

1 Introduced by Committee on Energy and Technology

2 Date:

3 Subject: Information technology; Agency of Digital Services; technical
4 corrections; Vermont Statutes Annotated

5 Statement of purpose of bill as introduced: This bill proposes to make
6 technical corrections to the Vermont Statutes Annotated to transfer the
7 authority from the former Department of Information and Innovation to the
8 newly created Agency of Digital Services and to amend the authority of the
9 Agency of Digital Services.

10 An act relating to the authority of the Agency of Digital Services

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 Sec. 1. 3 V.S.A. § 346 is amended to read:

13 § 346. STATE CONTRACTING; INTELLECTUAL PROPERTY,

14 SOFTWARE DESIGN, AND INFORMATION TECHNOLOGY

15 (a) The Secretary of Administration shall include in Administrative
16 Bulletin 3.5 a policy direction applicable to State procurement contracts that
17 include services for the development of software applications, computer
18 coding, or other intellectual property, which would allow the State of Vermont
19 to grant permission to the contractor to use or own the intellectual property
20 created under the contract for the contractor's commercial purposes.

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(c) If the Secretary authorizes a contractor to own intellectual property developed under a State contract, the Secretary may recommend language to 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 escrow at least annually.

Sec. 2. 3 V.S.A. § 2222 is amended to read:

§ 2222. POWERS AND DUTIES; BUDGET AND REPORT

(a) In addition to the duties expressly set forth elsewhere by law, the Secretary shall:

(1) As principal administrative aide to the Governor, plan, organize, direct, control, integrate, coordinate, and supervise all functions and programs of the Agency and its departments and divisions.

* * *

(9) Submit to the General Assembly concurrent with the Governor’s annual budget request required under 32 V.S.A. § 306, a strategic plan for information technology and information security that outlines the significant deviations from the previous year’s plan, and that details the plans for information technology activities of State government for the following fiscal year as well as the administration’s financing recommendations for these activities. ~~For purposes of~~ As used in this section, “information security” shall

1 ~~mean~~ means protecting information and information systems from
2 unauthorized access, use, disclosure, disruption, modification, or destruction in
3 order to provide integrity, confidentiality, and availability. All such plans shall
4 be reviewed and approved by the State Chief Information Officer prior to
5 being included in the Governor’s annual budget request. The plan shall
6 identify the proposed sources of funds for each project identified. The plan
7 shall also contain a review of the State’s information technology and
8 information security and an identification of priority projects by agency. The
9 plan shall include, for any proposed information technology activity with a
10 cost in excess of \$500,000.00:

11 * * *

12 (D) ~~a statement identifying costs and issues related to public access~~
13 ~~to nonconfidential information;~~ [Repealed.]

14 * * *

15 (g)(1) The Secretary of ~~Administration~~ Digital Services shall obtain
16 independent expert review of any recommendation for any information
17 technology activity initiated after July 1, 1996, as information technology
18 activity is defined by subdivision (a)(10) of this section, when its total cost is
19 \$1,000,000.00 or greater or when required by the State Chief Information
20 Officer. Documentation of this independent review shall be included when

1 plans are submitted for review pursuant to subdivisions (a)(9) and (10) of this
2 section. The independent review shall include:

3 (A) an acquisition cost assessment;

4 (B) a technology architecture review;

5 (C) an implementation plan assessment;

6 (D) a cost analysis and a model for benefit analysis;

7 (E) ~~a procurement negotiation advisory services contract~~ an analysis
8 of alternative solutions; and

9 (F) an impact analysis on net operating costs for the agency carrying
10 out the activity.

11 (2) The Secretary of ~~Administration~~ Digital Services may assess the
12 costs of any review to the entity making the information technology
13 recommendations.

