HB 3099-2 (LC 1618) 4/15/15 (TSB/ps)

PROPOSED AMENDMENTS TO HOUSE BILL 3099

1 On page 1 of the printed bill, line 3, delete "182.126," and delete 2 "184.305,".

3 In line 4, delete "283.100,".

4 In line 6, delete "291.055,".

5 Delete lines 10 through 28 and delete page 2.

6 On page 3, delete lines 1 through 32 and insert:

"<u>SECTION 1.</u> (1) As used in this section and sections 2 to 8 of this
2015 Act, 'enterprise information technology and telecommunications'
means:

"(a) Technologies, resources, systems and services that state agen cies use to generate, process, store and secure information for gov ernmental purposes, including geographic information;

"(b) Technologies, resources, systems and services that state agen cies use to send, receive, process or otherwise facilitate telecommuni cations for governmental purposes; and

"(c) Technologies, resources, systems and services that state agen cies use to install, maintain, repair, update, replace, remove or oth erwise support the technologies, resources, systems or services
 described in paragraphs (a) and (b) of this subsection.

"(2)(a) Except as otherwise provided in this section, sections 2 to 8
of this 2015 Act and the amendments to ORS 84.064, 181.715, 181.725,
182.122, 182.124, 182.128, 182.132, 184.473, 184.475, 184.477, 184.483, 184.484,

184.486, 279A.050, 279A.075, 279B.075, 283.120, 283.140, 283.143, 283.505, 1 283.510, 283.515, 283.520, 283.524, 291.016, 291.018, 291.032, 291.034, 291.038, $\mathbf{2}$ 291.039, 291.042, 291.047, 291.990, 403.450, 403.455, 403.460 and 413.308 and 3 sections 1, 3, 4 and 5, chapter 782, Oregon Laws 2009, section 1, chapter 4 77, Oregon Laws 2014, and sections 8, 9, 10, 11, 12, 13, 14, 15 and 17, $\mathbf{5}$ chapter 87, Oregon Laws 2014, by sections 9 to 60 of this 2015 Act, the 6 duties, functions and powers that the Oregon Department of Admin-7 istrative Services has with respect to enterprise information technol-8 ogy and telecommunications are imposed upon, transferred to and 9 vested in the State Chief Information Officer. 10

"(b) The duties, functions and powers described in paragraph (a) of
 this subsection include, but are not limited to:

"(A) The duty and function to plan and set standards for, coordi nate and oversee enterprise information technology and telecommu nications among state agencies; and

"(B) The power to specify policies, goals and directives and adopt
 rules related to enterprise information technology and telecommuni cations among state agencies.

"SECTION 2. (1) The Director of the Oregon Department of Ad-19 ministrative Services shall manage and organize the Oregon Depart-20ment of Administrative Services to ensure that the department fulfills 21the duties, implements the functions and exercises the powers that 22remain to the department with respect to enterprise information 23technology and telecommunications in a manner that is consistent 24with the manner in which the State Chief Information Officer fulfills 25the duties, implements the functions and exercises the powers that are 26imposed upon, transferred to and vested in the State Chief Informa-27tion Officer under section 1 of this 2015 Act. 28

"(2) The Governor shall resolve any dispute between the State Chief
 Information Officer and the department that relates to the apportion-

ment of duties, functions and powers under section 1 of this 2015 Act
and as to the director's management and organization of the department under this section. The Governor's decision under this subsection is final.

"SECTION 3. (1) The State Chief Information Officer, in consulta- $\mathbf{5}$ tion with the Director of the Oregon Department of Administrative 6 Services, shall direct and oversee the expenditure of all moneys for 7 enterprise information technology and telecommunications that are 8 appropriated to the Oregon Department of Administrative Services and 9 that are necessary for the State Chief Information Officer to fulfill the 10 duties, implement the functions and exercise the powers imposed 11 upon, transferred to and vested in the State Chief Information Officer 12under section 1 of this 2015 Act. 13

"(2) The expenditure classifications, if any, established by Acts that
 authorize or limit expenditures by the department remain applicable
 to expenditures that the State Chief Information Officer directs or
 oversees under this section.

