the director of the state system of community and technical
3 colleges, the director of commerce, the secretary of corrections, the
4 director of early learning, the director of ecology, the commissioner
5 of employment security, the chair of the energy facility site
6 evaluation council, the secretary of the state finance committee, the
7 director of financial management, the director of fish and wildlife,
8 the executive secretary of the forest practices appeals board, the
9 director of the gambling commission, the director of general
10 administration, the secretary of health, the administrator of the
11 Washington state health care authority, the executive secretary of the
12 health care facilities authority, the executive secretary of the higher
13 education facilities authority, the executive secretary of the horse
14 racing commission, the executive secretary of the human rights
15 commission, the executive secretary of the indeterminate sentence
16 review board, the director of the department of information services,
17 the executive director of the state investment board, the director of
18 labor and industries, the director of licensing, the director of the
19 lottery commission, the director of the office of minority and women's
20 business enterprises, the director of parks and recreation, the
21 director of personnel, the executive director of the public disclosure
22 commission, the executive director of the Puget Sound partnership, the
23 director of the recreation and conservation office, the director of
24 retirement systems, the director of revenue, the secretary of social
25 and health services, the chief of the Washington state patrol, the
26 executive secretary of the board of tax appeals, the secretary of
27 transportation, the secretary of the utilities and transportation
28 commission, the director of veterans affairs, the president of each of
29 the regional and state universities and the president of The Evergreen
30 State College, and each district and each campus president of each
31 state community college;

32 (2) Each professional staff member of the office of the governor;

33 (3) Each professional staff member of the legislature; and

34 (4) Central Washington University board of trustees, the boards of
35 trustees of each community college and each technical college, each
36 member of the state board for community and technical colleges, state
37 convention and trade center board of directors, Eastern Washington
38 University board of trustees, Washington economic development finance

1 authority, Washington energy northwest executive board, The Evergreen
2 State College board of trustees, executive ethics board, fish and
3 wildlife commission, forest practices appeals board, forest practices
4 board, gambling commission, Washington health care facilities
5 authority, higher education coordinating board, higher education
6 facilities authority, horse racing commission, state housing finance
7 commission, human rights commission, indeterminate sentence review
8 board, board of industrial insurance appeals, information services
9 board, state investment board, commission on judicial conduct,
10 legislative ethics board, life sciences discovery fund authority board
11 of trustees, liquor control board, lottery commission, Pacific
12 Northwest electric power and conservation planning council, parks and
13 recreation commission, Washington personnel resources board, board of
14 pilotage commissioners, pollution control hearings board, public
15 disclosure commission, public employees' benefits board, recreation and
16 conservation funding board, salmon recovery funding board, shorelines
17 hearings board, board of tax appeals, transportation commission,
18 University of Washington board of regents, utilities and transportation
19 commission, Washington State University board of regents, and Western
20 Washington University board of trustees.

21 **Sec. 124.** RCW 42.17.2401 and 2009 c 565 s 24 are each amended to
22 read as follows:

23 For the purposes of RCW 42.17.240, the term "executive state
24 officer" includes:

25 (1) The chief administrative law judge, the director of
26 agriculture, the administrator of the Washington basic health plan, the
27 director of the department of services for the blind, the chief
28 information officer of the office of the chief information officer, the
29 director of the state system of community and technical colleges, the
30 director of commerce, the secretary of corrections, the director of
31 early learning, the director of ecology, the commissioner of employment
32 security, the chair of the energy facility site evaluation council, the
33 secretary of the state finance committee, the director of financial
34 management, the director of fish and wildlife, the executive secretary
35 of the forest practices appeals board, the director of the gambling
36 commission, the director of general administration, the secretary of
37 health, the administrator of the Washington state health care

1 authority, the executive secretary of the health care facilities
2 authority, the executive secretary of the higher education facilities
3 authority, the executive secretary of the horse racing commission, the
4 executive secretary of the human rights commission, the executive
5 secretary of the indeterminate sentence review board, the director of
6 the department of information services, the executive director of the
7 state investment board, the director of labor and industries, the
8 director of licensing, the director of the lottery commission, the
9 director of the office of minority and women's business enterprises,
10 the director of parks and recreation, the director of personnel, the
11 executive director of the public disclosure commission, the executive
12 director of the Puget Sound partnership, the director of the recreation
13 and conservation office, the director of retirement systems, the
14 director of revenue, the secretary of social and health services, the
15 chief of the Washington state patrol, the executive secretary of the
16 board of tax appeals, the secretary of transportation, the secretary of
17 the utilities and transportation commission, the director of veterans
18 affairs, the president of each of the regional and state universities
19 and the president of The Evergreen State College, and each district and
20 each campus president of each state community college;

21 (2) Each professional staff member of the office of the governor;

22 (3) Each professional staff member of the legislature; and

23 (4) Central Washington University board of trustees, the boards of
24 trustees of each community college and each technical college, each
25 member of the state board for community and technical colleges, state
26 convention and trade center board of directors, committee for deferred
27 compensation, Eastern Washington University board of trustees,
28 Washington economic development finance authority, The Evergreen State
29 College board of trustees, executive ethics board, forest practices
30 appeals board, forest practices board, gambling commission, life
31 sciences discovery fund authority board of trustees, Washington health
32 care facilities authority, each member of the Washington health
33 services commission, higher education coordinating board, higher
34 education facilities authority, horse racing commission, state housing
35 finance commission, human rights commission, indeterminate sentence
36 review board, board of industrial insurance appeals, information
37 services board, recreation and conservation funding board, state
38 investment board, commission on judicial conduct, legislative ethics

1 board, liquor control board, lottery commission, marine oversight
2 board, Pacific Northwest electric power and conservation planning
3 council, parks and recreation commission, board of pilotage
4 commissioners, pollution control hearings board, public disclosure
5 commission, public pension commission, shorelines hearings board,
6 public employees' benefits board, salmon recovery funding board, board
7 of tax appeals, transportation commission, University of Washington
8 board of regents, utilities and transportation commission, Washington
9 state maritime commission, Washington personnel resources board,
10 Washington public power supply system executive board, Washington State
11 University board of regents, Western Washington University board of
12 trustees, and fish and wildlife commission.

13 **Sec. 125.** RCW 43.105.290 and 1996 c 171 s 13 are each amended to
14 read as follows:

15 The state library, with the assistance of the (~~department of~~
16 ~~information services~~) office and the state archives, shall establish
17 a pilot project to design and test an electronic information locator
18 system, allowing members of the public to locate and access electronic
19 public records. In designing the system, the following factors shall
20 be considered: (1) Ease of operation by citizens; (2) access through
21 multiple technologies, such as direct dial and toll-free numbers,
22 kiosks, and the internet; (3) compatibility with private online
23 services; and (4) capability of expanding the electronic public records
24 included in the system. The pilot project may restrict the type and
25 quality of electronic public records that are included in the system to
26 test the feasibility of making electronic public records and
27 information widely available to the public.

28 **PART II**

29 **CREATING THE CONSOLIDATED TECHNOLOGY SERVICES AGENCY**

30 NEW SECTION. **Sec. 201.** A new section is added to chapter 43.105
31 RCW to read as follows:

32 To achieve maximum benefit from advances in information technology
33 the state establishes a centralized provider and procurer of certain
34 information technology services agency to support the needs of state
35 agencies. This agency shall be known as the consolidated technology

1 services agency. To ensure maximum benefit to the state, state
2 agencies shall rely on the consolidated technology services agency for
3 those services with a business case of broad use, uniformity,
4 scalability, and price sensitivity to aggregation and volume.

5 To successfully meet agency needs and meet its obligation as the
6 primary service provider for these services, the consolidated
7 technology services agency must offer high quality services at the
8 lowest possible price. It must be able to attract an adaptable and
9 competitive workforce, be authorized to procure services where the
10 business case justifies it, and be accountable to its customers for the
11 efficient and effective delivery of critical business services.

