

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Energy and Technology to which was referred House  
3 Bill No. 135 entitled “An act relating to authority of the Agency of Digital  
4 Services” respectfully reports that it has considered the same and recommends  
5 that the bill be amended by striking out all after the enacting clause and  
6 inserting in lieu thereof the following:

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

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

10 (a) The General Assembly finds that public records are essential to the  
11 administration of State and local government. Public records contain  
12 information ~~which~~ that allows government programs to function, provides  
13 officials with a basis for making decisions, and ensures continuity with past  
14 operations. Public records document the legal responsibilities of government,  
15 help protect the rights of citizens, and provide citizens a means of monitoring  
16 government programs and measuring the performance of public officials.  
17 Public records provide documentation for the functioning of government and  
18 for the retrospective analysis of the development of Vermont government and  
19 the impact of programs on citizens. Public records in general and archival  
20 records in particular need to be systematically managed to preserve their legal,

1 historic, and informational value, to provide ready access to vital information,  
2 and to promote the efficient and economical operation of government.

3 \* \* \*

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

7 \* \* \*

8 (10) implement and sustain a record schedule in accordance with  
9 requirements established by the Vermont State Archives and Records  
10 Administration under section 117 of this title and the ~~Department of~~  
11 ~~Information and Innovation~~ Agency of Digital Services under ~~subdivision~~  
12 ~~2222(a)(10)~~ chapter 56 of this title.

13 \* \* \*

14 Sec. 2. 3 V.S.A. § 346 is amended to read:

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

17 (a) The Secretary of Administration shall include in Administrative  
18 Bulletin 3.5 a policy direction applicable to State procurement contracts that  
19 include services for the development of software applications, computer  
20 coding, or other intellectual property, which would allow the State of Vermont

1 to grant permission to the contractor to use or own the intellectual property  
2 created under the contract for the contractor's commercial purposes.

3 \* \* \*

4 (c) If the Secretary authorizes a contractor to own intellectual property  
5 developed under a State contract, the Secretary may recommend language to  
6 ensure the State retains a perpetual, irrevocable, royalty-free, and fully paid  
7 right to continue to use the intellectual property including escrow for perpetual  
8 use at least annually.

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

10 § 2222. POWERS AND DUTIES; BUDGET AND REPORT

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

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

16 \* \* \*

17 (9) ~~Submit to the General Assembly concurrent with the Governor's~~  
18 ~~annual budget request required under 32 V.S.A. § 306, a strategic plan for~~  
19 ~~information technology and information security that outlines the significant~~  
20 ~~deviations from the previous year's plan, and that details the plans for~~  
21 ~~information technology activities of State government for the following fiscal~~

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

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

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

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

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

3           ~~(E) a statewide budget for all information technology activities with a~~  
4           ~~cost in excess of \$500,000.00. [Repealed.]~~

5           ~~(10) The Secretary shall annually submit to the General Assembly a five-~~  
6           ~~year information technology and information security plan that indicates the~~  
7           ~~anticipated information technology activities of the Executive Branch of State~~  
8           ~~government. For purposes of this section, “information technology activities”~~  
9           ~~shall mean:~~

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

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

16   \* \* \*

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

1 ~~Documentation of this independent review shall be included when plans are~~  
2 ~~submitted for review pursuant to subdivisions (a)(9) and (10) of this section.~~

3 ~~The independent review shall include:~~

4 ~~(A) an acquisition cost assessment;~~

5 ~~(B) a technology architecture review;~~

6 ~~(C) an implementation plan assessment;~~

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

8 ~~(E) a procurement negotiation advisory services contract; and~~

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

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

13 \* \* \*

14 Sec. 4. 3 V.S.A. § 2283b is amended to read:

15 § 2283b. DEPARTMENT OF INFORMATION AND INNOVATION

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

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

2 CHAPTER 56. AGENCY OF DIGITAL SERVICES

3 § 3301. AGENCY OF DIGITAL SERVICES; CREATED

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

9 (1) Provide services for all activities directly related to information  
10 technology and cybersecurity, including telecommunications services,  
11 information technology equipment, software, accessibility, networks in State  
12 government, and the sharing of data and information within State government.

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

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

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

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

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

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.

9           (9) Create information technology procurement policy and process for  
10          State government in collaboration with the Agency of Administration, and  
11          review all information technology and information technology requests for  
12          proposal in accordance with Agency of Administration policies.

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

15          (11) Inventory technology fixed assets within State government.

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

19          (13) Support the statewide development of broadband  
20          telecommunications infrastructure and services, in a manner consistent with  
21          the telecommunications plan prepared pursuant to 30 V.S.A. § 202d and



1 community development objectives established by the Agency of Commerce  
2 and Community Development, by:

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

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

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

8 (D) making other reasonable arrangements.