14 * * *

15 Sec. 3. 3 V.S.A. § 2283b is amended to read:

16 § 2283b. ~~DEPARTMENT OF INFORMATION AND INNOVATION~~

17 ~~The Department of Information and Innovation is created within the~~
18 ~~Agency of Administration. The Department shall administer the programs and~~
19 ~~perform the functions assigned to it in 22 V.S.A. chapter 15 and is charged~~
20 ~~with other responsibilities assigned to it by law. [Repealed.]~~

1 Sec. 4. 9 V.S.A. § 2430 is amended to read:

2 § 2430. DEFINITIONS

3 The following definitions shall apply throughout this chapter unless
4 otherwise required:

5 * * *

6 (8)(A) “Security breach” means unauthorized acquisition of electronic
7 data or a reasonable belief of an unauthorized ~~acquisition~~ access of electronic
8 data that compromises the security, confidentiality, or integrity of a
9 consumer’s personally identifiable information maintained by the data
10 collector.

11 * * *

12 Sec. 5. 10 V.S.A. § 122 is amended to read:

13 § 122. VERMONT CENTER FOR GEOGRAPHIC INFORMATION,
14 INCORPORATED; ESTABLISHMENT

15 (a) The State of Vermont shall support a comprehensive strategy for the
16 development and use of a geographic information system, including:

17 * * *

18 (b) In order to develop and implement that strategy, and to ensure that all
19 data gathered by State agencies that is relevant to the VGIS shall be in a form
20 that is compatible with, useful to, and shared with that geographic information
21 system, there is hereby established as a division under the Agency of

1 ~~Commerce and Community Development~~ Digital Services the Vermont Center
2 for Geographic Information (the Center).

3 (c) [Repealed.]

4 Sec. 6. 10 V.S.A. § 128 is amended to read:

5 § 128. VERMONT CENTER FOR GEOGRAPHIC INFORMATION

6 SPECIAL FUND

7 (a) A Special Fund is created for the operation of the Vermont Center for
8 Geographic Information in the Agency of ~~Commerce and Community~~
9 ~~Development~~ Digital Services. The Fund shall consist of revenues derived
10 from the charges by the Agency of ~~Commerce and Community Development~~
11 Digital Services pursuant to subsection (c) of this section for the provision of
12 Geographic Information products and services, interest earned by the Fund,
13 and sums which from time to time may be made available for the support of
14 the Center and its operations. The Fund shall be established and managed
15 pursuant to 32 V.S.A. chapter 7, subchapter 5 and shall be available to the
16 Agency to support activities of the Center.

17 (b) The receipt and expenditure of monies from the Special Fund shall be
18 under the supervision of the Secretary of ~~Commerce and Community~~
19 ~~Development~~ Digital Services.

20 (c) Notwithstanding 32 V.S.A. § 603, the Secretary of ~~Commerce and~~
21 ~~Community Development~~ Digital Services is authorized to impose charges

1 reasonably related to the costs of the products and services of the Vermont
2 Center for Geographic Information, including the cost of personnel,
3 equipment, supplies, and intellectual property.

4 Sec. 7. 18 V.S.A. § 9351 is amended to read:

5 § 9351. HEALTH INFORMATION TECHNOLOGY PLAN

6 (a) The Secretary of Administration or designee shall be responsible for the
7 overall coordination of Vermont’s statewide Health Information Technology
8 Plan. The Plan shall be revised annually and updated comprehensively every
9 five years to provide a strategic vision for clinical health information
10 technology. The Secretary or designee shall administer the Plan, which shall
11 include the implementation of an integrated electronic health information
12 infrastructure for the sharing of electronic health information among health
13 care facilities, health care professionals, public and private payers, and
14 patients. The Plan shall include standards and protocols designed to promote
15 patient education, patient privacy, physician best practices, electronic
16 connectivity to health care data, and, overall, a more efficient and less costly
17 means of delivering quality health care in Vermont.

