1	H.135
2	Introduced by Representatives Briglin of Thetford, Scheuermann of Stowe,
3	and Sibilia of Dover
4	Referred to Committee on
5	Date:
6	Subject: Information technology; Agency of Digital Services; technical
7	corrections; Vermont Statutes Annotated
8	Statement of purpose of bill as introduced: This bill proposes to make
9	technical corrections to the Vermont Statutes Annotated to transfer the
10	authority from the former Department of Information and Innovation to the
11	newly created Agency of Digital Services and to amend the authority of the
12	Agency of Digital Services.
13	An act relating to the authority of the Agency of Digital Services
14	It is hereby enacted by the General Assembly of the State of Vermont:
15	Sec. 1. 3 V.S.A. § 218 is amended to read:
16	§ 218. AGENCY/DEPARTMENT AGENCY AND DEPARTMENT
17	RECORDS MANAGEMENT PROGRAM
18	(a) The General Assembly finds that public records are essential to the
19	administration of State and local government. Public records contain
20	information which that allows government programs to function, provides
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1	officials with a basis for making decisions, and ensures continuity with past
2	operations. Public records document the legal responsibilities of government,
3	help protect the rights of citizens, and provide citizens a means of monitoring
4	government programs and measuring the performance of public officials.
5	Public records provide documentation for the functioning of government and
6	for the retrospective analysis of the development of Vermont government and
7	the impact of programs on citizens. Public records in general and archival
8	records in particular need to be systematically managed to preserve their legal,
9	historic, and informational value, to provide ready access to vital information,
10	and to promote the efficient and economical operation of government.
11	* * *
12	(c) For an agency or department records program to be approved by the
13	Vermont State Archives and Records Administration, the head of each State
14	agency or department shall:
15	* * *
16	(10) implement and sustain a record schedule in accordance with
17	requirements established by the Vermont State Archives and Records
18	Administration under section 117 of this title and the Department of
19	Information and Innovation Agency of Digital Services under subdivision
20	<del>2222(a)(10)</del> <u>chapter 56</u> of this title.
21	* * *

1	Sec. 2. 3 V.S.A. § 346 is amended to read:
2	§ 346. STATE CONTRACTING; INTELLECTUAL PROPERTY,
3	SOFTWARE DESIGN, AND INFORMATION TECHNOLOGY
4	(a) The Secretary of Administration shall include in Administrative
5	Bulletin 3.5 a policy direction applicable to State procurement contracts that
6	include services for the development of software applications, computer
7	coding, or other intellectual property, which would allow the State of Vermont
8	to grant permission to the contractor to use or own the intellectual property
9	created under the contract for the contractor's commercial purposes.
10	* * *
11	(c) If the Secretary authorizes a contractor to own intellectual property
10	
12	developed under a State contract, the Secretary may recommend language to
12	developed under a State contract, the Secretary may recommend language to ensure the State retains a perpetual, irrevocable, royalty-free, and fully paid
13	ensure the State retains a perpetual, irrevocable, royalty-free, and fully paid
13 14	ensure the State retains a perpetual, irrevocable, royalty-free, and fully paid right to continue to use the intellectual property including escrow for perpetual
13 14 15	ensure the State retains a perpetual, irrevocable, royalty-free, and fully paid right to continue to use the intellectual property including escrow for perpetual use at least annually.
13 14 15 16	ensure the State retains a perpetual, irrevocable, royalty-free, and fully paid right to continue to use the intellectual property including escrow for perpetual use at least annually. Sec. 3. 3 V.S.A. § 2222 is amended to read:

1	(1) As principal administrative aide to the Governor, plan, organize,
2	direct, control, integrate, coordinate, and supervise all functions and programs
3	of the Agency and its departments and divisions.
4	* * *
5	(9) Submit to the General Assembly concurrent with the Governor's
6	annual budget request required under 32 V.S.A. § 306, a strategic plan for
7	information technology and information security that outlines the significant
8	deviations from the previous year's plan, and that details the plans for
9	information technology activities of State government for the following fiscal
10	year as well as the administration's financing recommendations for these
11	activities. For purposes of this section, "information security" shall mean
12	protecting information and information systems from unauthorized access, use,
13	disclosure, disruption, modification, or destruction in order to provide
14	integrity, confidentiality, and availability. All such plans shall be reviewed and
15	approved by the State Chief Information Officer prior to being included in the
16	Governor's annual budget request. The plan shall identify the proposed sources
17	of funds for each project identified. The plan shall also contain a review of the
18	State's information technology and information security and an identification
19	of priority projects by agency. The plan shall include, for any proposed
20	information technology activity with a cost in excess of \$500,000.00:

