

No. 49. An act relating to the authority of the Agency of Digital Services.

(H.135)

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

Sec. 1. 3 V.S.A. § 218 is amended to read:

§ 218. ~~AGENCY/DEPARTMENT~~ AGENCY AND DEPARTMENT
RECORDS MANAGEMENT PROGRAM

(a) The General Assembly finds that public records are essential to the administration of State and local government. Public records contain information ~~which~~ that allows government programs to function, provides officials with a basis for making decisions, and ensures continuity with past operations. Public records document the legal responsibilities of government, help protect the rights of citizens, and provide citizens a means of monitoring government programs and measuring the performance of public officials. Public records provide documentation for the functioning of government and for the retrospective analysis of the development of Vermont government and the impact of programs on citizens. Public records in general and archival records in particular need to be systematically managed to preserve their legal, historic, and informational value, to provide ready access to vital information, and to promote the efficient and economical operation of government.

* * *

(c) For an agency or department records program to be approved by the Vermont State Archives and Records Administration, the head of each State agency or department shall:

* * *

(10) implement and sustain a record schedule in accordance with requirements established by the Vermont State Archives and Records Administration under section 117 of this title and the ~~Department of Information and Innovation~~ Agency of Digital Services under ~~subdivision 2222(a)(10)~~ chapter 56 of this title.

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Sec. 2. 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 at least annually.

Sec. 3. 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 this section, "information security" shall mean 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:~~

~~(A) a life cycle costs analysis including planning, purchase, and development of applications, the purchase of hardware, and the ongoing operation and maintenance costs to be incurred over the expected life of the systems; and a cost benefit analysis that shall include acquisition costs as well as operational and maintenance costs over the expected life of the system;~~

~~(B) the cost savings and any service delivery improvements, or both, that will accrue to the public or to State government;~~

~~(C) a statement identifying any impact of the proposed new computer system on the privacy or disclosure of individually identifiable information;~~

~~(D) a statement identifying costs and issues related to public access to nonconfidential information;~~

~~(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” shall mean:~~

~~(A) the creation, collection, processing, storage, management, transmission, or conversion of electronic data, documents, or records;~~

~~(B) the design, construction, purchase, installation, maintenance, or operation of systems, including hardware, software, and services that perform or are contracted under Administrative Bulletin 3.5 to perform these activities.~~

~~[Repealed.]~~

* * *

~~(g)(1) The Secretary of Administration 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; and~~

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

~~(2) The Secretary of Administration may assess the costs of any review to the entity making the information technology recommendations. [Repealed.]~~

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Sec. 4. 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. 5. 3 V.S.A. chapter 56 is added to read:

CHAPTER 56. AGENCY OF DIGITAL SERVICES

§ 3301. AGENCY OF DIGITAL SERVICES; CREATED

(a) The Agency of Digital Services is created to provide information technology services and solutions in State government. The cost of the oversight, monitoring, and control shall be assessed to the entity requesting the activity. The Agency shall have all the responsibilities assigned to it by law, including the following:

(1) Provide services for all activities directly related to information technology and cybersecurity, including telecommunications services,

information technology equipment, software, accessibility, networks in State government, and the sharing of data and information within State government.

(2) Review and approve all information technology activities within State government.

(3) Prepare and submit an annual report to the General Assembly for information technology, as described in section 3303 of this chapter.

(4) Prepare and submit a strategic plan for information technology and cybersecurity to the General Assembly, as described in section 3303 of this chapter.

(5) Obtain independent expert review of any new information technology projects, as required by section 3303 of this chapter.

(6) Provide strategy, services, and solutions for information technology activities within State government.

(7) Provide information technology project management services and business analyst services to the Executive Branch. When project managers are not available, the Agency shall procure those services and bill them back to the agencies using the services.

(8) Provide standards for the management, organization, and tracking of information technology activities within State government.

(9) Create information technology procurement policy and process for State government in collaboration with the Agency of Administration, and

review all information technology and information technology requests for proposal in accordance with Agency of Administration policies.

(10) Perform the responsibilities of the Secretary of Administration under 30 V.S.A. § 227b.

(11) Inventory technology fixed assets within State government.