18 * * *

19 (c) The Secretary of Administration or designee may update the Plan as
20 needed to reflect emerging technologies, the State’s changing needs, and such
21 other areas as the Secretary or designee deems appropriate. The Secretary or

1 designee shall solicit recommendations from Vermont Information Technology
2 Leaders, Inc. (VITL) and other entities in order to update the Health
3 Information Technology Plan pursuant to this section, including applicable
4 standards, protocols, and pilot programs, and may enter into a contract or grant
5 agreement with VITL or other entities to update some or all of the Plan. Upon
6 approval by the Secretary, the updated Plan shall be distributed to the
7 ~~Commissioner of Information and Innovation~~ Secretary of Digital Services; the
8 Commissioner of Financial Regulation; the Commissioner of Vermont Health
9 Access; the Secretary of Human Services; the Commissioner of Health; the
10 Commissioner of Mental Health; the Commissioner of Disabilities, Aging, and
11 Independent Living; the Senate Committee on Health and Welfare; the House
12 Committee on Health Care; affected parties; and interested stakeholders.
13 Unless major modifications are required, the Secretary may present updated
14 information about the Plan to the Green Mountain Care Board and legislative
15 committees of jurisdiction in lieu of creating a written report.

16 * * *

17 Sec. 8. 18 V.S.A. § 9352 is amended to read:

18 § 9352. VERMONT INFORMATION TECHNOLOGY LEADERS

19 (a)(1) Governance. The Vermont Information Technology Leaders, Inc.
20 (VITL) Board of Directors shall consist of no fewer than nine nor more than
21 14 members. The term of each member shall be two years, except that of the

1 members first appointed, approximately one-half shall serve a term of one year
2 and approximately one-half shall serve a term of two years, and members shall
3 continue to hold office until their successors have been duly appointed. The
4 Board of Directors shall comprise the following:

5 * * *

6 (c)(1) Health information exchange operation. VITL shall be designated in
7 the Health Information Technology Plan pursuant to section 9351 of this title
8 to operate the exclusive statewide health information exchange network for
9 this State. After the Green Mountain Care Board approves VITL's core
10 activities and budget pursuant to chapter 220 of this title, the Secretary of
11 Administration or designee shall enter into procurement grant agreements with
12 VITL pursuant to 8 V.S.A. § 4089k. Nothing in this chapter shall impede local
13 community providers from the exchange of electronic medical data.

14 (2) Notwithstanding any provision of 3 V.S.A. § 2222 ~~or 2283b~~ to the
15 contrary, upon request of the Secretary of Administration, the ~~Department of~~
16 ~~Information and Innovation~~ Agency of Digital Services shall review VITL's
17 technology for security, privacy, and interoperability with State government
18 information technology, consistent with the State's health information
19 technology plan required by section 9351 of this title.

20 * * *

1 (e) Report. ~~No later than~~ On or before January 15 of each year, VITL shall
2 file a report with the Secretary of Administration; the ~~Commissioner of~~
3 ~~Information and Innovation~~ Secretary of Digital Services; the Commissioner of
4 Financial Regulation; the Commissioner of Vermont Health Access; the
5 Secretary of Human Services; the Commissioner of Health; the Commissioner
6 of Mental Health; the Commissioner of Disabilities, Aging, and Independent
7 Living; the Senate Committee on Health and Welfare; and the House
8 Committee on Health Care. The report shall include an assessment of progress
9 in implementing health information technology in Vermont and
10 recommendations for additional funding and legislation required. In addition,
11 VITL shall publish minutes of VITL meetings and any other relevant
12 information on a public website. The provisions of 2 V.S.A. § 20(d)
13 (expiration of required reports) shall not apply to the report to be made under
14 this subsection.

15 * * *

16 Sec. 9. 22 V.S.A. chapter 15 is amended to read:

17 CHAPTER 15. ~~DEPARTMENT OF INFORMATION AND INNOVATION~~

18 AGENCY OF DIGITAL SERVICES

1 § 901. ~~DEPARTMENT OF INFORMATION AND INNOVATION~~

2 AGENCY OF DIGITAL SERVICES

3 (a) The ~~Department of Information and Innovation~~ Agency of Digital
4 Services, ~~created in 3 V.S.A. § 2283b~~, shall have all the responsibilities
5 assigned to it by law, including the following:

6 (1) To provide ~~direction and oversight~~ services for all activities directly
7 related to information technology and information security, including
8 telecommunications services, information technology equipment, software,
9 accessibility, and networks in State government. As used in this section,
10 “information security” ~~is defined as~~ shall have the same meaning as set forth in
11 3 V.S.A. § 2222(a)(9).