1	(A) a life-cycle costs analysis including planning, purchase, and
2	development of applications, the purchase of hardware, and the ongoing
3	operation and maintenance costs to be incurred over the expected life of the
4	systems; and a cost-benefit analysis that shall include acquisition costs as well
5	as operational and maintenance costs over the expected life of the system;
6	(B) the cost savings and any service delivery improvements, or both,
7	that will accrue to the public or to State government;
8	(C) a statement identifying any impact of the proposed new computer
9	system on the privacy or disclosure of individually identifiable information;
10	(D) a statement identifying costs and issues related to public access to
11	nonconfidential information;
11 12	nonconfidential information; (E) a statewide budget for all information technology activities with a
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12	(E) a statewide budget for all information technology activities with a
12 13	(E) a statewide budget for all information technology activities with a cost in excess of \$500,000.00. [Repealed.]
12 13 14	(E) a statewide budget for all information technology activities with a cost in excess of \$500,000.00. [Repealed.] (10) The Secretary shall annually submit to the General Assembly a five-
12 13 14 15	(E) a statewide budget for all information technology activities with a cost in excess of \$500,000.00. [Repealed.] (10) The Secretary shall annually submit to the General Assembly a five- year information technology and information security plan that indicates the
12 13 14 15 16	(E) a statewide budget for all information technology activities with a cost in excess of \$500,000.00. [Repealed.] (10) The Secretary shall annually submit to the General Assembly a five- year information technology and information security plan that indicates the anticipated information technology activities of the Executive Branch of State
12 13 14 15 16 17	(E) a statewide budget for all information technology activities with a cost in excess of \$500,000.00. [Repealed.] (10) The Secretary shall annually submit to the General Assembly a five- year information technology and information security plan that indicates the anticipated information technology activities of the Executive Branch of State government. For purposes of this section, "information technology activities"

1	(B) the design, construction, purchase, installation, maintenance, or
2	operation of systems, including hardware, software, and services that perform
3	or are contracted under Administrative Bulletin 3.5 to perform these activities.
4	[Repealed.]
5	* * *
6	(g)(1) The Secretary of Administration shall obtain independent expert
7	review of any recommendation for any information technology activity
8	initiated after July 1, 1996, as information technology activity is defined by
9	subdivision (a)(10) of this section, when its total cost is \$1,000,000.00 or
10	greater or when required by the State Chief Information Officer.
11	Documentation of this independent review shall be included when plans are
12	submitted for review pursuant to subdivisions (a)(9) and (10) of this section.
13	The independent review shall include:
14	(A) an acquisition cost assessment;
15	(B) a technology architecture review;
16	(C) an implementation plan assessment;
17	(D) a cost analysis and a model for benefit analysis;
18	(E) a procurement negotiation advisory services contract; and
19	(F) an impact analysis on net operating costs for the agency carrying
20	out the activity.

1	(2) The Secretary of Administration may assess the costs of any review
2	to the entity making the information technology recommendations. [Repealed.]
3	* * *
4	Sec. 4. 3 V.S.A. § 2283b is amended to read:
5	§ 2283b. DEPARTMENT OF INFORMATION AND INNOVATION
6	The Department of Information and Innovation is created within the
7	Agency of Administration. The Department shall administer the programs and
8	perform the functions assigned to it in 22 V.S.A. chapter 15 and is charged
9	with other responsibilities assigned to it by law. [Repealed.]
10	Sec. 5. 3 V.S.A. chapter 56 is added to read:
11	CHAPTER 56. AGENCY OF DIGITAL SERVICES
12	§ 3301. AGENCY OF DIGITAL SERVICES; CREATED
13	(a) The Agency of Digital Services is created to provide oversight for all
14	information technology services and solutions in State government. The
15	Agency shall have all the responsibilities assigned to it by law, including the
16	following:
17	(1) Provide services for all activities directly related to information
18	technology and information security, including telecommunications services,
19	information technology equipment, software, accessibility, networks in State
20	government, and the sharing of data and information within State government.

