

1-1 By: Isett, Swinford (Senate Sponsor - Duncan) H.B. No. 1516  
1-2 (In the Senate - Received from the House May 16, 2005;  
1-3 May 17, 2005, read first time and referred to Committee on  
1-4 Government Organization; May 20, 2005, reported adversely, with  
1-5 favorable Committee Substitute by the following vote: Yeas 6,  
1-6 Nays 0; May 20, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 1516 By: Eltife

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the Department of Information Resources' management of  
1-11 state electronic services.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 ARTICLE 1. STATE ELECTRONIC PROJECTS

1-14 SECTION 1.01. Subchapter C, Chapter 2054, Government Code,  
1-15 is amended by adding Section 2054.0565 to read as follows:

1-16 Sec. 2054.0565. USE OF CONTRACTS BY OTHER GOVERNMENTAL  
1-17 ENTITIES. (a) The department may include terms in a procurement  
1-18 contract entered into by the department, including a contract  
1-19 entered into under Section 2157.068, that allow the contract to be  
1-20 used by another state agency, a political subdivision of this  
1-21 state, or a governmental entity of another state.

1-22 (b) A political subdivision that purchases an item or  
1-23 service using a contract under this section satisfies any other law  
1-24 requiring the political subdivision to seek competitive bids for  
1-25 that item or service.

1-26 SECTION 1.02. Section 2054.071, Government Code, is amended  
1-27 to read as follows:

1-28 Sec. 2054.071. IDENTITY OF MANAGER; CONSOLIDATION.  
1-29 (a) The individual required to sign a state agency's strategic  
1-30 plan under Subchapter E, or that individual's designated  
1-31 representative, shall serve as the agency's information resources  
1-32 manager.

1-33 (b) A representative designated under Subsection (a) may be  
1-34 designated to serve as a joint information resources manager by two  
1-35 or more state agencies. The department must approve the joint  
1-36 designation.

1-37 SECTION 1.03. Section 2054.074, Government Code, is amended  
1-38 to read as follows:

1-39 Sec. 2054.074. RESPONSIBILITY TO PREPARE OPERATING PLANS.  
1-40 (a) The information resources manager shall prepare the biennial  
1-41 operating plans under Subchapter E.

1-42 (b) A joint information resources manager may, to the extent  
1-43 appropriate, consolidate the operating plans of each agency for  
1-44 which the manager serves under Section 2054.071.

1-45 SECTION 1.04. Section 2054.096, Government Code, is amended  
1-46 by adding Subsection (c) to read as follows:

1-47 (c) Each state agency, other than an institution of higher  
1-48 education, shall use state commodity hardware configurations as a  
1-49 part of the agency's planning under this section. The department  
1-50 shall specify the state commodity hardware configurations in its  
1-51 instructions for the preparations of agency strategic plans.

1-52 SECTION 1.05. Subchapter E, Chapter 2054, Government Code,  
1-53 is amended by adding Section 2054.1015 to read as follows:

1-54 Sec. 2054.1015. PLANNED PROCUREMENT SCHEDULES FOR  
1-55 COMMODITY ITEMS. (a) In this section:

1-56 (1) "Commodity items" has the meaning assigned by  
1-57 Section 2157.068.

1-58 (2) "State agency" does not include an institution of  
1-59 higher education.

1-60 (b) A state agency must provide a planned procurement  
1-61 schedule for commodity items to the department before the agency's  
1-62 operating plan may be approved under Section 2054.102.

1-63 (c) The department shall use information contained in the

2-1 schedules to plan future vendor solicitations of commodity items.  
2-2 (d) A state agency shall notify the department, the  
2-3 Legislative Budget Board, and the state auditor's office if the  
2-4 agency makes a substantive change to a planned procurement schedule  
2-5 for commodity items.

2-6 SECTION 1.06. Chapter 2054, Government Code, is amended by  
2-7 adding Subchapter J to read as follows:

2-8 SUBCHAPTER J. TEXAS PROJECT DELIVERY FRAMEWORK

2-9 Sec. 2054.301. APPLICABILITY. This subchapter applies only  
2-10 to a major information resources project.

2-11 Sec. 2054.302. GUIDELINES; FORMS. (a) A state agency  
2-12 shall prepare each document required by this subchapter in a manner  
2-13 consistent with department guidelines.

2-14 (b) The department, in consultation with the Legislative  
2-15 Budget Board and state auditor's office, shall develop and provide  
2-16 guidelines and forms for the documents required by this subchapter.

2-17 (c) The department shall work with state agencies in  
2-18 developing the guidelines and forms.