12 (2) ~~To manage wide area network connectivity within State government.~~
13 [Repealed.]

14 (3) To review all information technology and information security
15 requests for proposal in accordance with Agency of Administration policies.

16 (4)(A) To review and approve information technology activities within
17 State government ~~with a cost in excess of \$500,000.00~~ and annually submit to
18 the General Assembly a strategic plan and a budget for information technology
19 as required of the Secretary of Administration by 3 V.S.A. § 2222(a)(9). As
20 used in this section, “information technology activities” ~~is defined as~~ shall
21 have the same meaning as set forth in 3 V.S.A. § 2222(a)(10).

1 (B) To provide ~~oversight, monitoring, and control of~~ strategy,
2 services, and solutions for information technology activities within State
3 government ~~with a cost in excess of \$500,000.00~~. The cost of the oversight,
4 monitoring, and control shall be assessed to the entity requesting the activity.

5 (C) To ~~review and approve~~ provide in accordance with Agency of
6 Administration policies ~~the assignment of~~ appropriate project managers for
7 information technology activities within State government ~~with a cost in~~
8 ~~excess of \$500,000.00~~.

9 (D) To provide standards for the management, organization, and
10 tracking of information technology activities within State government ~~with a~~
11 ~~cost in excess of \$500,000.00~~.

12 (5) To administer the independent review responsibilities of the
13 Secretary of Administration described in 3 V.S.A. § 2222(g).

14 (6) To perform the responsibilities of the Secretary of Administration
15 under 30 V.S.A. § 227b.

16 (7) ~~To administer communication, information, and technology services,~~
17 ~~which are transferred from the Department of Buildings and General Services.~~

18 [Repealed.]

19 (8) To inventory technology fixed assets within State government.

20 * * *

1 (11) ~~To provide technical support and services to the Departments of~~
2 ~~Human Resources and of Finance and Management for the statewide central~~
3 ~~accounting and encumbrance system, the statewide budget development~~
4 ~~system, the statewide human resources management system, and other Agency~~
5 ~~of Administration systems as may be assigned by the Secretary.~~ [Repealed.]

6 (12) ~~Not later than July 1, 2013, to adopt rules requiring the auditing and~~
7 ~~updating of State websites.~~ [Repealed.]

8 * * *

9 (b) As used in this section, “State government” means the agencies of the
10 Executive Branch of State government.

11 § 902. APPOINTMENT OF ~~COMMISSIONER~~ SECRETARY; POWERS
12 AND DUTIES

13 (a) The Governor, with the advice and consent of the Senate, shall appoint
14 the ~~Commissioner of Information and Innovation~~ Secretary of Digital Services
15 who shall be the Chief Information Officer of the State. The ~~Commissioner~~
16 Secretary shall appoint a **deputy commissioner** who shall serve at the pleasure
17 of the ~~Commissioner~~ Secretary.

18 (b) The ~~Commissioner~~ Secretary shall serve as the administrative head of
19 the ~~Department of Information and Innovation~~ Agency of Digital Services.

1 § 902a. INFORMATION TECHNOLOGY INTERNAL SERVICE FUND

2 (a) An Information Technology Internal Service Fund is created to support
3 activities of the ~~Department of Information and Innovation~~ Agency of Digital
4 Services.

5 (b) An agency, department, or division or other State or nonstate entity
6 which receives services of the ~~Department of Information and Innovation~~
7 Agency of Digital Services shall be charged for those services on a basis
8 established by the ~~Commissioner of Information and Innovation~~ Secretary of
9 Digital Services with the approval of the Secretary of Administration.