1	(2) Review and approve information technology activities within State
2	government with a total cost in excess of \$500,000.00.
3	(3) Prepare and submit an annual report to the General Assembly for
4	information technology. The report shall include an annual update to the
5	strategic plan prepared pursuant to subdivision (4) of this section; performance
6	metrics and trends, including baseline and annual measurements, for each
7	division of the Agency; and a financial report of revenues and expenditures to
8	date for the current fiscal year. The annual report shall also include costs
9	avoided or saved as a result of technology optimization for the previous fiscal
10	year; shall outline summary information, including scope, schedule, budget,
11	and status for information technology projects with a total cost in excess of
12	\$500,000.00; and shall reflect the priority of projects by agency. The report
13	shall also include a summary of independent reviews as required by
14	subdivision (5) of this subsection. The Agency shall maintain the following
15	records for information technology projects with a total cost in excess of
16	<u>\$500,000.00:</u>
17	(A) A business case, including life-cycle costs and sources of funds
18	for design, development, and implementation, as well as maintenance and
19	operations. The business case shall include expected benefits, including cost
20	savings and service delivery improvements.

1	(B) Detailed project plans and status reports, including risk
2	identification and risk mitigation plans.
3	(4) Prepare and submit biennially, in consultation with the Secretary of
4	Administration, a strategic plan for information technology and security to the
5	General Assembly. The strategic plan shall include the Agency's vision,
6	mission, objectives, strategies, and overarching action plans for information
7	technology within State government and shall update the information
8	technology goals for State government for the following fiscal year.
9	(5) Obtain independent expert review of any new information
10	technology projects with a total cost in excess of \$1,000,000.00 or when
11	required by the State Chief Information Officer. The independent review shall
12	include:
13	(A) an acquisition cost assessment;
14	(B) a technology architecture review;
15	(C) an implementation plan assessment;
16	(D) a cost analysis and a model for benefit analysis;
17	(E) an analysis of alternatives, and
18	(F) an impact analysis on net operating costs for the agency carrying
19	out the activity.
20	(6) Provide strategy, services, and solutions for information technology
21	activities within State government with a total cost in excess of \$500,000.00.

1	The cost of the oversight, monitoring, and control shall be assessed to the
2	entity requesting the activity.
3	(7) Provide information technology project management services and
4	business analyst services to the Executive Branch. When project managers are
5	not available, the Agency shall procure those services and bill them back to the
6	agencies using the services.
7	(8) Provide standards for the management, organization, and tracking of
8	information technology activities within State government with a total cost in
9	<u>excess of \$500,000.00.</u>
10	(9) Create information technology procurement policy and process for
11	State government in collaboration with the Agency of Administration, and
12	review all information technology and information technology requests for
13	proposal in accordance with Agency of Administration policies.
14	(10) Perform the responsibilities of the Secretary of Administration
15	<u>under 30 V.S.A. § 227b.</u>
16	(11) Inventory technology fixed assets within State government.
17	(12) Manage the training and classification of information technology
18	employees within State government in collaboration with the Agency of
19	Administration.
20	(13) Support the statewide development of broadband
21	telecommunications infrastructure and services, in a manner consistent with

1	the telecommunications plan prepared pursuant to 30 V.S.A. § 202d and
2	community development objectives established by the Agency of Commerce
3	and Community Development, by:
4	(A) purchasing telecommunications services or facilities at rates
5	competitive within the national marketplace;
6	(B) sharing bandwidth with service providers or other users;
7	(C) establishing equipment colocation arrangements with service
8	providers; or
9	(D) making other reasonable arrangements.
10	(14) Develop information technology policies for State government.
11	(15) Provide technical support and services to the Legislative and
12	Judicial branches, as needed.
13	(b) As used in this section:
14	(1) "Information security" means protecting information and
15	information systems from unauthorized access, use, disclosure, disruption,
16	modification, or destruction in order to provide integrity, confidentiality, and
17	availability.
18	(2) "Information technology activities" means:
19	(A) the creation, collection, processing, storage, management,
20	transmission, or conversion of electronic data, documents, or records; and

1	(B) the design, construction, purchase, installation, maintenance, or
2	operation of systems, including hardware, software, and services that perform
3	or are contracted under Administrative Bulletin 3.5 to perform these activities.
4	(3) "State government" means the agencies of the Executive Branch of
5	State government.
6	§ 3302. APPOINTMENT OF SECRETARY; POWERS AND DUTIES
7	(a) The Governor, with the advice and consent of the Senate, shall appoint
8	the Secretary of Digital Services who shall be the Chief Information Officer of
9	the State. The Secretary shall appoint a deputy secretary who shall serve at the
10	pleasure of the Secretary.
11	(b) The Secretary shall serve as the administrative head of the Agency of
12	Digital Services, and shall have the following responsibilities:
13	(1) coordinate and optimize the use of technology within State
14	government;
15	(2) approve, in consultation with the Agency of Administration, State
16	government information technology contracts and procurement activity;
17	(3) review and approve State government information technology
18	policies;
19	(4) approve State government information technology recruitment and
20	classification of employees; and