12 The consolidated technology services agency is established as an
13 agency in state government. The agency is established with clear
14 accountability to the agencies it serves and to the public. This
15 accountability will come through enhanced transparency in the agency's
16 operation and performance. The agency is also established with broad
17 flexibility to adapt its operations and service catalog to address the
18 needs of customer agencies, and to do so in the most cost-effective
19 ways.

20 **Sec. 202.** RCW 43.105.020 and 2010 1st sp.s. c 7 s 64 are each
21 amended to read as follows:

22 The definitions in this section apply throughout this chapter
23 unless the context clearly requires otherwise.

24 (1) (~~"Administrator" means the community technology opportunity~~
25 ~~program administrator designated by the department.~~

26 (2) ~~"Backbone network" means the shared high density portions of~~
27 ~~the state's telecommunications transmission facilities. It includes~~
28 ~~specially conditioned high speed communications carrier lines,~~
29 ~~multiplexors, switches associated with such communications lines, and~~
30 ~~any equipment and software components necessary for management and~~
31 ~~control of the backbone network.~~

32 (3) ~~"Board" means the information services board.~~

33 (4) ~~"Broadband" means a high speed, high capacity transmission~~
34 ~~medium, using land based, satellite, wireless, or any other mechanism,~~
35 ~~that can carry either signals or transmit data, or both, over long~~
36 ~~distances by using a wide range of frequencies.~~

1 ~~(5) "Committee" means the state interoperability executive~~
2 ~~committee.~~

3 ~~(6) "Common vendor registration and bid notification system" has~~
4 ~~the definition in RCW 39.29.006.~~

5 ~~(7) "Community technology programs" means programs that are engaged~~
6 ~~in diffusing information and communications technology in local~~
7 ~~communities, particularly in unserved and underserved areas of the~~
8 ~~state. These programs may include, but are not limited to, programs~~
9 ~~that provide education and skill building opportunities, hardware and~~
10 ~~software, internet connectivity, digital media literacy, development of~~
11 ~~locally relevant content, and delivery of vital services through~~
12 ~~technology.~~

13 ~~(8) "Council" means the advisory council on digital inclusion~~
14 ~~created in RCW 43.105.400.~~

15 ~~(9) "Department" means the department of information services.~~

16 ~~(10))~~ "Agency" means the consolidated technology services agency.

17 (2) "Board" means the consolidated technology services board.

18 (3) "Customer agencies" means all entities that purchase services
19 from the consolidated technology services agency.

20 (4) "Director" means the director of the ((department))
21 consolidated technology services agency.

22 ~~((11) "Educational sectors" means those institutions of higher~~
23 ~~education, school districts, and educational service districts that use~~
24 ~~the network for distance education, data transmission, and other uses~~
25 ~~permitted by the K-20 board.~~

26 ~~(12))~~ (5) "Equipment" means the machines, devices, and
27 transmission facilities used in information processing, ((such as))
28 including but not limited to computers, ((word processors,)) terminals,
29 telephones, wireless communications system facilities, cables, and any
30 physical facility necessary for the operation of such equipment.

31 ~~((13) "High speed internet" means broadband.~~

32 ~~(14) "Information" includes, but is not limited to, data, text,~~
33 ~~voice, and video.~~

34 ~~(15) "Information processing" means the electronic capture,~~
35 ~~collection, storage, manipulation, transmission, retrieval, and~~
36 ~~presentation of information in the form of data, text, voice, or image~~
37 ~~and includes telecommunications and office automation functions.~~

1 ~~(16) "Information services" means data processing,~~
2 ~~telecommunications, office automation, and computerized information~~
3 ~~systems.~~

4 (17)) "Enterprise architecture" means an ongoing program for
5 translating business vision and strategy into effective enterprise
6 change. It is a continuous activity. Enterprise architecture creates,
7 communicates, and improves the key principles and models that describe
8 the enterprise's future state and enable its evolution. The intent of
9 enterprise architecture is to provide guidance to projects that will
10 improve the reliability, interoperability, and sustainability of the
11 information, services, and business processes that Washington
12 government uses, assisted where appropriate by common and standardized
13 technologies.

14 (7) "Information technology" includes, but is not limited to, all
15 electronic technology systems and services, automated information
16 handling, system design and analysis, conversion of data, computer
17 programming, information storage and retrieval, telecommunications,
18 requisite system controls, simulation, electronic commerce, and all
19 related interactions between people and machines.

20 (8) "Information technology portfolio" or "portfolio" means a
21 strategic management process documenting relationships between agency
22 missions and information technology and telecommunications investments.

23 ~~((18) "K-20 network" means the network established in RCW~~
24 ~~43.105.820.~~

25 (19)) (9) "Local governments" includes all municipal and quasi
26 municipal corporations and political subdivisions, and all agencies of
27 such corporations and subdivisions authorized to contract separately.

28 ~~((20))~~ (10) "Oversight" means a process of comprehensive risk
29 analysis and management designed to ensure optimum use of information
30 technology resources and telecommunications.

31 ~~((21))~~ (11) "Proprietary software" means that software offered
32 for sale or license.

33 ~~((22) "Purchased services" means services provided by a vendor to~~
34 ~~accomplish routine, continuing, and necessary functions. This term~~
35 ~~includes, but is not limited to, services acquired for equipment~~
36 ~~maintenance and repair, operation of a physical plant, security,~~
37 ~~computer hardware and software installation and maintenance,~~

1 telecommunications installation and maintenance, data entry, keypunch
2 services, programming services, and computer time sharing.

3 (23) "Small business" has the definition in RCW 39.29.006.

4 (24) "Telecommunications" means the transmission of information by
5 wire, radio, optical cable, electromagnetic, or other means.

6 (25) "Video telecommunications" means the electronic
7 interconnection of two or more sites for the purpose of transmitting
8 and/or receiving visual and associated audio information. Video
9 telecommunications shall not include existing public television
10 broadcast stations as currently designated by the department of
11 commerce under chapter 43.330 RCW.) (12) "Telecommunications"
12 includes, but is not limited to, wireless or wired systems for
13 transport of voice, video, and data communications, network systems,
14 requisite facilities, equipment, system controls, simulation,
15 electronic commerce, and all related interactions between people and
16 machines. "Telecommunications" does not include public safety
17 communications.

18 **Sec. 203.** RCW 43.105.047 and 1999 c 80 s 5 are each amended to
19 read as follows:

20 There is created the ((department of information services))
21 consolidated technology services agency, an agency of state government.
22 The ((department)) agency shall be headed by a director appointed by
23 the governor with the consent of the senate. The director shall serve
24 at the governor's pleasure and shall receive such salary as determined
25 by the governor. The director shall:

26 (1) Appoint a confidential secretary and such deputy and assistant
27 directors as needed to administer the ((department)) agency; and

28 (2) ((Maintain and fund a strategic planning and policy component
29 separate from the services component of the department;

30 (3) ~~Appoint, after consulting with the board, the assistant or~~
31 ~~deputy director for the planning component;~~

32 (4)) Appoint such professional, technical, and clerical assistants
33 and employees as may be necessary to perform the duties imposed by this
34 chapter((;

35 (5) ~~Report to the governor and the board any matters relating to~~
36 ~~abuses and evasions of this chapter; and~~

37 (6) ~~Recommend statutory changes to the governor and the board)).~~

1 **Sec. 204.** RCW 43.105.052 and 2010 1st sp.s. c 7 s 16 are each
2 amended to read as follows:

3 The ((department)) agency shall:

4 (1) ~~((Perform all duties and responsibilities the board delegates~~
5 ~~to the department, including but not limited to:~~

6 ~~(a) The review of agency information technology portfolios and~~
7 ~~related requests; and~~

8 ~~(b) Implementation of statewide and interagency policies,~~
9 ~~standards, and guidelines;~~

10 ~~(2))~~ Make available information services to state agencies and
11 local governments and public benefit nonprofit corporations ~~((on a full~~
12 ~~cost-recovery basis))~~. For the purposes of this section "public
13 benefit nonprofit corporation" means a public benefit nonprofit
14 corporation as defined in RCW 24.03.005 that is receiving local, state,
15 or federal funds either directly or through a public agency other than
16 an Indian tribe or political subdivision of another state~~((.~~—These
17 ~~services may include, but are not limited to:~~