(12) Manage the training and classification of information technology employees within State government in collaboration with the Agency of Administration.

(13) Support the statewide development of broadband telecommunications infrastructure and services, in a manner consistent with the telecommunications plan prepared pursuant to 30 V.S.A. § 202d and community development objectives established by the Agency of Commerce and Community Development, by:

(A) purchasing telecommunications services or facilities at rates competitive within the national marketplace;

(B) sharing bandwidth with service providers or other users;

(C) establishing equipment colocation arrangements with service providers; or

(D) making other reasonable arrangements.

(14) Develop information technology and cybersecurity policies for State government.

(15) Provide technical support and services to the Legislative and Judicial branches, as needed.

(b) As used in this section:

(1) “Cybersecurity” means the protection of an information system or information stored on such information system against any act or attempt, direct or indirect, successful or unsuccessful, to gain unauthorized access, use, disclose, disrupt, modify, or destroy the information system or information stored on such information system.

(2) “Information technology activities” means:

(A) the creation, collection, processing, storage, management, transmission, or conversion of electronic data, documents, or records; and

(B) the design, construction, purchase, installation, maintenance, or operation of systems, including hardware, software, and services that perform or are contracted under Administrative Bulletin 3.5 to perform these activities.

(3) “State government” means the agencies of the Executive Branch of State government.

§ 3302. APPOINTMENT OF SECRETARY; POWERS AND DUTIES

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

(b) The Secretary shall serve as the administrative head of the Agency of Digital Services, and shall have the following responsibilities:

(1) coordinate and optimize the use of technology within State government;

(2) approve, in consultation with the Agency of Administration, State government information technology contracts and procurement activity;

(3) review and approve State government information technology and cybersecurity policies;

(4) approve State government information technology recruitment and classification of employees; and

(5) supervise all information technology employees and contractors in State government.

§ 3303. REPORTING, RECORDS, AND REVIEW REQUIREMENTS

(a) Annual report and budget.

(1) The Secretary shall submit to the General Assembly, concurrent with the Governor's annual budget request required under 32 V.S.A. § 306, an annual report for information technology and cybersecurity. The report shall reflect the priorities of the Agency, and shall include:

(A) performance metrics and trends, including baseline and annual measurements, for each division of the Agency;

(B) a financial report of revenues and expenditures to date for the current fiscal year;

(C) costs avoided or saved as a result of technology optimization for the previous fiscal year;

(D) an outline summary of information, including scope, schedule, budget, and status for information technology projects with a total costs of \$500,000.00 or greater;

(E) an annual update to the strategic plan prepared pursuant to subsection (c) of this section;

(F) a summary of independent reviews as required by subsection (d) of this section; and

(G) the Agency budget submission.

(b) Records. The Agency shall maintain the following records for information technology projects with a total cost of \$500,000.00 or greater:

(1) A business case, including life-cycle costs and sources of funds for design, development, and implementation, as well as maintenance and operations. The business case shall include expected benefits, including cost savings and service delivery improvements.

(2) Detailed project plans and status reports, including risk identification and risk mitigation plans.

(c) Strategic plan. Biennially, on or before January 15, the Secretary shall prepare and submit a strategic plan for information technology and cybersecurity. The strategic plan shall include:

(1) the Agency's vision, mission, objectives, strategies, and overarching action plans for information technology within State government; and

(2) an update on the information technology goals for State government for the following fiscal year.

(d) Independent expert review.

(1) The Agency shall obtain independent expert review of any new information technology projects with a total cost of \$1,000,000.00 or greater or when required by the Chief Information Officer.

(2) The independent review shall include:

(A) an acquisition cost assessment;

(B) a technology architecture and standards review;

(C) an implementation plan assessment;

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

(E) an analysis of alternatives;

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

(G) a security assessment.

(3) The requirement to obtain independent expert review described in subdivision (1) of this subsection (d) may be waived by the Chief Information Officer if, in his or her judgment, such a review would be duplicative of one or more reviews that have been, or will be, conducted under a separate federal or

State requirement. If waived, such waiver shall be in writing and in accordance with procedures established by the Chief Information Officer.

