

Testimony RE: H.585 (An Act Related to Records Management)

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Act No. 96 of 2008

The Vermont State Archives and Records Administration (VSARA) was created by [Act No. 96 of 2008](#) (An Act Related to Consolidating the Management of Public Records). Through this Act, the Public Records Division within the Department of Buildings and General Services (BGS), the Public Records Advisory Board, and the State Archives Division within the Office of the Secretary of State were consolidated and dissolved to create one single entity: VSARA.

Through Act No. 96 of 2008:

- [3 V.S.A. § 117](#) was amended to charge VSARA with establishing and implementing a statewide records and information management program based on industry standards and best practices and to reassign certain duties of the former Director of Public Records to the State Archivist.
- [3 V.S.A. § 218](#) was amended to replace cross-references to BGS with VSARA and to include some sections of [Title 22, Chapter 11](#), which was repealed in its entirety.
- 22 V.S.A. § 454-455 were re-designated and amended as [1 V.S.A. § 317a](#), which was added as a new statute.

H.585: An Act Related to Records Management

H.585 is a housekeeping bill to define the statewide records and information management program that has been established and implemented based on industry standards and best practices following the passing of Act No. 96 in 2008.

While there are no substantive changes being made in H.585, updating the language and definitions in [1 V.S.A. § 317a](#) and [3 V.S.A. § 117](#) will provide for greater consistency between VSARA's authorizing statute and the statewide records and information management program as it exists today. This will allow for the program's continuity and evolution now and into the future and also provide a baseline for any updates to related statutes.

To date, VSARA has applied and incorporated the following industry standards and best practices at a statewide level, in addition to other standards that are more narrowly defined:

- ***International Standards Organization (ISO). ISO 15489 (Records Management).*** ISO 15489 applies to the creation, capture and management of records regardless of structure or form, in all types of business and technological environments, over time. The first edition

was published in 2001 and Part 1 ([Concepts and Principles](#)) was updated in 2016. Part 2 (Guidelines for Implementation) was withdrawn and is being replaced by two new standards: Standard on Appraisal for Managing Records and Standard on Systems Design for Records.

- **International Standards Organization (ISO). ISO 23081 (Metadata for Records).** ISO 23081 applies to designing technical specifications for managing records in specific technological applications and for supporting assertions of authenticity and reliability at a point in time in all business and records environments. The first edition was published in 2006 and Part 1 ([Records Management Processes: Metadata for Records](#)) was updated in 2017. Part 2 ([Conceptual and Implementation Issues](#)) was published in 2009 and Part 3 ([Self-Assessment Checklist](#)) was published in 2011. Parts 2 and 3 remain as first edition publications.
- **ARMA International. Generally Accepted Recordkeeping Principles®**
The Generally Accepted Recordkeeping Principles® ([Principles](#)) constitute a generally accepted global standard for a comprehensive approach to managing and governing records and information. First published in 2009, the Principles were updated in 2017 and outline critical hallmarks of a sound records and information management program while also providing a high level framework for implementing a standard of conduct for governing information and evaluating such conduct.
- **ARMA International. Information Governance Maturity Model.**
The Information Governance Maturity Model ([Maturity Model](#)) is based on the Principles, as well as the extant standards, best practices, and legal/regulatory requirements that surround information governance and describes for each Principle the characteristics of effective information governance at five distinct levels of development. The Maturity Model was first published in 2010 and has since been also adopted by the legal and information technology communities of practice. In August 2017, *Implementing the Generally Accepted Recordkeeping Principles* ([ARMA International TR 30-2017](#)) was published as quality improvement tool for an organization's information governance practices.

The International Standards Organization's records management standard and a precursor to its Metadata for Records was incorporated into programs of the State Archives Division following the passing of [Act No. 3 of 2003](#) (An Act Relating to the Management of Archival Records). The standards were applied in a voluntary collaboration of the Commissioner of Buildings and General Services, the Commissioner of the Department of Information and Innovation (DII), and the State Archivist to initiate a preliminary strategic plan for the management of public records, which was first reported to the Legislature in January 2006.

Generally Accepted Recordkeeping Principles®

| Principle | Outcome |
|------------------|--|
| Accountability | A senior-level information manager (or individual of comparable authority) oversees the public agency’s information governance (IG) and records and information management (RIM) program and delegates responsibilities to appropriate individuals. |
| Transparency | Business processes and activities, including the public agency’s IG/RIM program, is documented in an open and verifiable manner and written documentation is available to all personnel and appropriate, interested parties. |
| Integrity | The public agency’s IG/RIM program is constructed so records and information assets produced or acquired by the public agency have a reasonable guarantee of authenticity and reliability. |
| Protection | The public agency’s IG/RIM program is constructed to ensure an appropriate level of protection to records and information assets that are exempt from public inspection and copying, essential to business continuity, or that otherwise require protection. |
| Compliance | The public agency’s IG/RIM program is constructed to comply with applicable laws, other binding authorities, and the public agency’s own internal policies and procedures. |
| Availability | The public agency maintains its record and information assets in a manner that ensures timely, efficient, and accurate retrieval. |
| Retention | The public agency’s records and information assets are retained for an appropriate time in accordance with record schedules that have taken into account legal, administrative and informational value. |
| Disposition | The public agency’s records and information assets are disposed in accordance with record schedules when no longer required to be retained and disposition is in compliance with applicable laws and the public agency’s own policies and procedures. |