18 ~~(a) Telecommunications services for voice, data, and video;~~

19 ~~(b) Mainframe computing services;~~

20 ~~(c) Support for departmental and microcomputer evaluation,~~
21 ~~installation, and use;~~

22 ~~(d) Equipment acquisition assistance, including leasing, brokering,~~
23 ~~and establishing master contracts;~~

24 ~~(e) Facilities management services for information technology~~
25 ~~equipment, equipment repair, and maintenance service;~~

26 ~~(f) Negotiation with local cable companies and local governments to~~
27 ~~provide for connection to local cable services to allow for access to~~
28 ~~these public and educational channels in the state;~~

29 ~~(g) Office automation services;~~

30 ~~(h) System development services; and~~

31 ~~(i) Training.~~

32 ~~These services are for discretionary use by customers and customers~~
33 ~~may elect other alternatives for service if those alternatives are more~~
34 ~~cost-effective or provide better service. Agencies may be required to~~
35 ~~use the backbone network portions of the telecommunications services~~
36 ~~during an initial start-up period not to exceed three years));~~

37 ~~((+3))~~ (2) Establish rates and fees for services provided by the
38 ~~((department to assure that the services component of the department is~~

1 ~~self-supporting~~) agency. A billing rate plan shall be developed for
2 a two-year period to coincide with the budgeting process. The rate
3 plan shall be subject to review at least annually by the office of
4 financial management. The rate plan shall show the proposed rates by
5 each cost center and will show the components of the rate structure as
6 mutually determined by the ~~((department))~~ agency and the office of
7 financial management. ~~((The same rate structure will apply to all user
8 agencies of each cost center.))~~ The rate plan and any adjustments to
9 rates shall be approved by the office of financial management ~~((The
10 services component shall not subsidize the operations of the strategic
11 planning and policy component))~~;

12 ~~((+4))~~ (3) With the advice of the ~~((information services))~~ board
13 and customer agencies, develop a state strategic information technology
14 plan and performance reports as required under ~~((RCW 43.105.160))~~
15 section 107 of this act;

16 ~~((+5))~~ (4) Develop plans for the ~~((department's))~~ agency's
17 achievement of statewide goals and objectives set forth in the state
18 strategic information technology plan required under ~~((RCW 43.105.160.~~
19 ~~These plans shall address such services as telecommunications, central
20 and distributed computing, local area networks, office automation, and
21 end user computing. The department shall seek the advice of the board
22 in the development of these plans;~~

23 ~~(6)~~ Under direction of the information services board and in
24 collaboration with the department of personnel, and other agencies as
25 may be appropriate, develop training plans and coordinate training
26 programs that are responsive to the needs of agencies;

27 ~~(7)~~ Identify opportunities for the effective use of information
28 services and coordinate appropriate responses to those opportunities;

29 ~~(8)~~ Assess agencies' projects, acquisitions, plans, information
30 technology portfolios, or overall information processing performance as
31 requested by the board, agencies, the director of financial management,
32 or the legislature. Agencies may be required to reimburse the
33 department for agency requested reviews) section 107 of this act;

34 ~~((+9)~~ Develop planning, budgeting, and expenditure reporting
35 requirements, in conjunction with the office of financial management,
36 for agencies to follow;

37 ~~(10)~~ Assist the office of financial management with budgetary and
38 policy review of agency plans for information services;

1 ~~(11) Provide staff support from the strategic planning and policy~~
2 ~~component to the board for:~~

3 ~~(a) Meeting preparation, notices, and minutes;~~

4 ~~(b) Promulgation of policies, standards, and guidelines adopted by~~
5 ~~the board;~~

6 ~~(c) Supervision of studies and reports requested by the board;~~

7 ~~(d) Conducting reviews and assessments as directed by the board;~~

8 ~~(12) Be the lead agency in coordinating video telecommunications~~
9 ~~services for all state agencies and develop, pursuant to board~~
10 ~~policies, standards and common specifications for leased and purchased~~
11 ~~telecommunications equipment. The department shall not evaluate the~~
12 ~~merits of school curriculum, higher education course offerings, or~~
13 ~~other education and training programs proposed for transmission and/or~~
14 ~~reception using video telecommunications resources. Nothing in this~~
15 ~~section shall abrogate or abridge the legal responsibilities of~~
16 ~~licensees of telecommunications facilities as licensed by the federal~~
17 ~~communication commission on March 27, 1990;)) and~~

18 ~~((+13+))~~ (5) Perform all other matters and things necessary to
19 carry out the purposes and provisions of this chapter.

20 NEW SECTION. **Sec. 205.** A new section is added to chapter 43.105
21 RCW to read as follows:

22 (1) There is hereby created the consolidated technology services
23 board. The board shall be composed of seven members appointed by the
24 governor. The board members shall consist of customer representatives
25 either in the position of chief executive officer, chief financial
26 officer, or chief information officer.

27 (2)(a) Members shall serve three-year terms. Members may not serve
28 more than two consecutive terms.

29 (b) Of the initial members, two must be appointed for a one-year
30 term, two must be appointed for a two-year term, and three must be
31 appointed for a three-year term. Thereafter, members must be appointed
32 for three-year terms.

33 (c) Vacancies shall be filled in the same manner that the original
34 appointments were made for the remainder of the member's term.

35 (3) A majority of the members of the board shall constitute a
36 quorum for the transaction of business.

1 NEW SECTION. **Sec. 206.** A new section is added to chapter 43.105
2 RCW to read as follows:

3 The board has the following powers and duties:

4 (1) Approve rates for services offered by the agency;

5 (2) Approve the budget proposal to the office of financial
6 management for the agency;

7 (3) Approve the catalog of services to be provided or procured for
8 client agencies;

9 (4) Prepare and submit an annual performance evaluation of the
10 director to the governor;

11 (5) Prepare and submit a performance assessment of the agency to
12 the governor annually; and

13 (6) Advise the director on operational issues and plans brought
14 before the board by the director.

15 NEW SECTION. **Sec. 207.** A new section is added to chapter 43.105
16 RCW to read as follows:

17 The director in consultation with the board shall set performance
18 targets and approve plans for achieving measurable and specific goals
19 for the agency. By January 2012, the appropriate organizational
20 performance and accountability measures and performance targets shall
21 be submitted to the governor. These measures and targets shall include
22 measures of performance demonstrating specific and measurable
23 improvements related to service delivery and costs, operational
24 efficiencies, and overall customer satisfaction. The agency shall
25 develop a dashboard of key performance measures that will be updated
26 quarterly and made available on the agency public web site.

27 The director shall report to the governor on agency performance at
28 least quarterly. The reports shall be included on the agency's web
29 site and accessible to the public.

30 **Sec. 208.** RCW 43.105.057 and 1992 c 20 s 11 are each amended to
31 read as follows:

32 The ~~((department of information services and the information~~
33 ~~services board, respectively,))~~ agency shall adopt rules as necessary
34 under chapter 34.05 RCW to implement the provisions of this chapter.

1 **Sec. 209.** RCW 43.105.060 and 1987 c 504 s 10 are each amended to
2 read as follows:

3 State and local government agencies are authorized to enter into
4 any contracts with the (~~department or its successor~~) agency which may
5 be necessary or desirable to effectuate the purposes and policies of
6 this chapter or for maximum utilization of facilities and services
7 which are the subject of this chapter.