9 (14) Develop information technology and cybersecurity policies for  
10 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) “Cybersecurity” means the protection of an information system or  
15 information stored on such information system against any act or attempt,  
16 direct or indirect, successful or unsuccessful, to gain unauthorized access, use,  
17 disclose, disrupt, modify, or destroy the information system or information  
18 stored on such information system.

19 (2) “Information technology activities” means:

20 (A) the creation, collection, processing, storage, management,  
21 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 and  
18           cybersecurity policies;

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

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

3           § 3303. REPORTING, RECORDS, AND REVIEW REQUIREMENTS

4           (a) Annual report and budget.

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

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

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

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

15                  (D) an outline summary of information, including scope, schedule,  
16                  budget, and status for information technology projects with a total costs of  
17                  \$500,000.00 or greater;

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

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

1           (G) the Agency budget submission.

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

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

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

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

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

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

17          (d) Independent expert review.

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

21           (2) The independent review shall include:

- 1           (A) an acquisition cost assessment;
- 2           (B) a technology architecture and standards review;
- 3           (C) an implementation plan assessment;
- 4           (D) a cost analysis and a model for benefit analysis;
- 5           (E) an analysis of alternatives;
- 6           (F) an impact analysis on net operating costs for the agency carrying  
7 out the activity; and
- 8           (G) a security assessment.

9           (3) The requirement to obtain independent expert review described in  
10 subdivision (1) of this subsection (d) may be waived by the Chief Information  
11 Officer if, in his or her judgment, such a review would be duplicative of one or  
12 more reviews that have been, or will be, conducted under a separate federal or  
13 State requirement. If waived, such waiver shall be in writing and in  
14 accordance with procedures established by the Chief Information Officer.

15           § 3304. INFORMATION TECHNOLOGY INTERNAL SERVICE FUND

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

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

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

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

4 \* \* \*

5 (b) In order to develop and implement that strategy, and to ensure that all  
6 data gathered by State agencies that is relevant to the VGIS shall be in a form  
7 that is compatible with, useful to, and shared with that geographic information  
8 system, there is hereby established the Vermont Center for Geographic  
9 Information (the Center) as a ~~division~~ unit of the Data Management Division  
10 under the Agency of Digital Services ~~the Vermont Center for Geographic~~  
11 Information (the Center).

12 (c) [Repealed.]

13 Sec. 7. REPEAL

14 22 V.S.A. chapter 15 (Department of Information and Innovation) is  
15 repealed.

16 Sec. 8. 22 V.S.A. § 952 is amended to read:

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

19 (a) There is created the Vermont web portal ~~which~~ that shall be governed  
20 by a Board consisting of ~~40~~ 12 members as follows:

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

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

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

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

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

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

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

11          (6)(8) ~~One~~ one member or ~~his or her~~ designee who is an officer of the  
12          Executive ~~branch~~ Branch as identified in 32 V.S.A. § 1003(b), other than of the  
13          Department of Finance and Management, the ~~Department of Information and~~  
14          ~~Innovation~~ Agency of Digital Services, and the Department of Libraries, and  
15          who shall be appointed by the Governor;

16          (7)(9) ~~Two~~ two members appointed by the Vermont State Employees'  
17          Association; and

18          (8)(10) ~~One~~ one member of the House of Representatives who is also a  
19          member of the Legislative Information Technology Committee, appointed by  
20          the Speaker of the House, and one member of the Vermont Senate who is also

1 a member of the Legislative Information Technology Committee, appointed by  
2 the Committee on Committees.

3 \* \* \*

4 Sec. 9. 22 V.S.A. § 953 is amended to read:

5 § 953. VERMONT WEB PORTAL BOARD; DUTIES

6 (a) The Board shall:

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

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

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

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





1 telecommunications policy. Prior to preparing the Plan, the Department shall  
2 prepare:

3 \* \* \*

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

9 \* \* \*

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

1 require the submission of data by each company subject to supervision by the  
2 Public Utility Commission.

3 \* \* \*

4 Sec. 11. 32 V.S.A. § 183 is amended to read:

5 § 183. FINANCIAL AND HUMAN RESOURCE INFORMATION

6 INTERNAL SERVICE FUND

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

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

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

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

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

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

6             ~~(2) systemwide performance measures;~~

7             ~~(3) performance measures for projects; and~~

8             ~~(4) the budget for the Department of Information and Innovation (DII).~~

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

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

12               ~~(A) a description of the project;~~

13               ~~(B) the justification for the scope of the project;~~

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

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

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

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

4           ~~(3) For each ongoing project with an estimated total cost that exceeds~~  
5           ~~\$1,000,000.00, there shall be:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5           [Repealed.]

6           Sec. 13. EFFECTIVE DATE

7           This act shall take effect on passage.

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15           (Committee vote: \_\_\_\_\_)

16

\_\_\_\_\_

17

Representative \_\_\_\_\_

18

FOR THE COMMITTEE