18 "SECTION 4. The State Chief Information Officer's assumption of 19 duties, functions and powers in accordance with section 1 of this 2015 20 Act does not affect any action, proceeding or prosecution involving or 21 with respect to the duties, functions and powers that began before and 22 were pending at the time the State Chief Information Officer assumed 23 the duties, functions and powers.

²⁴ "<u>SECTION 5.</u> (1) Sections 1 to 8 of this 2015 Act and the amend²⁵ ments to ORS 84.064, 181.715, 181.725, 182.122, 182.124, 182.128, 182.132,
²⁶ 184.473, 184.475, 184.477, 184.483, 184.484, 184.486, 279A.050, 279A.075,
²⁷ 279B.075, 283.120, 283.140, 283.143, 283.505, 283.510, 283.515, 283.520, 283.524,
²⁸ 291.016, 291.018, 291.032, 291.034, 291.038, 291.039, 291.042, 291.047, 291.990,
²⁹ 403.450, 403.455, 403.460 and 413.308 and sections 1, 3, 4 and 5, chapter
³⁰ 782, Oregon Laws 2009, section 1, chapter 77, Oregon Laws 2014, and

sections 8, 9, 10, 11, 12, 13, 14, 15 and 17, chapter 87, Oregon Laws 2014,
by sections 9 to 60 of this 2015 Act do not relieve a person of a liability,
duty or obligation accruing under or with respect to the duties, functions and powers transferred by section 1 of this 2015 Act. The State
Chief Information Officer may collect or enforce any such liability,
duty or obligation.

(2)(a) The rights and obligations that the Oregon Department of 7 Administrative Services legally incurred under contracts, leases and 8 business transactions the department executed, entered into or began 9 before the operative date of section 1 of this 2015 Act and that accrued 10 under or with respect to the duties, functions and powers transferred 11 by section 1 of this 2015 Act remain with the department unless the 12 Director of the Oregon Department of Administrative Services deleg-13 ates or transfers the rights and obligations to the State Chief Infor-14 mation Officer. For the purpose of succession to rights or obligations 15 that the director delegates or transfers to the State Chief Information 16 Officer, the State Chief Information Officer is a continuation of the 17 department and not a new authority. 18

19 "(b) The rights and obligations that the State Chief Information 20 Officer or the department legally incurs under contracts, leases or 21 business transactions related to enterprise information technology and 22 telecommunications after the operative date of section 1 of this 2015 23 Act belong to the State Chief Information Officer.

24 "SECTION 6. Notwithstanding the State Chief Information Officer's 25 assumption of duties, functions and powers in accordance with section 26 1 of this 2015 Act, the rules of the Oregon Department of Administra-27 tive Services, with respect to duties, functions or powers, that are in 28 effect on the operative date of section 1 of this 2015 Act continue in 29 effect until the State Chief Information Officer supersedes or repeals 30 the rules.

"SECTION 7. If an uncodified law or resolution of the Legislative 1 Assembly, or a rule, document, record or proceeding that the Legisla- $\mathbf{2}$ tive Assembly authorizes, refers to the Oregon Department of Admin-3 istrative Services in the context of a duty, function or power the State 4 Chief Information Officer assumes under section 1 of this 2015 Act, the $\mathbf{5}$ reference is a reference to the State Chief Information Officer or an 6 officer or employee of the office of the State Chief Information Officer 7 who by sections 1 to 7 of this 2015 Act is charged with carrying out the 8 duties, functions and powers. 9

"<u>SECTION 8.</u> (1) There is established the State Information Technology Operating Fund in the State Treasury, separate and distinct from the General Fund. The moneys in the State Information Technology Operating Fund may be invested as provided in ORS 293.701 to 293.857. Interest earnings on the fund assets must be credited to the fund.

"(2) The Director of the Oregon Department of Administrative Ser-16 vices shall deposit into the State Information Technology Operating 17 Fund moneys for enterprise information technology and telecommu-18 nications that are appropriated to the Oregon Department of Admin-19 istrative Services and that are necessary for the State Chief 20Information Officer to fulfill the duties, implement the functions and 21exercise the powers imposed upon, transferred to and vested in the 22State Chief Information Officer under section 1 of this 2015 Act. 23Amounts in the fund are continuously appropriated to the State Chief 24Information Officer for the purposes authorized by law.". 25

On page 6, line 37, restore the comma and delete the second "and".