8 **Sec. 210.** RCW 39.29.040 and 2002 c 260 s 11 and 2002 c 200 s 2 are
9 each reenacted and amended to read as follows:

10 This chapter does not apply to:

11 (1) Contracts specifying a fee of less than five thousand dollars
12 if the total of the contracts from that agency with the contractor
13 within a fiscal year does not exceed five thousand dollars;

14 (2) Contracts awarded to companies that furnish a service where the
15 tariff is established by the utilities and transportation commission or
16 other public entity;

17 (3) Intergovernmental agreements awarded to any governmental
18 entity, whether federal, state, or local and any department, division,
19 or subdivision thereof;

20 (4) Contracts awarded for services to be performed for a standard
21 fee, when the standard fee is established by the contracting agency or
22 any other governmental entity and a like contract is available to all
23 qualified applicants;

24 (5) Contracts for services that are necessary to the conduct of
25 collaborative research if prior approval is granted by the funding
26 source;

27 (6) Contracts for client services except as otherwise indicated in
28 this chapter;

29 (7) Contracts for architectural and engineering services as defined
30 in RCW 39.80.020, which shall be entered into under chapter 39.80 RCW;

31 (8) Contracts for the employment of expert witnesses for the
32 purposes of litigation;

33 (9) Contracts for bank supervision authorized under RCW 30.38.040;
34 (~~and~~)

35 (10) Contracts for interpreter services and interpreter brokerage
36 services on behalf of limited-English speaking or sensory-impaired
37 applicants and recipients of public assistance; and

1 services agency, including employees whose work has ceased in
2 connection with the pursuit of lawful activities protected by this
3 chapter, except:

4 (a) Confidential employees;

5 (b) Managers as defined in subsection (11) of this section; or

6 (c) Internal auditors in the agency.

7 (7) "Employee organization" means any organization, union, or
8 association in which employees participate and that exists for the
9 purpose, in whole or in part, of collective bargaining with employers.

10 (8) "Employer" means the state of Washington.

11 (9) "Exclusive bargaining representative" means any employee
12 organization that has been certified under this chapter as the
13 representative of the employees in an appropriate bargaining unit.

14 (10) "Labor dispute" means any controversy concerning terms,
15 tenure, or conditions of employment, or concerning the association or
16 representation of persons in negotiating, fixing, maintaining,
17 changing, or seeking to arrange terms or conditions of employment with
18 respect to the subjects of bargaining provided in this chapter,
19 regardless of whether the disputants stand in the proximate relation of
20 employer and employee.

21 (11) "Manager" means any employee who:

22 (a) Formulates statewide policy or directs the work of the agency
23 or agency subdivision;

24 (b) Is responsible to administer one or more statewide policies or
25 programs of the agency or agency subdivision;

26 (c) Manages, administers, and controls a local branch office of the
27 agency or agency subdivision, including the physical, financial, or
28 personnel resources;

29 (d) Has substantial responsibility in personnel administration,
30 legislative relations, public information, or the preparation and
31 administration of budgets; or

32 (e) Functionally is above the first level of supervision and
33 exercises authority that is not merely routine or clerical in nature
34 and requires the consistent use of independent judgment.

35 (12) "Supervisor" means an employee who has authority, in the
36 interest of the employer, to hire, transfer, suspend, lay off, recall,
37 promote, discharge, direct, reward, or discipline employees, or to
38 adjust employee grievances, or effectively to recommend such action, if

1 the exercise of the authority is not of a merely routine nature but
2 requires the consistent exercise of individual judgment. However, no
3 employee who is a manager as defined in subsection (11) of this section
4 may be included in a collective bargaining unit established under this
5 chapter.

6 (13) "Unfair labor practice" means any unfair labor practice listed
7 in section 313 of this act.

8 NEW SECTION. **Sec. 303.** (1) For the purpose of negotiating
9 collective bargaining agreements under this chapter, the employer shall
10 be represented by the governor or governor's designee.

11 (2) If an exclusive bargaining representative represents more than
12 one bargaining unit, the exclusive bargaining representative shall
13 negotiate one master collective bargaining agreement on behalf of all
14 the employees in bargaining units that the exclusive bargaining
15 representative represents.

16 (3) The governor shall submit a request for funds necessary to
17 implement the compensation and fringe benefit provisions in the master
18 collective bargaining agreement or for legislation necessary to
19 implement the agreement. Requests for funds necessary to implement the
20 provisions of bargaining agreements shall not be submitted to the
21 legislature by the governor unless such requests:

22 (a) Have been submitted to the director of financial management by
23 October 1st prior to the legislative session at which the requests are
24 to be considered; and

25 (b) Have been certified by the director of financial management as
26 being feasible financially for the state.

27 The legislature shall approve or reject the submission of the
28 request for funds as a whole. The legislature shall not consider a
29 request for funds to implement a collective bargaining agreement unless
30 the request is transmitted to the legislature as part of the governor's
31 budget document submitted under RCW 43.88.030 and 43.88.060. If the
32 legislature rejects or fails to act on the submission, either party may
33 reopen all or part of the agreement or the exclusive bargaining
34 representative may seek to implement the procedures provided for in
35 section 311 of this act.

36 (4) The governor shall periodically consult with the joint
37 committee on employment relations pursuant to RCW 41.80.010(5)

1 regarding appropriations necessary to implement the compensation and
2 fringe benefit provisions in the master collective bargaining
3 agreements, and upon completion of negotiations, advise the committee
4 on the elements of the agreements and on any legislation necessary to
5 implement the agreements.

6 (5) If, after the compensation and fringe benefit provisions of an
7 agreement are approved by the legislature, a significant revenue
8 shortfall occurs resulting in reduced appropriations, as declared by
9 proclamation of the governor or by resolution of the legislature, both
10 parties shall immediately enter into collective bargaining for a
11 mutually agreed upon modification of the agreement.

12 (6) After the expiration date of a collective bargaining agreement
13 negotiated under this chapter, all of the terms and conditions
14 specified in the collective bargaining agreement remain in effect until
15 the effective date of a subsequently negotiated agreement, not to
16 exceed one year from the expiration date stated in the agreement.
17 Thereafter, the employer may unilaterally implement its last, best
18 offer.

19 (7) For collective bargaining agreements negotiated for the period
20 of July 1, 2012, through June 30, 2013, the governor shall submit a
21 request for funds necessary to implement the compensation and fringe
22 benefit provisions in the collective bargaining agreement or for
23 legislation necessary to implement the agreement. Requests for funds
24 necessary to implement the provisions of bargaining agreements shall
25 not be submitted to the legislature by the governor unless such
26 requests:

27 (a) Have been submitted to the director of financial management by
28 January 15, 2012; and

29 (b) Have been certified by the director of financial management as
30 being feasible financially for the state.

31 The legislature shall approve or reject the submission of the
32 request for funds as a whole. If the legislature rejects or fails to
33 act on the submission, either party may reopen all or part of the
34 agreement or the exclusive bargaining representative may seek to
35 implement the procedures provided for in section 311 of this act.

36 NEW SECTION. **Sec. 304.** (1) Except as otherwise provided in this

1 chapter, the matters subject to bargaining include wages, hours, and
2 other terms and conditions of employment.

3 (2) The employer is not required to bargain over matters pertaining
4 to health care benefits or other employee insurance benefits, except as
5 required in subsection (3) of this section.

6 (3) The employer and one coalition of all the exclusive bargaining
7 representatives subject to this chapter and chapters 41.80 and 47.64
8 RCW shall conduct negotiations regarding the dollar amount expended on
9 behalf of each employee for health care benefits.

10 (4) The employer and the exclusive bargaining representative shall
11 not bargain over or agree to any proposal that would:

12 (a) Prevent the implementation of approved affirmative action
13 plans;

14 (b) Limit the ability of the employer from using a performance-
15 based system in adjusting wages, conducting and implementing layoffs,
16 and hiring and promotion procedures; or

17 (c) Interfere with or alter the employer's sole discretion to
18 determine what level of discipline to impose for any employee.

19 (5) The employer and the exclusive bargaining representative shall
20 not bargain over matters pertaining to management rights established in
21 section 306 of this act, the performance-based evaluation system, and
22 the decision and impacts of contracts authorized by section 316 of this
23 act.

24 (6) Except as otherwise provided in this chapter, if a conflict
25 exists between an executive order, administrative rule, or agency
26 policy relating to wages, hours, and terms and conditions of employment
27 and a collective bargaining agreement negotiated under this chapter,
28 the collective bargaining agreement shall prevail. A provision of a
29 collective bargaining agreement that conflicts with the terms of a
30 statute is invalid and unenforceable.

31 NEW SECTION. **Sec. 305.** (1) The parties to a collective bargaining
32 agreement shall reduce the agreement to writing.