§ 3304. INFORMATION TECHNOLOGY INTERNAL SERVICE FUND

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

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

Sec. 6. 10 V.S.A. § 122 is amended to read:

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

* * *

(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 the Vermont Center for Geographic Information (the Center) as a ~~division~~ unit of the Data Management Division under the Agency of Digital Services ~~the Vermont Center for Geographic Information (the Center).~~

(c) [Repealed.]

Sec. 7. REPEAL

22 V.S.A. chapter 15 (Department of Information and Innovation) is repealed.

Sec. 8. 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~~ that shall be governed by a Board consisting of ~~10~~ 12 members as follows:

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

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

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

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

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

(6) the Chief Marketing Officer of the Agency of Commerce and Community Development or designee;

(7) the Chief Data Officer of the Agency of Digital Services or designee;

~~(6)~~(8) ~~One~~ one member or ~~his or her~~ designee who is an officer of the Executive ~~branch~~ 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;

~~(7)~~(9) ~~Two~~ two members appointed by the Vermont State Employees' Association; and

~~(8)~~(10) ~~One~~ one member of the House of Representatives who is also a member of the Legislative Information Technology Committee, appointed by the Speaker of the House, and one member of the Vermont Senate who is also a member of the Legislative Information Technology Committee, appointed by the Committee on Committees.

* * *

Sec. 9. 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~~ input 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.

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Sec. 10. [DELETED]

Sec. 11. 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. 12. 32 V.S.A. § 315 is amended to read:

§ 315. ~~ANNUAL REPORT; INFORMATION TECHNOLOGY~~

~~(a) Annual report. The Agency of Administration 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 (DI).~~

~~(b) IT activities estimated to cost \$1,000,000.00 or more.~~

~~(1) For each new proposed project with an estimated total cost that exceeds \$1,000,000.00, there shall be:~~

- ~~(A) a description of the project;~~
- ~~(B) the justification for the scope of the project;~~

~~(C) an explanation of proposed project management methodology, including the relationship between chosen methodology and project scope;~~

~~(D) a project budget that includes all projected costs, including operating costs and personnel services; and~~

~~(E) a project timeline with projected costs, matched to a detailed list of all estimated funding sources and amounts.~~

~~(2) The reporting requirements set forth in subdivision (1) of this subsection shall not be interpreted or applied to limit the project methodology chosen for any project.~~

~~(3) For each ongoing project with an estimated total cost that exceeds \$1,000,000.00, there shall be:~~

~~(A) a budget that includes all costs including operating costs and personnel services;~~

~~(B) a cost benefit analysis, which shall include:~~

~~(i) an explanation of ongoing costs, including training and maintenance, after project implementation;~~

~~(ii) an analysis of the net benefit to the project users, and to the State, from proceeding with the project, in comparison to not proceeding with the project;~~

~~(iii) projected savings, including personnel services, if any, that will result from the project; and~~

~~(iv) other benefits to the project users, and to the State, from proceeding with the project, in comparison to not proceeding with the project; and~~

~~(C) a statement whether any of the information provided pursuant to subdivision (1) of this subsection (b) has changed or is no longer accurate and an explanation of the reasons.~~

~~(e) Systemwide performance measures. The Agency of Administration shall develop systemwide performance measures which analyze the overall performance of the State government IT system. The Program:~~

~~(1) shall indicate the background and utility of the performance measures;~~

~~(2) shall track the performance measures over time;~~

~~(3) where appropriate, shall recommend the setting of targets for the performance measures;~~

~~(4) shall indicate the overall condition of the system; and~~

~~(5) shall indicate potential risks measured by severity and likelihood and plans to mitigate those risks.~~

~~(d) Performance measures. The Agency of Administration shall develop performance measures for projects. The Program:~~

~~(1) shall indicate the background and utility of the performance measures;~~

~~(2) shall track the performance measures over time; and~~

~~(3) shall indicate potential risks measured by severity and likelihood and plans to mitigate those risks.~~

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

~~(1) the recommended budget for DII; and~~

~~(2) the DII 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.~~

[Repealed.]

Sec. 13. EFFECTIVE DATE

This act shall take effective on passage.

Date Governor signed bill: June 10, 2019