In line 38, after the comma insert "at" and delete "Officer" and insert "Officer's direction,".

In line 44, after "with" insert "the Oregon Department of Administrative Services,".

1	On	page	8,	delete	lines	40	through	45.
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- 2 On page 9, delete lines 1 through 9.
- 3 In line 10, delete "15" and insert "14".

4 In lines 33 and 34, delete the boldfaced material.

5 On page 10, line 32, delete "16" and insert "15".

6 In line 33, restore the bracketed material and delete the boldfaced mate-7 rial.

8 In line 34, delete the boldfaced material and before "advice" insert "ap-9 proval of the State Chief Information Officer and the".

In line 39, restore the bracketed material and delete the boldfaced material.

12 In line 40, delete "Officer".

In line 43, restore the bracketed material and delete the boldfaced material.

¹⁵ In line 45, restore the bracketed material.

16 On page 11, line 1, delete the boldfaced material.

In line 4, restore the bracketed material and delete the boldfaced material and before "advisory" insert "State Chief Information Officer and the".

In lines 9 through 12 restore the bracketed material and delete the boldfaced material.

21 Delete lines 13 through 29.

In line 30, delete "18" and insert "16".

23 On page 12, line 3, delete "19" and insert "17".

Delete lines 39 through 44 and insert:

25 "(5) Before adopting rules to implement the provisions of this section, the

26 State Chief Information Officer shall present the proposed rules to the Joint

27 Legislative Committee on Information Management and Technology.".

- In line 45, delete "20" and insert "18".
- 29 On page 13, delete lines 27 through 29 and insert:
- ³⁰ "(5) A state agency that implements an information technology initiative,

as defined in section 1, chapter 77, Oregon Laws 2014, that the State Chief 1 Information Officer estimates will cost more than \$1 million shall implement $\mathbf{2}$ the information technology initiative under rules, policies and standards that 3 the State Chief Information Officer develops, sets or adopts. The information 4 technology initiative is subject to the State Chief Information Officer's $\mathbf{5}$ oversight and the State Chief Information Officer may require the state 6 agency to obtain approval to implement the information technology initiative 7 or may direct the state agency to stop or modify the implementation, cancel 8 or modify a procurement related to the information technology initiative, 9 modify the scope of the information technology initiative or take another 10 action before awarding a public contract. After a state agency executes a 11 public contract related to the information technology initiative, the State 12 Chief Information Officer may direct the state agency to suspend the public 13 contract or terminate the public contract in accordance with the public 14 contract's terms and conditions.". 15

In line 30, delete "21" and insert "19".

17 In line 31, after "(1)" insert "(a)".

In line 32, delete "develop" and insert "maintain".

19 After line 35, insert:

"(b) The Oregon Department of Administrative Services shall assist the State Chief Information Officer in performing duties under paragraph (a) of this subsection to the extent the State Chief Information Officer deems the assistance necessary.".

- On page 15, line 4, delete "creating,".
- In line 31, delete "22" and insert "20".

26 On page 17, line 2, delete "23" and insert "21".

- 27 On page 18, line 22, delete "24" and insert "22".
- In line 35, before "State" insert "the director may delegate to the" and delete "has all" and delete "available".
- 30 On page 20, delete lines 24 through 41 and insert:

"(7)(a) Notwithstanding this section and ORS 279A.140 (1), the Director of the Oregon Department of Administrative Services has exclusive authority, unless the director delegates the authority, to procure or supervise the procurement of all price agreements on behalf of the state agencies identified in subsection (6) of this section under which more than one state agency may order goods, services or personal services.