10 Sec. 10. 22 V.S.A. § 952 is amended to read:

11 § 952. VERMONT WEB PORTAL; VERMONT WEB PORTAL BOARD;
12 MEMBERSHIP

13 (a) There is created the Vermont web portal which shall be governed by a
14 Board consisting of 10 members as follows:

15 (1) The ~~Commissioner of Information and Innovation~~ Secretary of
16 Digital Services or his or her designee;

17 (2) The Secretary of State or ~~his or her~~ designee;

18 (3) The Secretary of Administration or ~~his or her~~ designee;

19 (4) The State Librarian or ~~his or her~~ designee;

20 (5) The Court Administrator or ~~his or her~~ designee;

1 (6) One member or ~~his or her~~ designee who is an officer of the
2 Executive ~~branch~~ Branch as identified in 32 V.S.A. § 1003(b), other than of the
3 Department of Finance and Management, the ~~Department of Information and~~
4 ~~Innovation~~ Agency of Digital Services, and the Department of Libraries, and
5 who shall be appointed by the Governor;

6 * * *

7 Sec. 11. 22 V.S.A. § 953 is amended to read:

8 § 953. VERMONT WEB PORTAL BOARD; DUTIES

9 (a) The Board shall:

10 (1) Oversee the development of a self-funded web portal and establish
11 charges for the services it provides.

12 (2) Oversee development, implementation, and promotion, in
13 cooperation with the ~~Department of Information and Innovation~~ Agency of
14 Digital Services, of electronic commerce and digital signature applications
15 involving the State of Vermont.

16 (3) Serve in an advisory capacity to the Agency of ~~Administration~~
17 Digital Services and other State agencies regarding the dissemination and
18 collection of State data to and from the citizens and businesses of Vermont.

19 (4) Seek advice from the general public, users of the web portal,
20 professional associations, academic groups, and institutions and individuals
21 with knowledge or interest in computer networking, electronic mail, public

1 information access, gateway services, add-on services, and electronic filing of
2 information.

3 (5) Accept gifts, donations, and grants for the support of the Vermont
4 web portal.

5 (6) Oversee drafting and implementation by the ~~Department of~~
6 ~~Information and Innovation~~ Agency of Digital Services of the contract with the
7 web portal service provider. This contract shall comply with State security and
8 privacy standards.

9 * * *

10 Sec. 12. 30 V.S.A. § 202d is amended to read:

11 § 202d. TELECOMMUNICATIONS PLAN

12 (a) The Department of Public Service shall constitute the responsible
13 planning agency of the State for the purpose of obtaining for all consumers in
14 the State stable and predictable rates and a technologically advanced
15 telecommunications network serving all service areas in the State. The
16 Department shall be responsible for the provision of plans for meeting
17 emerging trends related to telecommunications technology, markets, financing,
18 and competition.

19 (b) The Department shall prepare the Telecommunications Plan for the
20 State. The ~~Department of Innovation and Information~~ Agency of Digital
21 Services, the Agency of Commerce and Community Development, and the

1 Agency of Transportation shall assist the Department in preparing the Plan.

2 The Plan shall be for a 10-year period and shall serve as a basis for State
3 telecommunications policy. Prior to preparing the Plan, the Department shall
4 prepare:

5 * * *

6 (4) An assessment, conducted in cooperation with the ~~Department of~~
7 ~~Innovation and Information~~ Agency of Digital Services and the Agency of
8 Transportation, of the current State telecommunications system and evaluation
9 of alternative proposals for upgrading the system to provide the best available
10 and affordable technology for use by government.

11 * * *

12 (d) In establishing plans, public hearings shall be held and the Department
13 shall consult with members of the public, representatives of
14 telecommunications utilities with a certificate of public good, other providers,
15 including the Vermont Electric Power Co., Inc. (VELCO), and other interested
16 State agencies, particularly the Agency of Commerce and Community
17 Development, the Agency of Transportation, and the ~~Department of Innovation~~
18 ~~and Information~~ Agency of Digital Services, whose views shall be considered
19 in preparation of the Plan. To the extent necessary, the Department shall
20 include in the Plan surveys to determine existing, needed, and desirable plant
21 improvements and extensions, access and coordination between

1 telecommunications providers, methods of operations, and any change that will
2 produce better service or reduce costs. To this end, the Department may
3 require the submission of data by each company subject to supervision by the
4 Public Utility Commission.