2-19 Sec. 2054.303. BUSINESS CASE AND STATEWIDE IMPACT ANALYSIS.

2-20 (a) For each proposed major information resources project, a state  
2-21 agency must prepare:

2-22 (1) a business case providing the initial  
2-23 justification for the project, including the anticipated return on  
2-24 investment in terms of cost savings and efficiency for the project;  
2-25 and

2-26 (2) a statewide impact analysis of the project's  
2-27 effect on the state's common information resources infrastructure,  
2-28 including the possibility of reusing code or other resources.

2-29 (b) The agency shall file the documents with the department,  
2-30 Legislative Budget Board, and state auditor's office when the  
2-31 agency files its legislative appropriations request.

2-32 (c) The department shall use the analysis to ensure that the  
2-33 proposed project does not unnecessarily duplicate existing  
2-34 statewide information resources technology.

2-35 Sec. 2054.304. PROJECT PLANS. (a) A state agency shall  
2-36 develop a project plan for each major information resources  
2-37 project.

2-38 (b) Except as provided by Subsection (c), the state agency  
2-39 must file the project plan with the quality assurance team and the  
2-40 Texas Building and Procurement Commission before the agency:

2-41 (1) spends more than 10 percent of allocated funds for  
2-42 the project; or

2-43 (2) first issues a vendor solicitation for the  
2-44 project.

2-45 (c) Unless the project plan has been filed under this  
2-46 section:

2-47 (1) the Texas Building and Procurement Commission may  
2-48 not issue a vendor solicitation for the project; and

2-49 (2) the agency may not post a vendor solicitation for  
2-50 the project in the state business daily under Section 2155.083.

2-51 Sec. 2054.305. PROCUREMENT PLAN AND METHOD FOR MONITORING  
2-52 CONTRACTS. Before issuing a vendor solicitation for a project, the  
2-53 state agency must develop, consistent with department guidelines:

2-54 (1) a procurement plan with anticipated service levels  
2-55 and performance standards for each vendor; and

2-56 (2) a method to monitor changes to the scope of each  
2-57 contract.

2-58 Sec. 2054.306. POST-IMPLEMENTATION REVIEW. After  
2-59 implementation of a major information resources project, a state  
2-60 agency shall prepare a post-implementation review. The agency  
2-61 shall provide the review to the agency's executive director, the  
2-62 department, and the state auditor's office.

2-63 Sec. 2054.307. APPROVAL OF DOCUMENTS AND CONTRACT CHANGES.

2-64 (a) A state agency's executive director, information resources  
2-65 manager, designated project manager, and the agency employee in  
2-66 charge of information security for the agency must approve and  
2-67 sign:

2-68 (1) each document required by this subchapter; and

2-69 (2) if the department requires the approval and

3-1 signatures, any other document related to this subchapter.

3-2 (b) The state agency's executive director must approve a  
3-3 proposed contract amendment or change order for a major information  
3-4 resources project if the amendment or change order:

3-5 (1) changes the monetary value of the contract by more  
3-6 than 10 percent; or

3-7 (2) significantly changes the completion date of the  
3-8 contract.

3-9 SECTION 1.07. Chapter 2054, Government Code, is amended by  
3-10 adding Subchapter L to read as follows:

3-11 SUBCHAPTER L. STATEWIDE TECHNOLOGY CENTERS

3-12 Sec. 2054.375. DEFINITION. In this subchapter, "statewide  
3-13 technology center" means a statewide technology center established  
3-14 or operated under this subchapter.

3-15 Sec. 2054.376. APPLICABILITY. (a) This subchapter  
3-16 applies to all information resources technologies, other than  
3-17 telecommunications services, that are:

3-18 (1) obtained by a state agency using state money; or

3-19 (2) used by a state agency.

3-20 (b) This subchapter does not apply to:

3-21 (1) The Department of Public Safety's use for criminal  
3-22 justice or homeland security purposes of a federal database or  
3-23 network;

3-24 (2) A Texas equivalent of a database or network  
3-25 described by Subdivision (1) that is managed by the Department of  
3-26 Public Safety;

3-27 (3) the uniform statewide accounting system, as that  
3-28 term is used in Subchapter C, Chapter 2101;

3-29 (4) the state treasury cash and treasury management  
3-30 system; or

3-31 (5) a database or network managed by the comptroller  
3-32 to:

3-33 (A) collect and process multiple types of taxes  
3-34 imposed by the state, or

3-35 (B) manage or administer fiscal, financial,  
3-36 revenue and expenditure activities of the state under Chapter 403  
3-37 and Chapter 404.