"(b) The director may delegate to the State Chief Information Officer the 7 exclusive authority to procure or supervise the procurement of all price 8 agreements related to information technology and telecommunications on 9 behalf of the state agencies identified in subsection (6) of this section. 10 Notwithstanding any authority that a state agency may have under sub-11 section (3) or (6) of this section, the state agency may not establish a price 12 agreement or enter into a contract for goods, services, personal services, 13 construction materials, equipment or supplies without the approval of the 14 director or the State Chief Information Officer if the director or the State 15 Chief Information Officer has established a price agreement for the goods, 16 services, personal services, construction materials, equipment or supplies. 17

"(c) The State Chief Information Officer may review any solicitation 18 document for procuring information technology or telecommunications that 19 a state contracting agency intends to issue before the state contracting 20agency issues the solicitation document and may require the state contract-21ing agency to name the State Chief Information Officer as a third-party 22beneficiary with full authority to enforce the terms and conditions of any 23public contract for information technology or telecommunications. The State 24Chief Information Officer must approve a state contracting agency's pro-2526 curement for information technology or telecommunications if the procurement has an anticipated contract price of \$1 million or more. The State Chief 27Information Officer may require the state contracting agency to name the 28State Chief Information Officer as the contracting party on behalf of the 29 State of Oregon in a procurement for information technology or telecommu-30

1 nications that has an anticipated contract price of \$1 million or more.".

2 In line 42, delete "25" and insert "23".

On page 21, line 7, after the period insert "The State Chief Information Officer may require the Director of the Oregon Department of Administrative Services to obtain the State Chief Information Officer's review and approval before the director delegates authority to a state contracting agency to conduct a procurement for information technology or telecommunications.".

8 In line 8, delete "26" and insert "24".

9 In line 10, delete "when" and insert "if" and after the comma delete 10 "the" and insert "a".

In line 11, delete "or" and insert a comma and delete "it" and insert "the state contracting agency".

In line 13, after "section" insert "and if the director has delegated the necessary authority to the State Chief Information Officer".

15 Delete lines 27 through 37.

16 In line 38, delete "28" and insert "25".

17 On page 22, line 4, delete "29" and insert "26".

In line 5, after the period delete the rest of the line and delete lines 6 through 18 and insert:

"(1) The Oregon Department of Administrative Services shall exercise 20budgetary management, supervision and control over all telephone and tele-21communications service for all state agencies in a manner that is consistent 22with plans, standards, policies, goals, directives and rules that the State 23Chief Information Officer sets, specifies or adopts. The department may op-24erate central mail, shuttle bus or messenger services for state agencies lo-25cated in Salem, Portland or other cities, if doing so is economical. The 26department may charge the cost of maintaining and operating any central 27telephone exchange, switching system, network service and facility, intercity 28or intracity network trunk or line or switchboard to the state agencies that 29 the department serves and the department shall charge the cost of providing 30

mail, shuttle bus and messenger services to the state agencies that the department serves. The state agencies shall pay the costs to the department in
the same manner in which the state agencies pay other claims.".

4 Delete lines 31 through 45.

5 On page 23, delete lines 1 through 18 and insert:

6 **"SECTION 27.** ORS 283.143 is amended to read:

To "283.143. [(1) encourage utilization of statewide integrated 7 videoconferencing and statewide online access services, the Oregon Department 8 of Administrative Services shall, in addition to any other charge or assessment 9 for providing telecommunications services to state agencies, impose upon each 10 agency and public corporation a surcharge, in an amount established by the 11 department. All surcharge moneys collected shall be deposited in the Oregon 12 Department of Administrative Services Operating Fund, and may be expended 13 only for state agency and public corporation telecommunication and 14 videoconferencing activities, under such terms and conditions as the depart-15*ment may prescribe.*] 16

"[(2) Notwithstanding subsection (1) of this section, the Oregon Department 17 of Administrative Services shall not impose the surcharge established by this 18 section on the Oregon University System or the Oregon Health and Science 19 University. The Oregon Department of Administrative Services shall enter into 20an agreement with the Oregon University System and the Oregon Health and 21Science University on the amounts to be paid by the Oregon University System 22and the Oregon Health and Science University to the Oregon Department of 23Administrative Services in lieu of the surcharge provided for in this section.] 24

То **"(1)** encourage utilization of statewide integrated 25videoconferencing and statewide online access services, the Oregon 26Department of Administrative Services may, in addition to any other 27charge or assessment for providing telecommunications services to 28state agencies, impose upon each state agency and public corporation 29 a surcharge, in an amount the department establishes. The depart-30

ment shall deposit all surcharge moneys into the Oregon Department of Administrative Services Operating Fund. The department may expend moneys in the fund for state agency and public corporation telecommunication and videoconferencing activities, under such terms and conditions as the department may prescribe and in a manner that is consistent with plans, standards, policies, goals, directives and rules that the State Chief Information Officer sets, specifies or adopts.