Information Governance (IG) Maturity Model

| | |
|------------------------------------|---|
| Level 1 Sub-standard | IG/RIM concerns are not recognized and therefore not addressed. If addressed at all, they are addressed minimally and/or in an ad hoc manner. |
| Level 2 In Development | The need and value for IG/RIM is recognized but internal practices remain ill-defined, incomplete, nascent, or marginally effective. |
| Level 3 Essential | There are defined policies, procedures and processes specifically intended to improve IG/RIM and to meet essential or minimum requirements. |
| Level 4 Proactive | An agency-wide IG/RIM program with continuous improvement protocols exists and IG/RIM is routinized and integrated into business decisions. |
| Level 5 Transformational | IG/RIM is integrated into infrastructure and business processes for compliance, cost containment, economical benefit, and client services. |

Evolution of the Statewide Records and Information Management Program (2005-)

Following several years of concerns over the management of public records, the decisions behind information technology projects, and the timeliness and completeness of responses to public records requests, the Legislature sought two reports: one related to the judicial branch and another from the executive branch.

For the executive branch, section 5 of Act No. 71 (2005) charged the Secretary of Administration and the State Archivist “to jointly develop a comprehensive strategy for the management of all records created by state agencies” based on an analysis of current records management programs required under [3 V.S.A. §218](#) (Agency/Department Records Management Program); the use and management of electronic records; and the development of records management training.

The Secretary of Administration and State Archivist’s analysis of the records environment within state agencies and department underscored the need for comprehensive changes in the State’s recordkeeping practices. Their surveys and interviews revealed “an absence of a framework for systematically managing records and information” and, as a result they found:

- A general lack of awareness of public records laws and recordkeeping mandates including, but not limited to, 3 V.S.A. §218;
- A belief that records management was limited to alleviating space issues in state offices by transferring physical paper records for off-site storage;
- No internal controls to actively manage agency and department records and information, regardless of format, from point of creation to ultimate disposition;
- Implementation of information technologies and systems that neither recognize nor support public records and recordkeeping requirements; and,
- No formal training and, when offered, emphasis was placed on how to box and transfer paper records to the State Records Center.¹

The model provided by the Secretary of Administration and the State Archivist for the preliminary strategic plan was an adaptation of the Vermont Judicial Records Program (VJRP)’ strategic plan. Between April 2004 and September 2005, VJRP served as an intermediary between the State Archives and the Court Administrator’s Office to improve recordkeeping and the preservation of the State’s judicial records pursuant to Act No. 3 of 2003.

VJRP was funded by a one-time appropriation from the Legislature and in 2005, when the funding ended, the consultant responsible for VJRP was hired full-time by the State Archivist to create a records appraisal program that would not only allow VJRP to continue but also expand record appraisal services to the other public agencies. Following the passing of Act No. 96 of 2008, the records appraisal program was folded into the statewide records and information management program.

¹ The [Executive Agency Records Report: Preliminary Strategic Plan \(January 15, 2006\)](#) and related reports are available on VSARA’s website: <https://www.sec.state.vt.us/archives-records/about-us/publications/legislative-reports.aspx>

Since the creation of VSARA, industry standards and best practices have been the crux of the statewide records and information management program. Based on these standards, and pursuant to [3 V.S.A. § 218\(c\)\(10\)](#), VSARA and DII had issued [joint information management best practices](#) pursuant to [3 V.S.A. § 2222](#) in an effort to incorporate recordkeeping standards into state information technology activities (as defined by [3 V.S.A. § 2222\(10\(a\)\)](#)) to support agency/department records management programs and, therefore, compel compliance with the expectations set forth in Act No. 96 of 2008.

Since the passing of H.585 by the House, another bill, [H.920](#) (An act related to the authority of the Agency of Digital Services), which was introduced on March 31, 2018, proposes changes to [3 V.S.A. § 218](#) that no longer reflect the legislative intent of the current cross reference to [3 V.S.A. § 2222](#), which pertains to the duties of the Secretary of Administration and oversight of information technology activities.

As noted above, the intent of the cross-reference under [3 V.S.A. §218](#) (Agency/Department Records Management Program), which was established by Act No. 96 of 2008, is to reduce implementations of information technologies and systems that neither recognize nor support public records laws and recordkeeping requirements.