5 * * *

6 Sec. 13. 32 V.S.A. § 183 is amended to read:

7 § 183. FINANCIAL AND HUMAN RESOURCE INFORMATION
8 INTERNAL SERVICE FUND

9 (a) There is established in the Department of Finance and Management a
10 Financial and Human Resource Information Internal Service Fund, to consist
11 of revenues from charges to agencies, departments, and similar units of
12 Vermont State government, and to be available to fund the costs of the
13 Division of Financial Operations in the Department of Finance and
14 Management, and the technical support and services provided by the
15 ~~Department of Information and Innovation~~ Agency of Digital Services for the
16 statewide central accounting and encumbrance, budget development, and
17 human resource management systems.

18 (b) The rate of the charges shall be proposed by the Commissioner of
19 Finance and Management, subject to the approval of the Secretary of
20 Administration. Proposed rates of charges shall be based upon the cost of
21 operations.

1 Sec. 14. 32 V.S.A. § 315 is amended to read:

2 § 315. ANNUAL REPORT; INFORMATION TECHNOLOGY

3 (a) Annual report. The ~~Agency of Administration~~ Secretary of Digital
4 Services shall annually present to the General Assembly a five-year
5 Information Technology (IT) Program. The Program shall be consistent with
6 the planning process established in 22 V.S.A. § 901 and shall include for each
7 fiscal year:

8 (1) IT activities estimated to cost \$1,000,000.00 or more;

9 (2) systemwide performance measures;

10 (3) performance measures for projects; and

11 (4) the budget for the ~~Department of Information and Innovation (DII)~~
12 Agency of Digital Services (ADS).

13 * * *

14 (c) Systemwide performance measures. The Agency of ~~Administration~~
15 Digital Services shall develop systemwide performance measures ~~which that~~
16 analyze the overall performance of the State government IT system. The
17 Program:

18 * * *

19 (d) Performance measures. The ~~Agency of Administration~~ Secretary of
20 Digital Services shall develop performance measures for projects. The
21 Program:

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(e) The budget for ~~ÐH~~ ADS. The Program shall include:

(1) the recommended budget for ~~ÐH~~ ADS; and

(2) the ~~ÐH~~ ADS fee charged to each branch, agency, and department and the services provided.

(f) Each year following the submission of an IT Program under this section, the Agency shall prepare and make available to the public the Program.

Sec. 15. 32 V.S.A. § 1003(b) is amended to read:

(b) The Governor may appoint each officer of the Executive Branch listed in this subsection at a starting salary ranging from the base salary stated for that position to a salary ~~which~~ that does not exceed the maximum salary unless otherwise authorized by this subsection. The maximum salary for each appointive officer shall be 50 percent above the base salary. Annually, the Governor may grant to each of those officers an annual salary adjustment subject to the maximum salary. The annual salary adjustment granted to officers under this subsection shall not exceed the average of the total rate of adjustment available to classified employees under the collective bargaining agreement then in effect. In addition to the annual salary adjustment specified in this subsection, the Governor may grant a special salary increase subject to the maximum salary, or a bonus, to any officer listed in this subsection whose job duties have significantly increased, or whose contributions to the State in

1 the preceding year are deemed especially significant. Special salary increases
2 or bonuses granted to any individual shall not exceed the average of the total
3 rate of adjustment available to classified employees under the collective
4 bargaining agreement then in effect.

5 (1) Heads of the following Departments and Agencies:

	Base Salary	Base Salary
	As of	as of
	July 10, 2016	July 09, 2017
9 (A) Administration	\$100,416	\$104,382
10	* * *	
11 (T) Information and Innovation <u>Digital Services</u>		
12	93,874	97,582
13	* * *	

14 Sec. 16. EFFECTIVE DATE

15 This act shall take effect on passage.