33 (2) A collective bargaining agreement shall contain provisions
34 that:

35 (a) Provide for a grievance procedure that culminates with final
36 and binding arbitration of all disputes arising over the interpretation

1 or application of the collective bargaining agreement and that is valid
2 and enforceable under its terms when entered into in accordance with
3 this chapter;

4 (b) Prohibit consideration or review of the level of discipline in
5 the grievance procedure and at binding arbitration;

6 (c) Prohibit grievances on the performance-based evaluation system,
7 including adjusting wages and salary increases, conducting and
8 implementing layoffs, and hiring and promotion procedures; and

9 (d) Require processing of disciplinary actions or terminations of
10 employment of employees covered by the collective bargaining agreement
11 entirely under the procedures of the collective bargaining agreement.
12 Any employee, when fully reinstated, shall be guaranteed all employee
13 rights and benefits, including back pay, sick leave, vacation accrual,
14 and retirement and federal old age, survivors, and disability insurance
15 act credits, but without back pay for any period of suspension.

16 (3) If collective bargaining between an employer and an exclusive
17 bargaining representative is concluded after the termination date of
18 the previous collective bargaining agreement between the employer and
19 an employee organization representing the same bargaining units, the
20 effective date of the new collective bargaining agreement may be the
21 day after the termination of the previous collective bargaining
22 agreement, subject to the parties' agreement, and all benefits included
23 in the new collective bargaining agreement, including wage or salary
24 increases, may accrue beginning with that effective date.

25 NEW SECTION. **Sec. 306.** The employer shall not bargain over rights
26 of management which, in addition to all powers, duties, and rights
27 established by constitutional provision or statute, shall include but
28 not be limited to the following:

29 (1) The functions and programs of the employer, the use of
30 technology, and the structure of the organization;

31 (2) The employer's budget and the size of the agency workforce,
32 including determining the basis for layoffs;

33 (3) The right to direct and supervise employees;

34 (4) The right to take whatever actions are deemed necessary to
35 carry out the mission of the state and its agencies during emergencies;

36 (5) The right of the employer to use a performance-based system in

1 adjusting wages, conducting and implementing layoffs, and hiring and
2 promotion procedures; and

3 (6) Retirement plans and retirement benefits.

4 NEW SECTION. **Sec. 307.** Except as may be specifically limited by
5 this chapter, employees shall have the right to self-organization, to
6 form, join, or assist employee organizations, and to bargain
7 collectively through representatives of their own choosing for the
8 purpose of collective bargaining free from interference, restraint, or
9 coercion. Employees shall also have the right to refrain from any or
10 all such activities except to the extent that they may be required to
11 pay a fee to an exclusive bargaining representative under a union
12 security provision authorized by this chapter.

13 NEW SECTION. **Sec. 308.** Nothing contained in this chapter permits
14 or grants to any employee the right to strike or refuse to perform his
15 or her official duties.

16 NEW SECTION. **Sec. 309.** (1) A bargaining unit of employees covered
17 by this chapter existing on July 1, 2012, shall be considered an
18 appropriate unit at the agency, unless the unit does not meet the
19 requirements of subsection (2) of this section. The commission, after
20 hearing upon reasonable notice to all interested parties, shall decide,
21 in each application for certification as an exclusive bargaining
22 representative, the unit appropriate for certification. In determining
23 the new units or modifications of existing units, the commission shall
24 consider: The duties, skills, and working conditions of the employees;
25 the history of collective bargaining; the extent of organization among
26 the employees; the desires of the employees; and the avoidance of
27 excessive fragmentation.

28 (2) A bargaining unit is not appropriate if it includes both
29 supervisors and nonsupervisory employees. A unit that includes only
30 supervisors may be considered appropriate if a majority of the
31 supervisory employees indicates by vote that they desire to be included
32 in such a unit.

33 (3) The exclusive bargaining representatives certified to represent
34 the bargaining units existing on July 1, 2012, shall continue as the

1 exclusive bargaining representative without the necessity of an
2 election.

3 (4) If a single employee organization is the exclusive bargaining
4 representative for two or more units, upon petition by the employee
5 organization, the units may be consolidated into a single larger unit
6 if the commission considers the larger unit to be appropriate. If
7 consolidation is appropriate, the commission shall certify the employee
8 organization as the exclusive bargaining representative of the new
9 unit.

10 NEW SECTION. **Sec. 310.** (1) The commission shall determine all
11 questions pertaining to representation and shall administer all
12 elections and be responsible for the processing and adjudication of all
13 disputes that arise as a consequence of elections. The commission
14 shall adopt rules that provide for at least the following:

- 15 (a) Secret balloting;
- 16 (b) Consulting with employee organizations;
- 17 (c) Access to lists of employees, job classification, work
18 locations, and home mailing addresses;
- 19 (d) Absentee voting;
- 20 (e) Procedures for the greatest possible participation in voting;
- 21 (f) Campaigning on the employer's property during working hours;
- 22 and
- 23 (g) Election observers.

24 (2) If an employee organization has been certified as the exclusive
25 bargaining representative of the employees of a bargaining unit, the
26 employee organization may act for and negotiate master collective
27 bargaining agreements that will include within the coverage of the
28 agreement all employees in the bargaining unit as provided in section
29 303(2) of this act. However, if a master collective bargaining
30 agreement is in effect for the exclusive bargaining representative, it
31 shall apply to the bargaining unit for which the certification has been
32 issued. Nothing in this section requires the parties to engage in new
33 negotiations during the term of that agreement.

34 (3) The certified exclusive bargaining representative shall be
35 responsible for representing the interests of all the employees in the
36 bargaining unit. This section does not limit an exclusive

1 representative's right to exercise its discretion to refuse to process
2 grievances of employees that are unmeritorious.

3 (4) No question concerning representation may be raised if:

4 (a) Fewer than twelve months have elapsed since the last
5 certification or election; or

6 (b) A valid collective bargaining agreement exists covering the
7 unit, except for that period of no more than one hundred twenty
8 calendar days nor less than ninety calendar days before the expiration
9 of the contract.

10 NEW SECTION. **Sec. 311.** Should the parties fail to reach agreement
11 in negotiating a collective bargaining agreement, either party may
12 request of the commission the assistance of an impartial third party to
13 mediate the negotiations.

14 If a collective bargaining agreement previously negotiated under
15 this chapter should expire while negotiations are underway, the terms
16 and conditions specified in the collective bargaining agreement shall
17 remain in effect for a period not to exceed one year from the
18 expiration date stated in the agreement. Thereafter, the employer may
19 unilaterally implement its last, best offer.

20 If resolution is not reached through mediation by one hundred days
21 beyond the expiration date of a contract previously negotiated under
22 this chapter, or one hundred days from the initiation of mediated
23 negotiations if no such contract exists, an independent fact finder
24 shall be appointed by the commission.

25 The fact finder shall meet with the parties or their
26 representatives, or both, and make inquiries and investigations, hold
27 hearings, and take such other steps as may be appropriate. If the
28 dispute is not settled, the fact finder shall make findings of fact and
29 recommend terms of settlement within thirty days.

30 Such recommendations, together with the findings of fact, shall be
31 submitted in writing to the parties and the commission privately before
32 they are made public. The commission, the fact finder, the employer,
33 or the exclusive bargaining representative may make such findings and
34 recommendations public if the dispute is not settled within ten working
35 days after their receipt from the fact finder.

36 This section does not prohibit an employer and an exclusive
37 bargaining representative from agreeing to substitute, at their own

1 expense, their own procedure for resolving impasses in collective
2 bargaining for that provided in this section or from agreeing to
3 utilize for the purposes of this section any other governmental or
4 other agency or person in lieu of the commission.

5 Costs for mediator services shall be borne by the commission, and
6 costs for fact-finding shall be borne equally by the negotiating
7 parties.

