

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 an
19 annual report for information technology and ~~information security that~~
20 ~~outlines the significant deviations from the previous year's plan, and that~~
21 ~~details the plans for information technology activities of State government for~~

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

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

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

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

1 ~~greater or when required by the State Chief Information Officer.~~

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

4 ~~The independent review shall include:~~

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

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

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

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

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

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

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

14 * * *

15 Sec. 4. 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. 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. The report shall include an annual update to the
17 strategic plan prepared pursuant to subdivision (4) of this section; performance
18 metrics and trends, including baseline and annual measurements, for each
19 division of the Agency; and a financial report of revenues and expenditures to
20 date for the current fiscal year. The annual report shall also include costs
21 avoided or saved as a result of technology optimization for the previous fiscal

1 year; shall outline summary information, including scope, schedule, budget,
2 and status for information technology projects with a total cost in excess of
3 \$500,000.00; and shall reflect the priority of projects by agency. The report
4 shall also include a summary of independent reviews as required by
5 subdivision (5) of this subsection and include the Agency budget submission.

6 The Agency shall maintain the following records for information technology
7 projects with a total cost in excess of \$500,000.00:

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

12 (B) Detailed project plans and status reports, including risk
13 identification and risk mitigation plans.

14 (4) Prepare and submit biennially, in consultation with the Secretary of
15 Administration, a strategic plan for information technology and cybersecurity
16 to the General Assembly. The strategic plan shall include the Agency's vision,
17 mission, objectives, strategies, and overarching action plans for information
18 technology within State government and shall update the information
19 technology goals for State government for the following fiscal year.

1 (5) Obtain independent expert review of any new information
2 technology projects with a total cost of \$1,000,000.00 or greater when required
3 by the State Chief Information Officer. The independent review shall include:

4 (A) an acquisition cost assessment;

5 (B) a technology architecture and standards review;

6 (C) an implementation plan assessment;

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

8 (E) an analysis of alternatives;

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

11 (G) a security assessment.

12 (6) Provide strategy, services, and solutions for information technology
13 activities within State government with a total cost in excess of \$500,000.00.

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

18 (8) Provide standards for the management, organization, and tracking of
19 information technology activities within State government with a total cost in
20 excess of \$500,000.00.

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

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

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

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

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

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

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

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

21 (D) making other reasonable arrangements.

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

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

5 (b) As used in this section:

6 (1) “Cybersecurity” means protecting information and information
7 systems from unauthorized access, use, disclosure, disruption, modification, or
8 destruction in order to provide integrity, confidentiality, and availability.

9 (2) “Information technology activities” means:

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

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

17 § 3302. APPOINTMENT OF SECRETARY; POWERS AND DUTIES

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

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

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

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

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

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

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

13 § 3303. INFORMATION TECHNOLOGY INTERNAL SERVICE FUND

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

16 (b) An agency, department, or division or other State or nonstate entity that
17 receives services of the Agency of Digital Services shall be charged for those
18 services on a basis established by the Secretary of Digital Services with the
19 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 as a ~~division~~ unit of the Data Management
9 Division under the Agency of Digital Services the Vermont Center for
10 Geographic Information (the Center).

11 (c) [Repealed.]

12 Sec. 7. REPEAL

13 22 V.S.A. chapter 15 (Department of Information and Innovation) is
14 repealed.

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

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

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

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

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

2 § 953. VERMONT WEB PORTAL BOARD; DUTIES

3 (a) The Board shall:

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

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

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

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

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

20 (6) Oversee drafting and implementation by the ~~Department of~~
21 ~~Information and Innovation~~ Agency of Digital Services of the contract with the

1 web portal service provider. This contract shall comply with State security and
2 privacy standards.

3 * * *

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

5 § 202d. TELECOMMUNICATIONS PLAN

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

13 (b) The Department shall prepare the Telecommunications Plan for the
14 State. The ~~Department of Innovation and Information~~ Agency of Digital of
15 Services, the Agency of Commerce and Community Development, and the
16 Agency of Transportation shall assist the Department in preparing the Plan.
17 The Plan shall be for a 10-year period and shall serve as a basis for State
18 telecommunications policy. Prior to preparing the Plan, the Department shall
19 prepare:

20 * * *

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

2 § 183. FINANCIAL AND HUMAN RESOURCE INFORMATION

3 INTERNAL SERVICE FUND

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

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

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

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

19 ~~(a) Annual report. The Agency of Administration shall annually present to~~
20 ~~the General Assembly a five year Information Technology (IT) Program. The~~

1 ~~Program shall be consistent with the planning process established in 22 V.S.A.~~

2 ~~§ 901 and shall include for each fiscal year:~~

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

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

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

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

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

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

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

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

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

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

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

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

1 ~~(3) For each ongoing project with an estimated total cost that exceeds~~
2 ~~\$1,000,000.00, there shall be:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 [Repealed.]

4 Sec. 13. EFFECTIVE DATE

5 This act shall take effect on passage.

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13 (Committee vote: _____)

14

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Representative _____

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FOR THE COMMITTEE