3-38 Sec. 2054.377. INSTITUTIONS OF HIGHER EDUCATION. The  
3-39 department may not establish or expand a statewide technology  
3-40 center that includes participation by an institution of higher  
3-41 education unless the Information Technology Council for Higher  
3-42 Education agrees to the establishment or expansion.

3-43 Sec. 2054.378. SCOPE OF OPERATION OF CENTERS. (a) The  
3-44 department may operate statewide technology centers to provide two  
3-45 or more state agencies, on a cost-sharing basis, services relating  
3-46 to:

3-47 (1) information resources and information resources  
3-48 technology; and

3-49 (2) the deployment and development of statewide  
3-50 applications.

3-51 (b) The department may operate a statewide technology  
3-52 center directly or contract with another person to operate the  
3-53 center.

3-54 Sec. 2054.379. RULES. The department shall adopt rules and  
3-55 guidelines to implement this subchapter.

3-56 Sec. 2054.380. FEES. The department shall set and charge a  
3-57 fee to each state agency that receives a service from a statewide  
3-58 technology center in an amount sufficient to cover the direct and  
3-59 indirect cost of providing the service.

3-60 Sec. 2054.381. CONTRACTING; HISTORICALLY UNDERUTILIZED  
3-61 BUSINESSES. (a) In any procurement related to the establishment  
3-62 of a statewide technology center, the department shall maximize  
3-63 vendor competition and, to the extent feasible and cost-effective,  
3-64 interoperability.

3-65 (b) In contracting under this subchapter, the department  
3-66 shall follow the requirements of Chapter 2161 and related rules  
3-67 regarding historically underutilized businesses.

3-68 (c) The department shall provide to all qualified  
3-69 businesses the opportunity to compete for department contracts

4-1 under this subchapter.

4-2 Sec. 2054.382. STATEWIDE TECHNOLOGY CENTERS FOR DATA OR  
 4-3 DISASTER RECOVERY SERVICES; USE REQUIRED. (a) The department  
 4-4 shall manage the operations of statewide technology centers that  
 4-5 provide data center services or disaster recovery services for two  
 4-6 or more state agencies, including management of the operations of  
 4-7 the center on the campus of Angelo State University.

4-8 (b) The department by rule shall describe the data services  
 4-9 provided by statewide technology centers.

4-10 (c) A state agency may not spend appropriated money to  
 4-11 contract or issue purchase orders for data center services or  
 4-12 disaster recovery services, including maintenance of those  
 4-13 services, unless the executive director approves the expense. The  
 4-14 department may establish appropriate thresholds and procedures for  
 4-15 securing approval under this subsection.

4-16 (d) The Legislative Budget Board may not grant prior  
 4-17 approval under Section 2054.386 in relation to services provided  
 4-18 under this section.

4-19 Sec. 2054.383. ESTABLISHMENT OF ADDITIONAL STATEWIDE  
 4-20 TECHNOLOGY CENTERS. (a) The department may establish additional  
 4-21 statewide technology centers as provided by this section.

4-22 (b) The department may not establish a center under this  
 4-23 section unless:

4-24 (1) the governor approves the establishment;

4-25 (2) the Legislative Budget Board approves the  
 4-26 expenditures necessary for the establishment; and

4-27 (3) the executive director determines in writing that  
 4-28 consolidating operations or services of selected state agencies  
 4-29 will promote efficiency and effectiveness and provide the best  
 4-30 value for the state.

4-31 (c) In the written determination under Subsection (b)(3),  
 4-32 the executive director shall identify the selected state agencies  
 4-33 that will be required to participate in the new center.

4-34 Sec. 2054.384. COST AND REQUIREMENTS ANALYSIS. (a) The  
 4-35 department shall conduct a cost and requirements analysis for each  
 4-36 state agency that the department intends to select for  
 4-37 participation in a statewide technology center.

4-38 (b) A selected state agency shall identify its particular  
 4-39 requirements, operations costs, and requested service levels for  
 4-40 the department. The department may require a state agency to  
 4-41 validate or resubmit data related to these factors. The department  
 4-42 shall fulfill the requirements and service levels of each state  
 4-43 agency to the extent possible.

4-44 Sec. 2054.385. NOTICE OF SELECTION. After completion of  
 4-45 the cost and requirements analysis for each state agency under  
 4-46 Section 2054.384, the department shall provide notice to each state  
 4-47 agency selected to receive services or operations through the  
 4-48 statewide technology center. The notice must include:

4-49 (1) the state agency operations selected for  
 4-50 consolidation at a statewide technology center;

4-51 (2) the scope of services to be provided to the agency;

4-52 (3) a schedule of anticipated costs for the agency;  
 4-53 and

4-54 (4) the implementation schedule for that agency.