"(2) Notwithstanding subsection (1) of this section, the Oregon De-8 partment of Administrative Services may not impose the surcharge 9 established by this section on the Oregon University System or the 10 11 Oregon Health and Science University. The Oregon Department of Administrative Services shall enter into an agreement with the Oregon 12University System and the Oregon Health and Science University on 13 the amounts that the Oregon University System and the Oregon 14 Health and Science University must pay to the Oregon Department of 15Administrative Services in lieu of the surcharge provided for in this 16 section. 17

18 "SECTION 28. ORS 283.505 is amended to read:

¹⁹ "283.505. [(1) The Oregon Department of Administrative Services shall co-²⁰ ordinate the consolidation and operation of all telecommunications systems ²¹ used by the state and state agencies. Notwithstanding any other provision of ²² law, no agent or agency of the state shall construct, purchase or otherwise gain ²³ access to a telecommunications system without the prior approval of the de-²⁴ partment.]

(1) The Oregon Department of Administrative Services shall coordinate, in a manner that is consistent with plans, standards, policies, goals, directives and rules that the State Chief Information Officer sets, specifies or adopts, the consolidation and operation of all telecommunications systems, including emergency telecommunications systems, that the state and state agencies use. Notwithstanding any other provision of law, an agent or agency of the state may not construct, purchase or otherwise gain access to a telecommunications
system without the prior approval of the State Chief Information Officer.

5 "(2) [The department shall coordinate the consolidation and operation of 6 emergency telecommunications systems used by the state and state agencies. 7 The provisions of this section shall not be construed to require consolidation 8 of] The provisions of this section do not require emergency service 9 providers, as defined by the State Chief Information Officer, to con-10 solidate telecommunications systems [used by] that emergency service pro-11 viders use[, as defined by the department,] into nonemergency networks.".

In line 19, delete "32" and insert "29".

13 Delete lines 28 through 39 and insert:

"(2) Notwithstanding ORS chapters 279A, 279B and 279C, the Oregon De-14 partment of Administrative Services may provide advanced digital communi-15cations services directly, may enter into an interagency or intergovernmental 16 agreement under ORS chapter 190 to have another state agency or govern-17 mental agency provide advanced digital communications services or may ac-18 quire advanced digital communications services by entering into contracts 19 with telecommunications providers or a consortium of telecommunications 20providers in a manner that is consistent with the State Chief Information 21Officer's rules, polices and standards. 22

"(3) After a telecommunications provider or a consortium of telecommu-23nications providers has installed an advanced digital communications net-24work, the Oregon Department of Administrative Services shall provide all 25telecommunications services and operations for the state and state agencies 26directly, or shall enter into interagency or intergovernmental agreements 27under ORS chapter 190 to have another state agency or another govern-28mental agency provide the telecommunications services and operations in a 29 manner that is consistent with the State Chief Information Officer's rules, 30

polices and standards. The department may not approve the procurement of any telecommunications system or equipment that is incompatible with the network or that is inconsistent with the State Chief Information Officer's rules, polices and standards.".

5 In line 40, delete "33" and insert "30".

6 On page 24, line 9, delete "34" and insert "31".

7 In line 10, restore the bracketed material.

8 In line 11, restore the bracketed material and delete "State Chief Infor-9 mation Officer may".

In line 16, restore the bracketed material and delete the boldfaced material.

12 In line 17, delete "Information Officer".

In line 20, delete "35" and insert "32".

In line 21, restore the bracketed material and delete the boldfaced material.

16 In line 22, delete "ficer may".

17 In line 26, delete "36" and insert "33".

18 On page 25, line 35, delete "37" and insert "34".

19 On page 26, line 21, delete "38" and insert "35".

In line 28, delete "39" and insert "36".

In line 30, restore the bracketed material and delete "2016" and insert 22 "2020".

In line 31, restore "(2)".

²⁴ In line 32, delete "2016" and insert "2020".