8 NEW SECTION. **Sec. 312.** (1) A collective bargaining agreement may
9 contain a union security provision requiring as a condition of
10 employment the payment, no later than the thirtieth day following the
11 beginning of employment or July 1, 2013, whichever is later, of an
12 agency shop fee to the employee organization that is the exclusive
13 bargaining representative for the bargaining unit in which the employee
14 is employed. The amount of the fee shall be equal to the amount
15 required to become a member in good standing of the employee
16 organization. Each employee organization shall establish a procedure
17 by which any employee so requesting may pay a representation fee no
18 greater than the part of the membership fee that represents a pro rata
19 share of expenditures for purposes germane to the collective bargaining
20 process, to contract administration, or to pursuing matters affecting
21 wages, hours, and other conditions of employment.

22 (2) An employee who is covered by a union security provision and
23 who asserts a right of nonassociation based on bona fide religious
24 tenets, or teachings of a church or religious body of which the
25 employee is a member, shall, as a condition of employment, make
26 payments to the employee organization, for purposes within the program
27 of the employee organization as designated by the employee that would
28 be in harmony with his or her individual conscience. The amount of the
29 payments shall be equal to the periodic dues and fees uniformly
30 required as a condition of acquiring or retaining membership in the
31 employee organization minus any included monthly premiums for insurance
32 programs sponsored by the employee organization. The employee shall
33 not be a member of the employee organization but is entitled to all the
34 representation rights of a member of the employee organization.

35 (3) Upon filing with the employer the written authorization of a
36 bargaining unit employee under this chapter, the employee organization
37 that is the exclusive bargaining representative of the bargaining unit

1 shall have the exclusive right to have deducted from the salary of the
2 employee an amount equal to the fees and dues uniformly required as a
3 condition of acquiring or retaining membership in the employee
4 organization. The fees and dues shall be deducted each pay period from
5 the pay of all employees who have given authorization for the deduction
6 and shall be transmitted by the employer as provided for by agreement
7 between the employer and the employee organization.

8 (4) Employee organizations that before July 1, 2013, were entitled
9 to the benefits of this section shall continue to be entitled to these
10 benefits.

11 NEW SECTION. **Sec. 313.** (1) It is an unfair labor practice for an
12 employer:

13 (a) To interfere with, restrain, or coerce employees in the
14 exercise of the rights guaranteed by this chapter;

15 (b) To dominate or interfere with the formation or administration
16 of any employee organization or contribute financial or other support
17 to it. However, subject to rules adopted by the commission, an
18 employer shall not be prohibited from permitting employees to confer
19 with it or its representatives or agents during working hours without
20 loss of time or pay;

21 (c) To encourage or discourage membership in any employee
22 organization by discrimination in regard to hire, tenure of employment,
23 or any term or condition of employment;

24 (d) To discharge or discriminate otherwise against an employee
25 because that employee has filed charges or given testimony under this
26 chapter; or

27 (e) To refuse to bargain collectively with the representatives of
28 its employees.

29 (2) It is an unfair labor practice for an employee organization:

30 (a) To restrain or coerce an employee in the exercise of the rights
31 guaranteed by this chapter. However, this subsection does not impair
32 the right of an employee organization to prescribe its own rules with
33 respect to the acquisition or retention of membership in the employee
34 organization or to an employer in the selection of its representatives
35 for the purpose of bargaining or the adjustment of grievances;

36 (b) To cause or attempt to cause an employer to discriminate
37 against an employee in violation of subsection (1)(c) of this section;

1 (c) To discriminate against an employee because that employee has
2 filed charges or given testimony under this chapter;

3 (d) To refuse to bargain collectively with an employer.

4 (3) The expressing of any views, arguments, or opinion, or the
5 dissemination thereof to the public, whether in written, printed,
6 graphic, or visual form, shall not constitute or be evidence of an
7 unfair labor practice under this chapter, if such expression contains
8 no threat of reprisal or force or promise of benefit.

9 NEW SECTION. **Sec. 314.** (1) The commission is empowered and
10 directed to prevent any unfair labor practice and to issue appropriate
11 remedial orders. However, a complaint shall not be processed for any
12 unfair labor practice occurring more than six months before the filing
13 of the complaint with the commission. This power shall not be affected
14 or impaired by any means of adjustment, mediation, or conciliation in
15 labor disputes that have been or may hereafter be established by law.

16 (2) If the commission determines that any person has engaged in or
17 is engaging in an unfair labor practice, the commission shall issue and
18 cause to be served upon the person an order requiring the person to
19 cease and desist from such unfair labor practice, and to take such
20 affirmative action as will effectuate the purposes and policy of this
21 chapter, such as the payment of damages and the reinstatement of
22 employees.

23 (3) The commission may petition the superior court for the county
24 in which the main office of the employer is located or in which the
25 person who has engaged or is engaging in such unfair labor practice
26 resides or transacts business, for the enforcement of its order and for
27 appropriate temporary relief.

28 NEW SECTION. **Sec. 315.** (1) For the purposes of implementing final
29 and binding arbitration under grievance procedures required by section
30 305 of this act the parties to a collective bargaining agreement may
31 agree on one or more permanent umpires to serve as arbitrator, or may
32 agree on any impartial person to serve as arbitrator, or may agree to
33 select arbitrators from any source available to them, including federal
34 and private agencies, in addition to the staff and list of arbitrators
35 maintained by the commission. If the parties cannot agree to the

1 selection of an arbitrator, the commission shall supply a list of names
2 in accordance with the procedures established by the commission.

3 (2) An arbitrator may require any person to attend as a witness and
4 to bring with him or her any book, record, document, or other evidence.
5 The fees for such attendance shall be paid by the party requesting
6 issuance of the subpoena and shall be the same as the fees of witnesses
7 in the superior court. Arbitrators may administer oaths. Subpoenas
8 shall issue and be signed by the arbitrator and shall be served in the
9 same manner as subpoenas to testify before a court of record in this
10 state. If any person so summoned to testify refuses or neglects to
11 obey such subpoena, upon petition authorized by the arbitrator, the
12 superior court may compel the attendance of the person before the
13 arbitrator or punish the person for contempt in the same manner
14 provided for the attendance of witnesses or the punishment of them in
15 the courts of this state.

16 (3) The arbitrator shall appoint a time and place for the hearing
17 and notify the parties thereof, and may adjourn the hearing from time
18 to time as may be necessary, and, on application of either party and
19 for good cause, may postpone the hearing to a time not extending beyond
20 the date fixed by the collective bargaining agreement for making the
21 award. The arbitration award shall be in writing and signed by the
22 arbitrator. The arbitrator shall, promptly upon its rendition, serve
23 a true copy of the award on each of the parties or their attorneys of
24 record.

25 (4) If a party to a collective bargaining agreement negotiated
26 under this chapter refuses to submit a grievance for arbitration, the
27 other party to the collective bargaining agreement may invoke the
28 jurisdiction of the superior court of Thurston county or of any county
29 in which the labor dispute exists and such court shall have
30 jurisdiction to issue an order compelling arbitration. Disputes
31 concerning compliance with grievance procedures shall be reserved for
32 determination by the arbitrator. Arbitration shall be ordered if the
33 grievance states a claim that on its face is covered by the collective
34 bargaining agreement. Doubts as to the coverage of the arbitration
35 clause shall be resolved in favor of arbitration.

36 (5) If a party to a collective bargaining agreement negotiated
37 under this chapter refuses to comply with the award of an arbitrator
38 determining a grievance arising under the collective bargaining

1 agreement, the other party to the collective bargaining agreement may
2 invoke the jurisdiction of the superior court of Thurston county or of
3 any county in which the labor dispute exists and such court shall have
4 jurisdiction to issue an order enforcing the arbitration award.

5 NEW SECTION. **Sec. 316.** The consolidated technology services
6 agency may purchase services, including services that have been
7 customarily and historically provided by employees of the agency. The
8 consolidated technology services agency is not subject to the
9 provisions of RCW 41.06.142. The employer shall not bargain with an
10 exclusive bargaining representative over the decision and impacts of
11 contracting for services, including those customarily and historically
12 provided by employees of the agency.