4-55 Sec. 2054.386. INTERAGENCY CONTRACT; PRIOR APPROVAL OF  
 4-56 EXPENDITURES. (a) A state agency that is selected under Section  
 4-57 2054.385 to receive services or to have operations performed  
 4-58 through a statewide technology center may not, except as provided  
 4-59 by Subsection (b), spend appropriated money for the identified  
 4-60 operations and services without the prior approval of the  
 4-61 Legislative Budget Board.

4-62 (b) Unless the Legislative Budget Board grants prior  
 4-63 approval for the selected state agency to spend appropriated money  
 4-64 for the identified operations or services in another specified  
 4-65 manner, the selected agency shall enter into an interagency  
 4-66 contract with the department to receive the identified services and  
 4-67 have the identified operations performed through the statewide  
 4-68 technology center. Amounts charged to the selected agency under  
 4-69 the interagency contract must be based on the fees set by the

5-1 department under Section 2054.380 but may not exceed the amounts  
 5-2 expected to be necessary to cover the direct and indirect costs of  
 5-3 performing operations and providing services under the contract.  
 5-4 Before executing an interagency contract or alternatively  
 5-5 receiving prior approval from the Legislative Budget Board under  
 5-6 this section, the state agency may only spend appropriated money  
 5-7 for the selected service or operation if the executive director  
 5-8 approves the expense.

5-9 (c) Not later than the 30th business day after the date the  
 5-10 selected state agency is notified of its selection under Section  
 5-11 2054.385, the agency may request the Legislative Budget Board to  
 5-12 grant its prior approval for the agency to spend appropriated money  
 5-13 for the identified operations or services in a manner other than  
 5-14 through an interagency contract with the department under  
 5-15 Subsection (b).

5-16 (d) The request to the Legislative Budget Board must:

5-17 (1) be in writing;  
 5-18 (2) include a copy of the selection notice made by the  
 5-19 executive director; and

5-20 (3) demonstrate that the decision of the executive  
 5-21 director to select the agency will probably:

5-22 (A) fail to achieve meaningful cost savings for  
 5-23 the state; or

5-24 (B) result in an unacceptable loss of  
 5-25 effectiveness or operational efficiency.

5-26 (e) If the Legislative Budget Board determines that an  
 5-27 interagency contract between the department and the selected state  
 5-28 agency under Subsection (b) will fail to achieve meaningful cost  
 5-29 savings for the state or result in an unacceptable loss of  
 5-30 effectiveness or operational efficiency at the selected agency, the  
 5-31 Legislative Budget Board may grant its prior approval for the  
 5-32 selected agency to spend appropriated money for the identified  
 5-33 operations or services in another specified manner, in which event  
 5-34 the selected agency is not required to enter into an interagency  
 5-35 contract under Subsection (b).

5-36 (f) The Legislative Budget Board shall notify the state  
 5-37 agency, the executive director, and the comptroller of its  
 5-38 decision.

5-39 Sec. 2054.387. INTERAGENCY CONTRACT; COMPLIANCE WITH  
 5-40 SERVICE LEVELS. The department shall ensure compliance with  
 5-41 service levels agreed to in an interagency contract executed under  
 5-42 this subchapter.

5-43 Sec. 2054.388. TRANSFER OF OWNERSHIP. (a) The  
 5-44 department, subject to the governor's approval, may require a state  
 5-45 agency that enters into an interagency contract under Section  
 5-46 2054.386 to transfer to the department ownership, custody, or  
 5-47 control of resources that the department, in consultation with the  
 5-48 agency, determines are used to support the operations or services  
 5-49 selected under Section 2054.385. These resources may include:

5-50 (1) information resources;  
 5-51 (2) information resources technologies;  
 5-52 (3) full-time equivalent positions; and  
 5-53 (4) any other resources determined necessary by the  
 5-54 department to support the selected operations or services.

5-55 (b) The department shall advise the governor, lieutenant  
 5-56 governor, speaker of the house of representatives, Legislative  
 5-57 Budget Board, and state auditor's office regarding the expected  
 5-58 savings to be received for each state agency from which ownership,  
 5-59 custody, or control is transferred under this section.

5-60 (c) The department and the state agency shall work to  
 5-61 reconcile any federal funding issues that arise out of a transfer  
 5-62 under this section. The department, subject to the governor's  
 5-63 approval, shall exclude applicable resources from the transfer if  
 5-64 the federal funding issues cannot be reconciled.

