Introduced by Committee on Energy and Technology

Date:

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

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

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

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

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

§ 346. STATE CONTRACTING; INTELLECTUAL PROPERTY, SOFTWARE DESIGN, AND INFORMATION TECHNOLOGY

(a) The Secretary of Administration shall include in Administrative Bulletin 3.5 a policy direction applicable to State procurement contracts that include services for the development of software applications, computer coding, or other intellectual property, which would allow the State of Vermont to grant permission to the contractor to use or own the intellectual property created under the contract for the contractor’s commercial purposes.
(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
mean means protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide integrity, confidentiality, and availability. All such plans shall be reviewed and approved by the State Chief Information Officer prior to being included in the Governor’s annual budget request. The plan shall identify the proposed sources of funds for each project identified. The plan shall also contain a review of the State’s information technology and information security and an identification of priority projects by agency. The plan shall include, for any proposed information technology activity with a cost in excess of $500,000.00:

* * *

(D) a statement identifying costs and issues related to public access to nonconfidential information; [Repealed.]

* * *

(g)(1) The Secretary of Administration Digital Services shall obtain independent expert review of any recommendation for any information technology activity initiated after July 1, 1996, as information technology activity is defined by subdivision (a)(10) of this section, when its total cost is $1,000,000.00 or greater or when required by the State Chief Information Officer. Documentation of this independent review shall be included when
plans are submitted for review pursuant to subdivisions (a)(9) and (10) of this section. The independent review shall include:

(A) an acquisition cost assessment;

(B) a technology architecture review;

(C) an implementation plan assessment;

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

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

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

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

* * *

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

§ 2283b. DEPARTMENT OF INFORMATION AND INNOVATION

The Department of Information and Innovation is created within the Agency of Administration. The Department shall administer the programs and perform the functions assigned to it in 22 V.S.A. chapter 15 and is charged with other responsibilities assigned to it by law. [Repealed.]
Sec. 4. 9 V.S.A. § 2430 is amended to read:

§ 2430. DEFINITIONS

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

* * *

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

* * *

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

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

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

* * *

(b) In order to develop and implement that strategy, and to ensure that all data gathered by State agencies that is relevant to the VGIS shall be in a form that is compatible with, useful to, and shared with that geographic information system, there is hereby established as a division under the Agency of
Sec. 6. 10 V.S.A. § 128 is amended to read:

§ 128. VERMONT CENTER FOR GEOGRAPHIC INFORMATION
SPECIAL FUND

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

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

(c) Notwithstanding 32 V.S.A. § 603, the Secretary of Commerce and Community Development Digital Services is authorized to impose charges
reasonably related to the costs of the products and services of the Vermont Center for Geographic Information, including the cost of personnel, equipment, supplies, and intellectual property.

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

§ 9351. HEALTH INFORMATION TECHNOLOGY PLAN

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

* * *

(c) The Secretary of Administration or designee may update the Plan as needed to reflect emerging technologies, the State’s changing needs, and such other areas as the Secretary or designee deems appropriate. The Secretary or
designee shall solicit recommendations from Vermont Information Technology Leaders, Inc. (VITL) and other entities in order to update the Health Information Technology Plan pursuant to this section, including applicable standards, protocols, and pilot programs, and may enter into a contract or grant agreement with VITL or other entities to update some or all of the Plan. Upon approval by the Secretary, the updated Plan shall be distributed to the Commissioner of Information and Innovation (Secretary of Digital Services); the Commissioner of Financial Regulation; the Commissioner of Vermont Health Access; the Secretary of Human Services; the Commissioner of Health; the Commissioner of Mental Health; the Commissioner of Disabilities, Aging, and Independent Living; the Senate Committee on Health and Welfare; the House Committee on Health Care; affected parties; and interested stakeholders. Unless major modifications are required, the Secretary may present updated information about the Plan to the Green Mountain Care Board and legislative committees of jurisdiction in lieu of creating a written report.