13 **PART IV**
14 **NECESSARY FOR IMPLEMENTATION**

15 **Sec. 401.** RCW 41.06.070 and 2010 c 271 s 801, 2010 c 2 s 2, and
16 2010 c 1 s 1 are each reenacted and amended to read as follows:

- 17 (1) The provisions of this chapter do not apply to:
- 18 (a) The members of the legislature or to any employee of, or
19 position in, the legislative branch of the state government including
20 members, officers, and employees of the legislative council, joint
21 legislative audit and review committee, statute law committee, and any
22 interim committee of the legislature;
 - 23 (b) The justices of the supreme court, judges of the court of
24 appeals, judges of the superior courts or of the inferior courts, or to
25 any employee of, or position in the judicial branch of state
26 government;
 - 27 (c) Officers, academic personnel, and employees of technical
28 colleges;
 - 29 (d) The officers of the Washington state patrol;
 - 30 (e) Elective officers of the state;
 - 31 (f) The chief executive officer of each agency;
 - 32 (g) In the departments of employment security and social and health
33 services, the director and the director's confidential secretary; in
34 all other departments, the executive head of which is an individual

1 appointed by the governor, the director, his or her confidential
2 secretary, and his or her statutory assistant directors;

3 (h) In the case of a multimember board, commission, or committee,
4 whether the members thereof are elected, appointed by the governor or
5 other authority, serve ex officio, or are otherwise chosen:

6 (i) All members of such boards, commissions, or committees;

7 (ii) If the members of the board, commission, or committee serve on
8 a part-time basis and there is a statutory executive officer: The
9 secretary of the board, commission, or committee; the chief executive
10 officer of the board, commission, or committee; and the confidential
11 secretary of the chief executive officer of the board, commission, or
12 committee;

13 (iii) If the members of the board, commission, or committee serve
14 on a full-time basis: The chief executive officer or administrative
15 officer as designated by the board, commission, or committee; and a
16 confidential secretary to the chair of the board, commission, or
17 committee;

18 (iv) If all members of the board, commission, or committee serve ex
19 officio: The chief executive officer; and the confidential secretary
20 of such chief executive officer;

21 (i) The confidential secretaries and administrative assistants in
22 the immediate offices of the elective officers of the state;

23 (j) Assistant attorneys general;

24 (k) Commissioned and enlisted personnel in the military service of
25 the state;

26 (l) Inmate, student, part-time, or temporary employees, and part-
27 time professional consultants, as defined by the Washington personnel
28 resources board;

29 (m) The public printer or to any employees of or positions in the
30 state printing plant;

31 (n) Officers and employees of the Washington state fruit
32 commission;

33 (o) Officers and employees of the Washington apple commission;

34 (p) Officers and employees of the Washington state dairy products
35 commission;

36 (q) Officers and employees of the Washington tree fruit research
37 commission;

38 (r) Officers and employees of the Washington state beef commission;

1 (s) Officers and employees of the Washington grain commission;
2 (t) Officers and employees of any commission formed under chapter
3 15.66 RCW;
4 (u) Officers and employees of agricultural commissions formed under
5 chapter 15.65 RCW;
6 (v) Officers and employees of the nonprofit corporation formed
7 under chapter 67.40 RCW;
8 (w) Executive assistants for personnel administration and labor
9 relations in all state agencies employing such executive assistants
10 including but not limited to all departments, offices, commissions,
11 committees, boards, or other bodies subject to the provisions of this
12 chapter and this subsection shall prevail over any provision of law
13 inconsistent herewith unless specific exception is made in such law;
14 (x) In each agency with fifty or more employees: Deputy agency
15 heads, assistant directors or division directors, and not more than
16 three principal policy assistants who report directly to the agency
17 head or deputy agency heads;
18 (y) All employees of the marine employees' commission;
19 (z) Staff employed by the department of commerce to administer
20 energy policy functions;
21 (aa) The manager of the energy facility site evaluation council;
22 (bb) A maximum of ten staff employed by the department of commerce
23 to administer innovation and policy functions, including the three
24 principal policy assistants exempted under (x) of this subsection;
25 (cc) Staff employed by Washington State University to administer
26 energy education, applied research, and technology transfer programs
27 under RCW 43.21F.045 as provided in RCW 28B.30.900(5);
28 (dd) Officers and employees of the consolidated technology services
29 agency formed under RCW 43.105.047, except those employees represented
30 by an exclusive bargaining representative;
31 (ee) Effective July 1, 2012, all officers and employees of the
32 consolidated technology services agency formed under RCW 43.105.047,
33 including those employees represented by an exclusive bargaining
34 representative.
35 (2) The following classifications, positions, and employees of
36 institutions of higher education and related boards are hereby exempted
37 from coverage of this chapter:

1 (a) Members of the governing board of each institution of higher
2 education and related boards, all presidents, vice presidents, and
3 their confidential secretaries, administrative, and personal
4 assistants; deans, directors, and chairs; academic personnel; and
5 executive heads of major administrative or academic divisions employed
6 by institutions of higher education; principal assistants to executive
7 heads of major administrative or academic divisions; other managerial
8 or professional employees in an institution or related board having
9 substantial responsibility for directing or controlling program
10 operations and accountable for allocation of resources and program
11 results, or for the formulation of institutional policy, or for
12 carrying out personnel administration or labor relations functions,
13 legislative relations, public information, development, senior computer
14 systems and network programming, or internal audits and investigations;
15 and any employee of a community college district whose place of work is
16 one which is physically located outside the state of Washington and who
17 is employed pursuant to RCW 28B.50.092 and assigned to an educational
18 program operating outside of the state of Washington;

19 (b) The governing board of each institution, and related boards,
20 may also exempt from this chapter classifications involving research
21 activities, counseling of students, extension or continuing education
22 activities, graphic arts or publications activities requiring
23 prescribed academic preparation or special training as determined by
24 the board: PROVIDED, That no nonacademic employee engaged in office,
25 clerical, maintenance, or food and trade services may be exempted by
26 the board under this provision;

27 (c) Printing craft employees in the department of printing at the
28 University of Washington.

29 (3) In addition to the exemptions specifically provided by this
30 chapter, the director of personnel may provide for further exemptions
31 pursuant to the following procedures. The governor or other
32 appropriate elected official may submit requests for exemption to the
33 director of personnel stating the reasons for requesting such
34 exemptions. The director of personnel shall hold a public hearing,
35 after proper notice, on requests submitted pursuant to this subsection.
36 If the director determines that the position for which exemption is
37 requested is one involving substantial responsibility for the
38 formulation of basic agency or executive policy or one involving

1 directing and controlling program operations of an agency or a major
2 administrative division thereof, the director of personnel shall grant
3 the request and such determination shall be final as to any decision
4 made before July 1, 1993. The total number of additional exemptions
5 permitted under this subsection shall not exceed one percent of the
6 number of employees in the classified service not including employees
7 of institutions of higher education and related boards for those
8 agencies not directly under the authority of any elected public
9 official other than the governor, and shall not exceed a total of
10 twenty-five for all agencies under the authority of elected public
11 officials other than the governor.

12 The salary and fringe benefits of all positions presently or
13 hereafter exempted except for the chief executive officer of each
14 agency, full-time members of boards and commissions, administrative
15 assistants and confidential secretaries in the immediate office of an
16 elected state official, and the personnel listed in subsections (1)(j)
17 through (v) and (y) and (2) of this section, shall be determined by the
18 director of personnel. Changes to the classification plan affecting
19 exempt salaries must meet the same provisions for classified salary
20 increases resulting from adjustments to the classification plan as
21 outlined in RCW 41.06.152.

22 From February 18, 2009, through June 30, 2011, a salary or wage
23 increase shall not be granted to any position exempt from
24 classification under this chapter, except that a salary or wage
25 increase may be granted to employees pursuant to collective bargaining
26 agreements negotiated under chapter 28B.52, 41.56, 47.64, or 41.76 RCW,
27 or negotiated by the nonprofit corporation formed under chapter 67.40
28 RCW, and except that increases may be granted for positions for which
29 the employer has demonstrated difficulty retaining qualified employees
30 if the following conditions are met:

- 31 (a) The salary increase can be paid within existing resources; and
- 32 (b) The salary increase will not adversely impact the provision of
33 client services.