5-65 (d) Chapter 2175 does not apply to information resources or  
 5-66 information resources technologies transferred under this section.

5-67 Sec. 2054.389. TRANSITION SCHEDULES. The department shall  
 5-68 establish transition schedules for the transfer of state agency  
 5-69 operations and services to statewide technology centers under this

6-1 subchapter.

6-2 Sec. 2054.390. MIGRATION OF SERVICES. (a) The department  
 6-3 shall prioritize the migration of services to the statewide  
 6-4 technology center system established under this subchapter based on  
 6-5 the size of the current technology center operational environment  
 6-6 at a state agency, with the largest 25 technology center  
 6-7 environments ranking highest in priority.

6-8 (b) Unless the executive director determines that a  
 6-9 migration under this section is not cost-effective, the department  
 6-10 shall ensure the migration of at least three technology center  
 6-11 environments to the statewide technology center system each fiscal  
 6-12 year. This subsection expires September 1, 2013.

6-13 (c) A state agency shall comply with the department's  
 6-14 request to migrate under this section.

6-15 (d) Any consolidation plan adopted by the department to  
 6-16 execute this section must prioritize and fully use the existing  
 6-17 capacity of the State Data Center located on the campus of Angelo  
 6-18 State University.

6-19 Sec. 2054.391. USE OF STATEWIDE TECHNOLOGY CENTERS  
 6-20 REQUIRED. (a) A state agency may not transfer services from a  
 6-21 statewide technology center unless the executive director and the  
 6-22 governor approve the transfer.

6-23 (b) If the department becomes aware that a state agency is  
 6-24 not using a statewide technology center for operations or services  
 6-25 in accordance with the interagency contract entered into under  
 6-26 Section 2054.386 and as directed by the department, the department  
 6-27 shall notify the comptroller, the Legislative Budget Board, the  
 6-28 state auditor's office, and the affected state agency of the  
 6-29 violation.

6-30 (c) After notification under Subsection (b), the state  
 6-31 agency may not spend appropriated money for operations or services  
 6-32 the agency was selected to receive through a statewide technology  
 6-33 center without the prior approval of the executive director.

6-34 SECTION 1.08. Section 2157.068, Government Code, is amended  
 6-35 to read as follows:

6-36 Sec. 2157.068. PURCHASE OF COMMODITY [~~SOFTWARE~~] ITEMS.

6-37 (a) In this section, "commodity[~~+~~

6-38 [~~(1) "Commodity software~~] items" means commercial  
 6-39 software, hardware, or technology services, other than  
 6-40 telecommunications services, [~~for personal computers~~] that are  
 6-41 [~~is~~] generally available to businesses or the public and for which  
 6-42 the department determines that a reasonable demand exists in two or  
 6-43 more state agencies. The term includes seat management, through  
 6-44 which a state agency transfers its personal computer equipment and  
 6-45 service responsibilities to a private vendor to manage the personal  
 6-46 computing needs for each desktop in the state agency, including all  
 6-47 necessary hardware, software, and support services.

6-48 [~~(2) "Department" means the Department of Information~~  
 6-49 Resources.]

6-50 (b) The department shall negotiate with catalog information  
 6-51 systems vendors to attempt to obtain a favorable price for all of  
 6-52 state government on licenses for commodity [~~software~~] items, based  
 6-53 on the aggregate volume of purchases expected to be made by the  
 6-54 state. The terms and conditions of a license agreement between a  
 6-55 vendor and the department under this section may not be less  
 6-56 favorable to the state than the terms of similar license agreements  
 6-57 between the vendor and retail distributors.

6-58 (c) In contracting for commodity items under this section,  
 6-59 the department shall make good faith efforts to provide contracting  
 6-60 opportunities for, and to increase contract awards to, historically  
 6-61 underutilized businesses.

6-62 (d) The department may charge a reasonable administrative  
 6-63 fee to a state agency, [~~or~~] political subdivision of this state, or  
 6-64 governmental entity of another state that purchases commodity  
 6-65 [~~software~~] items through the department in an amount that is  
 6-66 sufficient to recover costs associated with the administration of  
 6-67 this section.

6-68 (e) [~~(d)~~] The department shall compile and maintain a list  
 6-69 of commodity [~~software~~] items available for purchase through the

7-1 department that have a lower price than the prices for commodity  
 7-2 [~~software~~] items otherwise available to state agencies under this  
 7-3 chapter. The department shall make the list available on the world  
 7-4 wide web or on a suitable successor to the world wide web if the  
 7-5 technological developments involving the Internet make it  
 7-6 advisable to do so.