²⁵ In line 33, delete "40" and insert "37".

In line 41, delete "41" and insert "38".

27 On page 27, line 7, delete "42" and insert "39".

In line 19, delete "43" and insert "40".

In line 20, after the period delete the rest of the line and delete lines 21

30 through 28 and insert:

"The Oregon Department of Administrative Services may provide techni-1 cal services to state agencies for data processing systems development and $\mathbf{2}$ developing data processing methods and applications in a manner that is 3 consistent with the State Chief Information Officer's rules, polices and 4 standards. The technical services may include consulting and programming $\mathbf{5}$ services and assistance in locating electronic data processing installations. 6 The department shall determine and charge the cost of the technical services, 7 or portions of the technical services, to the state agency that the department 8 serves. The state agency shall pay the cost to the department in the same 9 manner that the state agency pays other claims against the state agency.". 10

In line 29, delete "44" and insert "41".

On page 28, line 23, delete "State Chief Information Officer" and insert "Oregon Department of Administrative Services procures information technology or the Director of the Oregon Department of Administrative Services".

In line 24, delete "Oregon De-" and insert "department".

17 In line 25, delete "partment of Administrative Services".

In line 31, restore the bracketed material and delete the boldfaced material.

In line 37, restore "department" and delete "State Chief Information Officer".

In line 42, delete "furnishing" and insert "the department's furnishing of".

In line 43, restore the bracketed material and delete the boldfaced material.

In line 45, restore the bracketed material and delete the boldfaced material.

On page 29, line 3, delete "State Chief Information Officer" and insert department".

In line 45, delete "45" and insert "42".

- 1 On page 30, lines 2 and 3, restore the bracketed material.
- 2 Delete lines 44 and 45 and insert:
- "(J) Oversee information technology and telecommunications procurements as provided in ORS 279A.050 (7).".
- 5 On page 31, delete lines 1 through 3.
- 6 Delete lines 15 through 20 and insert:

"(L) Identify information technology services that the State Chief Information Officer recommends for design, delivery and management as enterprise or shared information technology services and, each biennium, report to the Governor and the Joint Legislative Committee on Information Management and Technology concerning the status of new enterprise or shared information technology services.".

- 13 On page 32, delete lines 19 through 23.
- 14 In line 24, delete "(d)" and insert "(c)".
- 15 In line 28, delete "(e)" and insert "(d)".
- In line 38, delete "46" and insert "43".
- 17 On page 33, line 44, delete "47" and insert "44".
- 18 On page 35, delete lines 2 through 45 and delete page 36.
- 19 On page 37, delete lines 1 through 32.
- 20 In line 33, delete "50" and insert "45".

On page 38, line 4, after the period insert "The state agency that employs

- the officer or employee may consult with the State Chief Information Officer
 before imposing a disciplinary measure.".
- In line 11, delete "51" and insert "46".
- ²⁵ On page 40, line 37, delete "52" and insert "47".
- 26 On <u>page 41</u>, line 43, delete "53" and insert "48".
- 27 On page 43, line 3, delete "54" and insert "49".
- In line 42, delete "55" and insert "50".
- 29 On page 44, line 27, delete "56" and insert "51".
- 30 On page 45, line 24, delete "57" and insert "52".

- 1 In line 32, delete "58" and insert "53".
- 2 In line 41, delete "59" and insert "54".
- 3 On page 46, line 14, delete "60" and insert "55".
- 4 In line 37, delete "61" and insert "56".
- 5 In line 44, delete "62" and insert "57".
- 6 On page 47, line 13, delete "63" and insert "58".
- 7 In line 23, delete "64" and insert "59".
- 8 In line 34, delete "65" and insert "60".
- 9 In line 42, delete "66" and insert "61".
- 10 In line 43, delete "182.126," and delete "184.305,".
- 11 In line 44, delete "283.100,".
- 12 On page <u>48</u>, line 1, delete "291.055,".
- In line 3, delete "65" and insert "60".
- 14 In line 11, delete "182.126," and delete "184.305,".
- 15 In line 12, delete "283.100,".
- 16 In line 14, delete "291.055,".
- In line 16, delete "65" and insert "60".
- In line 17, delete "67" and insert "62".
- 19