34 Any agency granting a salary increase from February 15, 2010,
35 through June 30, 2011, to a position exempt from classification under
36 this chapter shall submit a report to the fiscal committees of the
37 legislature no later than July 31, 2011, detailing the positions for

1 which salary increases were granted, the size of the increases, and the
2 reasons for giving the increases.

3 Any person holding a classified position subject to the provisions
4 of this chapter shall, when and if such position is subsequently
5 exempted from the application of this chapter, be afforded the
6 following rights: If such person previously held permanent status in
7 another classified position, such person shall have a right of
8 reversion to the highest class of position previously held, or to a
9 position of similar nature and salary.

10 Any classified employee having civil service status in a classified
11 position who accepts an appointment in an exempt position shall have
12 the right of reversion to the highest class of position previously
13 held, or to a position of similar nature and salary.

14 A person occupying an exempt position who is terminated from the
15 position for gross misconduct or malfeasance does not have the right of
16 reversion to a classified position as provided for in this section.

17 From February 15, 2010, until June 30, 2011, no monetary
18 performance-based awards or incentives may be granted by the director
19 or employers to employees covered by rules adopted under this section.
20 This subsection does not prohibit the payment of awards provided for in
21 chapter 41.60 RCW.

22 **Sec. 402.** RCW 41.80.020 and 2010 c 283 s 16 are each amended to
23 read as follows:

24 (1) Except as otherwise provided in this chapter, the matters
25 subject to bargaining include wages, hours, and other terms and
26 conditions of employment, and the negotiation of any question arising
27 under a collective bargaining agreement.

28 (2) The employer is not required to bargain over matters pertaining
29 to:

30 (a) Health care benefits or other employee insurance benefits,
31 except as required in subsection (3) of this section;

32 (b) Any retirement system or retirement benefit; or

33 (c) Rules of the director of personnel or the Washington personnel
34 resources board adopted under section 203, chapter 354, Laws of 2002.

35 (3) Matters subject to bargaining include the number of names to be
36 certified for vacancies, promotional preferences, and the dollar amount
37 expended on behalf of each employee for health care benefits. However,

1 except as provided otherwise in this subsection for institutions of
2 higher education, negotiations regarding the number of names to be
3 certified for vacancies, promotional preferences, and the dollar amount
4 expended on behalf of each employee for health care benefits shall be
5 conducted between the employer and one coalition of all the exclusive
6 bargaining representatives subject to this chapter. The exclusive
7 bargaining representatives for employees that are subject to chapters
8 47.64 ((RCW)) and 43.--- RCW (the new chapter created in section 501 of
9 this act) shall bargain the dollar amount expended on behalf of each
10 employee for health care benefits with the employer as part of the
11 coalition under this subsection. Any such provision agreed to by the
12 employer and the coalition shall be included in all master collective
13 bargaining agreements negotiated by the parties. For institutions of
14 higher education, promotional preferences and the number of names to be
15 certified for vacancies shall be bargained under the provisions of RCW
16 41.80.010(4).

17 (4) The employer and the exclusive bargaining representative shall
18 not agree to any proposal that would prevent the implementation of
19 approved affirmative action plans or that would be inconsistent with
20 the comparable worth agreement that provided the basis for the salary
21 changes implemented beginning with the 1983-1985 biennium to achieve
22 comparable worth.

23 (5) The employer and the exclusive bargaining representative shall
24 not bargain over matters pertaining to management rights established in
25 RCW 41.80.040.

26 (6) Except as otherwise provided in this chapter, if a conflict
27 exists between an executive order, administrative rule, or agency
28 policy relating to wages, hours, and terms and conditions of employment
29 and a collective bargaining agreement negotiated under this chapter,
30 the collective bargaining agreement shall prevail. A provision of a
31 collective bargaining agreement that conflicts with the terms of a
32 statute is invalid and unenforceable.

33 (7) This section does not prohibit bargaining that affects
34 contracts authorized by RCW 41.06.142.

35 **PART V**

36 **ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS**

1 NEW SECTION. **Sec. 501.** Sections 101 through 120 of this act
2 constitute a new chapter in Title 43 RCW to be codified as chapter
3 43.41A RCW.

4 NEW SECTION. **Sec. 502.** Sections 301 through 316 of this act
5 constitute a new chapter in Title 41 RCW.

6 NEW SECTION. **Sec. 503.** RCW 43.105.052, 43.105.172, 43.105.250,
7 43.105.260, 43.105.270, 43.105.280, 43.105.290, 43.105.310, and
8 43.105.835 are each recodified as sections in chapter 43.--- RCW (the
9 new chapter created in section 501 of this act).

10 NEW SECTION. **Sec. 504.** The following acts or parts of acts are
11 each repealed:

- 12 (1) RCW 43.105.005 (Purpose) and 1990 c 208 s 1 & 1987 c 504 s 1;
- 13 (2) RCW 43.105.013 (Finding--Intent) and 2010 c 282 s 1;
- 14 (3) RCW 43.105.019 (Enterprise-based strategy--Coordination with
15 legislative and judicial branches) and 2010 c 282 s 10;
- 16 (4) RCW 43.105.032 (Information services board--Members--
17 Chairperson--Vacancies--Quorum--Compensation and travel expenses) and
18 2007 c 158 s 1, 1999 c 241 s 2, 1996 c 137 s 10, 1992 c 20 s 8, 1987 c
19 504 s 4, 1984 c 287 s 86, 1975-'76 2nd ex.s. c 34 s 128, & 1973 1st
20 ex.s. c 219 s 5;
- 21 (5) RCW 43.105.041 (Powers and duties of board) and 2010 1st sp.s.
22 c 7 s 65, 2009 c 486 s 13, 2003 c 18 s 3, & 1999 c 285 s 5;
- 23 (6) RCW 43.105.095 (Management and oversight structure) and 1999 c
24 80 s 3;
- 25 (7) RCW 43.105.105 (Information technology decisions and plans) and
26 1999 c 80 s 4;
- 27 (8) RCW 43.105.160 (Strategic information technology plan--Biennial
28 state performance report on information technology) and 2010 c 282 s 9,
29 2005 c 319 s 110, 1999 c 80 s 9, 1998 c 177 s 3, 1996 c 171 s 9, & 1992
30 c 20 s 1;
- 31 (9) RCW 43.105.170 (Information technology portfolios--Contents--
32 Performance reports) and 1999 c 80 s 10;
- 33 (10) RCW 43.105.180 (Evaluation of budget requests for information
34 technology projects) and 2010 c 282 s 6 & 1999 c 80 s 11;

1 (11) RCW 43.105.190 (Major information technology projects
2 standards and policies--Project evaluation and reporting) and 2005 c
3 319 s 111, 1999 c 80 s 12, 1998 c 177 s 4, 1996 c 137 s 15, & 1992 c 20
4 s 4;

5 (12) RCW 43.105.200 (Application to institutions of higher
6 education) and 1992 c 20 s 5;

7 (13) RCW 43.105.210 (Data processing expenditures--Authorization--
8 Penalties) and 1993 sp.s. c 1 s 903;

9 (14) RCW 43.105.330 (State interoperability executive committee)
10 and 2006 c 76 s 2 & 2003 c 18 s 4;

11 (15) RCW 43.105.805 (Information services board--Powers and duties)
12 and 2010 1st sp.s. c 9 s 1, 2010 1st sp.s. c 7 s 66, & 1999 c 285 s 3;

13 (16) RCW 43.105.815 (K-20 operations cooperative--Ongoing
14 management) and 1999 c 285 s 8; and

15 (17) RCW 43.105.820 (K-20 telecommunication system--Technical plan)
16 and 2010 1st sp.s. c 7 s 67, 1999 c 285 s 11, & 1996 c 137 s 8.

17 NEW SECTION. **Sec. 505.** Section 123 of this act takes effect
18 January 1, 2012.

19 NEW SECTION. **Sec. 506.** Section 124 of this act expires January 1,
20 2012.

21 NEW SECTION. **Sec. 507.** Except for section 123 of this act, this
22 act is necessary for the immediate preservation of the public peace,
23 health, or safety, or support of the state government and its existing
24 public institutions, and takes effect July 1, 2011.

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