7-7 (f) [~~(e)~~] The department may adopt rules regulating a  
 7-8 purchase by a state agency of a commodity [~~software~~] item under this  
 7-9 section, including a requirement that, notwithstanding other  
 7-10 provisions of this chapter, the agency must make the purchase in  
 7-11 accordance with a contract developed by the department unless the  
 7-12 agency obtains:

7-13 (1) an exemption [~~a waiver~~] from the department; or

7-14 (2) express prior approval from the Legislative Budget  
 7-15 Board for the expenditure necessary for the purchase.

7-16 (g) The Legislative Budget Board's approval of a biennial  
 7-17 operating plan under Section 2054.102 is not an express prior  
 7-18 approval for purposes of Subsection (f)(2). A state agency must  
 7-19 request an exemption from the department under Subsection (f)(1)  
 7-20 before seeking prior approval from the Legislative Budget Board  
 7-21 under Subsection (f)(2).

7-22 (h) The department shall, in cooperation with state  
 7-23 agencies, establish guidelines for the classification of commodity  
 7-24 items under this section. The department may determine when a  
 7-25 statewide vendor solicitation for a commodity item will reduce  
 7-26 purchase prices for a state agency.

7-27 SECTION 1.09. Section 2170.003, Government Code, is amended  
 7-28 to read as follows:

7-29 Sec. 2170.003. OWNERSHIP OR LEASE OF NECESSARY EQUIPMENT.

7-30 (a) The department may own, lease, or lease-purchase in accordance  
 7-31 with Chapters 2155, 2156, 2157, and 2158 any or all of the  
 7-32 facilities or equipment necessary to provide telecommunications  
 7-33 services. The department may acquire telecommunications services  
 7-34 without competitive bid from the Lonestar Education and Research  
 7-35 Network (LEARN) or its successors for the purposes established in  
 7-36 Subsection (b).

7-37 (b) During an emergency, a single node failure or a  
 7-38 systemwide failure of the consolidated telecommunications system,  
 7-39 the department may divert telecommunications services traffic to  
 7-40 the Lonestar Education and Research Network to avoid service  
 7-41 interruption. Upon resolution of the emergency and upon  
 7-42 determination that the consolidated telecommunications system is  
 7-43 operational, traffic will be diverted back to the consolidated  
 7-44 telecommunications system. The department may also use the  
 7-45 Lonestar Education and Research Network for the purposes of latency  
 7-46 tolerant data transfer of files to or from a consolidated state data  
 7-47 center established and operated by the department. The Lonestar  
 7-48 Education and Research Network shall be exclusively used by the  
 7-49 department only for the purposes set out in this section.

7-50 SECTION 1.10. Subsections (c) and (d), Section 2170.051,  
 7-51 Government Code, are amended to read as follows:

7-52 (c) A state agency shall use the consolidated  
 7-53 telecommunications system to the fullest extent possible. A state  
 7-54 agency may not acquire telecommunications services unless the  
 7-55 department's executive director [~~telecommunications planning and~~  
 7-56 ~~oversight council~~] determines that the agency's requirement for  
 7-57 telecommunications services cannot be met at a comparable cost by  
 7-58 the consolidated telecommunications system.

7-59 (d) A state agency may not enter into or renew a contract  
 7-60 with a carrier or other provider of telecommunications services  
 7-61 without obtaining a waiver from the department's executive director  
 7-62 [~~telecommunications planning and oversight council~~] certifying  
 7-63 that the requested telecommunications services cannot be provided  
 7-64 at a comparable cost on the consolidated telecommunications system.  
 7-65 The executive director [~~telecommunications planning and oversight~~  
 7-66 ~~council~~] shall evaluate requests for waivers based on  
 7-67 cost-effectiveness to the state government as a whole. A waiver may  
 7-68 be granted only for a specific period and will automatically expire  
 7-69 on the stated expiration date unless an extension is approved [~~by~~

8-1 ~~the telecommunications planning and oversight council~~]. A contract  
8-2 for telecommunications services obtained under waiver may not  
8-3 extend beyond the expiration date of the waiver. If the executive  
8-4 director [~~telecommunications planning and oversight council~~]  
8-5 becomes aware of any state agency receiving telecommunications  
8-6 services without a waiver, the executive director  
8-7 [~~telecommunications planning and oversight council~~] shall notify  
8-8 the agency and the comptroller. The state agency shall have 60 days  
8-9 after notification by the executive director [~~telecommunications~~  
8-10 ~~planning and oversight council~~] in which to submit a waiver request  
8-11 [~~to the telecommunications planning and oversight council~~]  
8-12 documenting the agency's reasons for bypassing the consolidated  
8-13 telecommunications system and otherwise providing all information  
8-14 required by the waiver application form.