* * *

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

§ 9352. VERMONT INFORMATION TECHNOLOGY LEADERS

(a)(1) Governance. The Vermont Information Technology Leaders, Inc. (VITL) Board of Directors shall consist of no fewer than nine nor more than 14 members. The term of each member shall be two years, except that of the
members first appointed, approximately one-half shall serve a term of one year
and approximately one-half shall serve a term of two years, and members shall
continue to hold office until their successors have been duly appointed. The
Board of Directors shall comprise the following:

* * *

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

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

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

* * *

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

CHAPTER 15. DEPARTMENT OF INFORMATION AND INNOVATION

AGENCY OF DIGITAL SERVICES
§ 901. DEPARTMENT OF INFORMATION AND INNOVATION

AGENCY OF DIGITAL SERVICES

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

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

(2) To manage wide area network connectivity within State government.

[Repealed.]

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

(4)(A) To review and approve information technology activities within State government with a cost in excess of $500,000.00 and annually submit to the General Assembly a strategic plan and a budget for information technology as required of the Secretary of Administration by 3 V.S.A. § 2222(a)(9). As used in this section, “information technology activities” is defined as shall have the same meaning as set forth in 3 V.S.A. § 2222(a)(10).
(B) To provide oversight, monitoring, and control of strategy, services, and solutions for information technology activities within State government with a cost in excess of $500,000.00. The cost of the oversight, monitoring, and control shall be assessed to the entity requesting the activity.

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

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

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

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

(7) To administer communication, information, and technology services, which are transferred from the Department of Buildings and General Services. [Repealed.]

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

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

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

* * *

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

§ 902. APPOINTMENT OF COMMISSIONER SECRETARY; POWERS AND DUTIES

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

(b) The Commissioner Secretary shall serve as the administrative head of the Department of Information and Innovation Agency of Digital Services.
§ 902a. INFORMATION TECHNOLOGY INTERNAL SERVICE FUND

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

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

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

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

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

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

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

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

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

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

* * *

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

§ 953. VERMONT WEB PORTAL BOARD; DUTIES

(a) The Board shall:

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

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

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

(4) Seek advice from the general public, users of the web portal, professional associations, academic groups, and institutions and individuals with knowledge or interest in computer networking, electronic mail, public
information access, gateway services, add-on services, and electronic filing of information.

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

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

* * *

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

§ 202d. TELECOMMUNICATIONS PLAN

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

(b) The Department shall prepare the Telecommunications Plan for the State. The Department of Innovation and Information Agency of Digital Services, the Agency of Commerce and Community Development, and the
Agency of Transportation shall assist the Department in preparing the Plan.

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

* * *

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

* * *

(d) In establishing plans, public hearings shall be held and the Department shall consult with members of the public, representatives of telecommunications utilities with a certificate of public good, other providers, including the Vermont Electric Power Co., Inc. (VELCO), and other interested State agencies, particularly the Agency of Commerce and Community Development, the Agency of Transportation, and the Department of Innovation and Information Agency of Digital Services, whose views shall be considered in preparation of the Plan. To the extent necessary, the Department shall include in the Plan surveys to determine existing, needed, and desirable plant improvements and extensions, access and coordination between
telecommunications providers, methods of operations, and any change that will
produce better service or reduce costs. To this end, the Department may
require the submission of data by each company subject to supervision by the
Public Utility Commission.

* * *

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

§ 183. FINANCIAL AND HUMAN RESOURCE INFORMATION

INTERNAL SERVICE FUND

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

(b) The rate of the charges shall be proposed by the Commissioner of
Finance and Management, subject to the approval of the Secretary of
Administration. Proposed rates of charges shall be based upon the cost of
operations.
Sec. 14. 32 V.S.A. § 315 is amended to read:

§ 315. ANNUAL REPORT; INFORMATION TECHNOLOGY

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

1. IT activities estimated to cost $1,000,000.00 or more;
2. systemwide performance measures;
3. performance measures for projects; and
4. the budget for the **Department of Information and Innovation (DII)** Agency of Digital Services (ADS).

* * *

(c) Systemwide performance measures. The **Agency of Administration** Digital Services shall develop systemwide performance measures which analyze the overall performance of the State government IT system. The Program:

* * *

(d) Performance measures. The **Agency of Administration** Secretary of Digital Services shall develop performance measures for projects. The Program:
(e) The budget for DH ADS. The Program shall include:

(1) the recommended budget for DH ADS; and

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

(1) Heads of the following Departments and Agencies:

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(T) Information and Innovation Digital Services

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Sec. 16. EFFECTIVE DATE

This act shall take effect on passage.