1	(5) supervise all information technology employees in State
2	government.
3	§ 3303. INFORMATION TECHNOLOGY INTERNAL SERVICE FUND
4	(a) An Information Technology Internal Service Fund is created to support
5	activities of the Agency of Digital Services.
6	(b) An agency, department, or division or other State or nonstate entity that
7	receives services of the Agency of Digital Services shall be charged for those
8	services on a basis established by the Secretary of Digital Services with the
9	approval of the Secretary of Administration.
10	Sec. 6. REPEAL
11	22 V.S.A. chapter 15 (Department of Information and Innovation) is
12	repealed.
13	Sec. 7. 22 V.S.A. § 952 is amended to read:
14	§ 952. VERMONT WEB PORTAL; VERMONT WEB PORTAL BOARD;
15	MEMBERSHIP
16	(a) There is created the Vermont web portal which that shall be governed
17	by a Board consisting of 10 members as follows:
18	(1) The Commissioner of Information and Innovation Secretary of
19	Digital Services or his or her designee;
20	(2) The Secretary of State or his or her designee;
21	(3) The Secretary of Administration or his or her designee;

1	(4) The State Librarian or his or her designee;
2	(5) The Court Administrator or his or her designee;
3	(6) One member or his or her designee who is an officer of the
4	Executive branch Branch as identified in 32 V.S.A. § 1003(b), other than of the
5	Department of Finance and Management, the Department of Information and
6	Innovation Agency of Digital Services, and the Department of Libraries, and
7	who shall be appointed by the Governor;
8	* * *
9	Sec. 8. 22 V.S.A. § 953 is amended to read:
10	§ 953. VERMONT WEB PORTAL BOARD; DUTIES
11	(a) The Board shall:
12	(1) Oversee the development of a self-funded web portal and establish
13	charges for the services it provides.
14	(2) Oversee development, implementation, and promotion, in
15	cooperation with the Department of Information and Innovation Agency of
16	Digital Services, of electronic commerce and digital signature applications
17	involving the State of Vermont.
18	(3) Serve in an advisory capacity to the Agency of Administration
19	Digital Services and other State agencies regarding the dissemination and
20	collection of State data to and from the citizens and businesses of Vermont.
21	* * *

1	(6) Oversee drafting and implementation by the <del>Department of</del>
2	Information and Innovation Agency of Digital Services of the contract with the
3	web portal service provider. This contract shall comply with State security and
4	privacy standards.
5	* * *
6	Sec. 9. 30 V.S.A. § 202d is amended to read:
7	§ 202d. TELECOMMUNICATIONS PLAN
8	(a) The Department of Public Service shall constitute the responsible
9	planning agency of the State for the purpose of obtaining for all consumers in
10	the State stable and predictable rates and a technologically advanced
11	telecommunications network serving all service areas in the State. The
12	Department shall be responsible for the provision of plans for meeting
13	emerging trends related to telecommunications technology, markets, financing,
14	and competition.
15	(b) The Department shall prepare the Telecommunications Plan for the
16	State. The Department of Innovation and Information Agency of Digital of
17	Services, the Agency of Commerce and Community Development, and the
18	Agency of Transportation shall assist the Department in preparing the Plan.
19	The Plan shall be for a 10-year period and shall serve as a basis for State
20	telecommunications policy. Prior to preparing the Plan, the Department shall
21	prepare:

1	* * *
2	(4) An assessment, conducted in cooperation with the Department of
3	Innovation and Information Agency of Digital Services and the Agency of
4	Transportation, of the current State telecommunications system and evaluation
5	of alternative proposals for upgrading the system to provide the best available
6	and affordable technology for use by government.
7	* * *
8	(d) In establishing plans, public hearings shall be held and the Department
9	shall consult with members of the public, representatives of
10	telecommunications utilities with a certificate of public good, other providers,
11	including the Vermont Electric Power Co., Inc. (VELCO), and other interested
12	State agencies, particularly the Agency of Commerce and Community
13	Development, the Agency of Transportation, and the Department of Innovation
14	and Information Agency of Digital Services, whose views shall be considered
15	in preparation of the Plan. To the extent necessary, the Department shall
16	include in the Plan surveys to determine existing, needed, and desirable plant
17	improvements and extensions, access and coordination between
18	telecommunications providers, methods of operations, and any change that will
19	produce better service or reduce costs. To this end, the Department may
20	require the submission of data by each company subject to supervision by the
21	Public Utility Commission.