8-15 ARTICLE 2. CONFORMING AMENDMENTS

8-16 SECTION 2.01. Section 2054.003, Government Code, is amended  
8-17 by adding Subdivision (8-a) to read as follows:

8-18 (8-a) "Institution of higher education" has the  
8-19 meaning assigned by Section 61.003, Education Code.

8-20 SECTION 2.02. Section 2157.001, Government Code, is amended  
8-21 to read as follows:

8-22 Sec. 2157.001. DEFINITIONS. In this chapter:

8-23 (1) "Automated information system" includes:

8-24 (A) the computers and computer devices on which  
8-25 an information system is automated, including computers and  
8-26 computer devices that the commission identifies in guidelines  
8-27 developed by the commission in consultation with the department  
8-28 [~~Department of Information Resources~~] and in accordance with  
8-29 Chapter 2054 and rules adopted under that chapter;

8-30 (B) a service related to the automation of an  
8-31 information system, including computer software or computers;

8-32 (C) a telecommunications apparatus or device  
8-33 that serves as a component of a voice, data, or video communications  
8-34 network for transmitting, switching, routing, multiplexing,  
8-35 modulating, amplifying, or receiving signals on the network, and  
8-36 services related to telecommunications that are not covered under  
8-37 Paragraph (D); and

8-38 (D) for the department [~~Department of~~  
8-39 ~~Information Resources~~], as telecommunications provider for the  
8-40 state, the term includes any service provided by a  
8-41 telecommunications provider, as that term is defined by Section  
8-42 51.002, Utilities Code.

8-43 (2) "Department" means the Department of Information  
8-44 Resources.

8-45 SECTION 2.03. Section 2157.003, Government Code, is amended  
8-46 to read as follows:

8-47 Sec. 2157.003. DETERMINING BEST VALUE FOR PURCHASES OF  
8-48 AUTOMATED INFORMATION SYSTEMS. "Best value" for purposes of this  
8-49 chapter means the lowest overall cost of an automated information  
8-50 system. In determining the lowest overall cost for a purchase or  
8-51 lease of an automated information system under this chapter, the  
8-52 commission or a state agency shall consider factors including:

8-53 (1) the purchase price;

8-54 (2) the compatibility to facilitate the exchange of  
8-55 existing data;

8-56 (3) the capacity for expanding and upgrading to more  
8-57 advanced levels of technology;

8-58 (4) quantitative reliability factors;

8-59 (5) the level of training required to bring persons  
8-60 using the system to a stated level of proficiency;

8-61 (6) the technical support requirements for the  
8-62 maintenance of data across a network platform and the management of  
8-63 the network's hardware and software;

8-64 (7) the compliance with applicable department  
8-65 [~~Department of Information Resources~~] statewide standards  
8-66 validated by criteria adopted by the department by rule; and

8-67 (8) applicable factors listed in Sections 2155.074 and  
8-68 2155.075.

8-69 SECTION 2.04. Subsection (a), Section 2157.005, Government



Code, is amended to read as follows:

(a) The commission and the department [~~Department of Information Resources~~], in consultation with other state agencies and after public comment, shall develop a technology access clause to be included in all contracts entered into by the state or state agencies that involve the acquisition of an automated information system.

SECTION 2.05. Subsection (b), Section 2157.063, Government Code, is amended to read as follows:

(b) In determining which goods or services are in the state's best interest, the agency shall consider:

- (1) the installation and hardware costs;
- (2) the overall life-cycle cost of the system or equipment;
- (3) the estimated cost of employee training and estimated increase in employee productivity;
- (4) the estimated software and maintenance costs; and
- (5) the rules that prescribe applicable statewide standards adopted by the department [~~Department of Information Resources~~].

SECTION 2.06. Subsections (b) and (c), Section 2157.121, Government Code, are amended to read as follows:

(b) A state agency, other than the department [~~Department of Information Resources~~], shall send its proposal specifications and criteria to the commission for approval or request the commission to develop the proposal specifications and criteria.

(c) The department [~~Department of Information Resources~~] may acquire a telecommunications device, system, or service or an automated information system by using competitive sealed proposals without regard to whether the commission makes the determination required under Subsection (a) for other state agencies.

SECTION 2.07. Subsection (a), Section 2157.181, Government Code, is amended to read as follows:

(a) The commission, with the concurrence of the department [~~Department of Information Resources~~], may negotiate with vendors preapproved terms and conditions to be included in contracts relating to the purchase or lease of a telecommunication device, system, or service or an automated information system awarded to a vendor by a state agency.

SECTION 2.08. Section 2157.182, Government Code, is amended to read as follows:

Sec. 2157.182. VALIDITY OF PREAPPROVED TERMS AND CONDITIONS; RENEGOTIATION. (a) Preapproved terms and conditions to which a vendor, the commission, and the department [~~Department of Information Resources~~] agree are valid for two years after the date of the agreement and must provide that the terms and conditions are to be renegotiated before the end of the two years.

(b) The commission and the department [~~Department of Information Resources~~] jointly shall establish procedures to ensure that terms and conditions are renegotiated before they expire in a contract between the vendor and a state agency.

SECTION 2.09. Section 2157.184, Government Code, is amended to read as follows:

Sec. 2157.184. NOTIFICATION OF STATE AGENCIES AND VENDORS. The commission and the department [~~Department of Information Resources~~] jointly shall establish procedures to notify state agencies and potential vendors of the provisions of this subchapter regarding preapproved terms and conditions.

ARTICLE 3. REPEALER; TRANSITION; EFFECTIVE DATE

SECTION 3.01. Subsection (c), Section 2054.201, and Section 2055.061, Government Code, are repealed.

SECTION 3.02. (a) The Department of Information Resources shall conduct a statewide assessment of information technology security resources and practices of state agencies.

(b) Not later than December 31, 2005, the department shall report the results of its assessment to the governor, the lieutenant governor, the speaker of the house of representatives, and the state auditor's office.

(c) The assessment and report prepared under this section

10-1 are confidential. Chapter 552, Government Code, does not apply to  
10-2 the assessment or the report.

10-3 SECTION 3.03. (a) The Department of Information  
10-4 Resources, in coordination with the Legislative Budget Board, the  
10-5 Texas Building and Procurement Commission, and the comptroller,  
10-6 shall analyze current automated information systems of state  
10-7 agencies to determine how the systems may be combined to more  
10-8 effectively synchronize strategic planning, budgeting, and  
10-9 reporting of technology expenditures, assets, and projects.

10-10 (b) Not later than December 31, 2005, the department shall  
10-11 report the results of its analysis to the governor, the lieutenant  
10-12 governor, the speaker of the house of representatives, and the  
10-13 state auditor's office.

10-14 SECTION 3.04. (a) In this section:

10-15 (1) "Department" means the Department of Information  
10-16 Resources.

10-17 (2) "State agency" has the meaning assigned by Section  
10-18 2054.003, Government Code, except that the term does not include an  
10-19 institution of higher education as defined by Section 61.003,  
10-20 Education Code.

10-21 (b) Not later than March 31, 2006, each state agency shall  
10-22 enter into an interagency contract with the department for services  
10-23 that the agency is required to obtain through a statewide  
10-24 technology center under Subchapter L, Chapter 2054, Government  
10-25 Code, as added by this Act, that establishes a time line for the  
10-26 transfer of ownership of resources to the department in accordance  
10-27 with Subchapter L, Chapter 2054, Government Code.

10-28 (c) Not later than August 31 of 2006 and 2007, the  
10-29 department shall report on the status of the statewide technology  
10-30 center system migration and consolidation under Section 2054.390,  
10-31 Government Code, as added by this Act, describing reviews and  
10-32 transfers during the fiscal year, and an update on the status of any  
10-33 contracts relating to the statewide technology centers. The  
10-34 department shall file the report with:

- 10-35 (1) the governor;
- 10-36 (2) the lieutenant governor;
- 10-37 (3) the speaker of the house of representatives;
- 10-38 (4) the chairs of the house and senate committees with  
10-39 primary oversight over the department;
- 10-40 (5) the chairs of the senate finance and the house of  
10-41 representatives appropriations committees;
- 10-42 (6) the state auditor's office; and
- 10-43 (7) each member of the Legislative Budget Board.

10-44 SECTION 3.05. The changes in law made by this Act with  
10-45 regard to contracts apply only to a contract for which the initial  
10-46 notice soliciting bids or proposals is given on or after the  
10-47 effective date of this Act. A contract for which the initial notice  
10-48 soliciting bids or proposals is given before that date is governed  
10-49 by the law in effect when the initial notice is given, and the  
10-50 former law is continued in effect for that purpose.

10-51 SECTION 3.06. This Act takes effect September

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