1	* * *
2	Sec. 10. 32 V.S.A. § 183 is amended to read:
3	§ 183. FINANCIAL AND HUMAN RESOURCE INFORMATION
4	INTERNAL SERVICE FUND
5	(a) There is established in the Department of Finance and Management a
6	Financial and Human Resource Information Internal Service Fund, to consist
7	of revenues from charges to agencies, departments, and similar units of
8	Vermont State government, and to be available to fund the costs of the
9	Division of Financial Operations in the Department of Finance and
10	Management, and the technical support and services provided by the
11	Department of Information and Innovation Agency of Digital Services for the
12	statewide central accounting and encumbrance, budget development, and
13	human resource management systems.
14	(b) The rate of the charges shall be proposed by the Commissioner of
15	Finance and Management, subject to the approval of the Secretary of
16	Administration. Proposed rates of charges shall be based upon the cost of
17	operations.
18	Sec. 11. 32 V.S.A. § 315 is amended to read:
19	§ 315. ANNUAL REPORT; INFORMATION TECHNOLOGY
20	(a) Annual report. The Agency of Administration shall annually present to
21	the General Assembly a five year Information Technology (IT) Program. The

1	Program shall be consistent with the planning process established in 22 V.S.A.
2	§ 901 and shall include for each fiscal year:
3	(1) IT activities estimated to cost \$1,000,000.00 or more;
4	(2) systemwide performance measures;
5	(3) performance measures for projects; and
6	(4) the budget for the Department of Information and Innovation (DII).
7	(b) IT activities estimated to cost \$1,000,000.00 or more.
8	(1) For each new proposed project with an estimated total cost that
9	exceeds \$1,000,000.00, there shall be:
10	(A) a description of the project;
11	(B) the justification for the scope of the project;
12	(C) an explanation of proposed project management methodology,
13	including the relationship between chosen methodology and project scope;
14	(D) a project budget that includes all projected costs, including
15	operating costs and personnel services; and
16	(E) a project timeline with projected costs, matched to a detailed list
17	of all estimated funding sources and amounts.
18	(2) The reporting requirements set forth in subdivision $(1)$ of this
19	subsection shall not be interpreted or applied to limit the project methodology
20	chosen for any project.

1	(3) For each ongoing project with an estimated total cost that exceeds
2	\$1,000,000.00, there shall be:
3	(A) a budget that includes all costs including operating costs and
4	personnel services;
5	(B) a cost benefit analysis, which shall include:
6	(i) an explanation of ongoing costs, including training and
7	maintenance, after project implementation;
8	(ii) an analysis of the net benefit to the project users, and to the
9	State, from proceeding with the project, in comparison to not proceeding with
10	the project;
11	(iii) projected savings, including personnel services, if any, that
12	will result from the project; and
13	(iv) other benefits to the project users, and to the State, from
14	proceeding with the project, in comparison to not proceeding with the project;
15	and
16	(C) a statement whether any of the information provided pursuant to
17	subdivision (1) of this subsection (b) has changed or is no longer accurate and
18	an explanation of the reasons.
19	(c) Systemwide performance measures. The Agency of Administration shall
20	develop systemwide performance measures which analyze the overall
21	performance of the State government IT system. The Program:

1	(1) shall indicate the background and utility of the performance
2	measures;
3	(2) shall track the performance measures over time;
4	(3) where appropriate, shall recommend the setting of targets for the
5	performance measures;
6	(4) shall indicate the overall condition of the system; and
7	(5) shall indicate potential risks measured by severity and likelihood and
8	plans to mitigate those risks.
9	(d) Performance measures. The Agency of Administration shall develop
10	performance measures for projects. The Program:
11	(1) shall indicate the background and utility of the performance
12	measures;
13	(2) shall track the performance measures over time; and
14	(3) shall indicate potential risks measured by severity and likelihood and
15	plans to mitigate those risks.
16	(e) The budget for DII. The Program shall include:
17	(1) the recommended budget for DII; and
18	(2) the DII fee charged to each branch, agency, and department and the
19	services provided.

- 1 (f) Each year following the submission of an IT Program under this section,
- 2 the Agency shall prepare and make available to the public the Program.
- 3 [<u>Repealed.</u>]
- 4 Sec. 12. EFFECTIVE DATE
- 5 <u>This act shall take effect on passage.</u>