

Chapter 497

(Senate Bill 982)

AN ACT concerning

Information Technology – Modernization of Information Technology Projects

FOR the purpose of altering the duties of the Secretary of Information Technology related to modernization of information technology systems; ~~altering the authority of the Board of Public Works over certain information technology projects; establishing the Information Technology Investment Fund as a special, nonlapsing fund and the Technology Investment Board; renaming the Major Information Technology Development Fund; requiring a certain amount of the Fund to be set aside for certain projects each fiscal year; requiring the Board of Public Works to expedite the placement on an agenda and approval of certain contracts;~~ altering the ~~duties~~ name, duties, and membership of the Modernize Maryland Oversight Commission; providing for the terms of certain Commission members; and generally relating to information technology modernization.

BY repealing and reenacting, with amendments,

Article – State Finance and Procurement

Section ~~3.5-303(a)(4), 3.5-307, 3.5-316, and 12-101~~ 3.5-201, 3.5-301, 3.5-307, 3.5-308, 3.5-309, and 3.5-316

Annotated Code of Maryland

(2021 Replacement Volume and 2023 Supplement)

BY adding to

Article – State Finance and Procurement

Section ~~3.5-309.1 and 3.5-309.2~~ 12-101(d)

Annotated Code of Maryland

(2021 Replacement Volume and 2023 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – State Finance and Procurement3.5-201.

(A) There is a Department of Information Technology established as a principal department of State government.

(B) ~~IT~~ SUBJECT TO THE PROVISIONS OF § 3.5-302 OF THIS TITLE, IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT RESPONSIBILITY AND OVERSIGHT OF THE INFORMATION TECHNOLOGY PROJECTS FOR UNITS OF STATE GOVERNMENT BE

CENTRALIZED AT THE DEPARTMENT AND THAT PRIORITY BE GIVEN TO FUNDING INFORMATION TECHNOLOGY PROJECTS THAT ADDRESS THE GREATEST NEEDS FOR THE PUBLIC HEALTH, EDUCATION, SAFETY, OR FINANCIAL WELL-BEING OF THE RESIDENTS OF MARYLAND.

3.5-301.

(a) In this subtitle the following words have the meanings indicated.

(b) “Cybersecurity” means processes or capabilities wherein systems, communications, and information are protected and defended against damage, unauthorized use or modification, and exploitation.

(c) “Cybersecurity strategy” means a vision, a plan of action, or guiding principles.

(d) (1) “Development” means all expenditures for a new information technology system or an enhancement to an existing system including system:

(i) planning;

(ii) creation;

(iii) installation;

(iv) testing; and

(v) initial training.

(2) “Development” does not include:

(i) ongoing operating costs, software or hardware maintenance, routine upgrades, or modifications that merely allow for a continuation of the existing level of functionality; or

(ii) expenditures made after a new or enhanced system has been legally accepted by the user and is being used for the business process for which it was intended.

(e) **“EXPEDITED PROJECT” MEANS A PROJECT THAT IS NOT A MAJOR INFORMATION TECHNOLOGY DEVELOPMENT PROJECT THAT RECEIVES MONEY FROM THE FUND IN A MANNER THAT ALLOWS FOR MODERNIZATION PROJECTS CONSISTENT WITH THE STATE MODERNIZATION PLAN TO MOVE FORWARD IN A NIMBLE AND EXPEDITED MANNER.**

(F) “Fund” means the [Major Information Technology Development Project Fund] INFORMATION TECHNOLOGY INVESTMENT FUND.

[(f)] (G) “Information technology” means all electronic information processing, including:

(1) maintenance;

(2) NETWORKING;

(3) telecommunications;

[(3)] (4) hardware;

[(4)] (5) software AND APPLICATIONS; and

[(5)] (6) associated services.

[(g)] (H) “Information technology services” means information provided by electronic means by or on behalf of a unit of State government.

(I) “LEGACY SYSTEM” MEANS A HARDWARE OR SOFTWARE SYSTEM THAT IS ~~OUTMODED OR OBSOLETE~~ END OF SUPPORT OR END OF LIFE.

[(h)] (J) **(1)** “Major information technology development project” means any information technology development project that meets one or more of the following criteria:

[(1)] (I) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, the estimated total cost of development equals or exceeds [\\$1,000,000] \$5,000,000;

[(2)] (II) the project is undertaken to support a critical business function associated with the public health, education, safety, or financial well-being of the [citizens] RESIDENTS of Maryland; or

[(3)] (III) the Secretary determines that the project requires the special attention and consideration given to a major information technology development project due to:

[(i)] 1. the significance of the project’s potential benefits or risks;

[(ii)] 2. the impact of the project on the public or local governments;

[(iii)] 3. the public visibility of the project; or

[(iv)] 4. other reasons as determined by the Secretary.

(2) “MAJOR INFORMATION TECHNOLOGY DEVELOPMENT PROJECT” DOES NOT INCLUDE:

(I) TECHNOLOGY THAT IS REOCCURRING, STANDARD OPERATING TECHNOLOGY AS DETERMINED BY THE SECRETARY AND SUBMITTED TO THE LEGISLATIVE POLICY COMMITTEE FOR A 30-DAY REVIEW AND COMMENT PERIOD; OR

(II) A PROJECT WITH AN ESTIMATED TOTAL COST OF DEVELOPMENT THAT IS:

1. LESS THAN \$5,000,000 AND IS FUNDED WITH MONEY SET ASIDE FOR EXPEDITED PROJECTS IN THE FUND; OR

2. MORE THAN \$5,000,000 AND IS FUNDED WITH THE MONEY SET ASIDE FOR EXPEDITED PROJECTS IN THE FUND IF THE SECRETARY DETERMINES THAT:

A. THE UNIT OF STATE GOVERNMENT HAS SUFFICIENT IMPLEMENTATION RESOURCES, INCLUDING HUMAN CAPITAL, SUBJECT MATTER EXPERTISE, AND TECHNOLOGICAL INFRASTRUCTURE, OR HAS THE MEANS TO OBTAIN THESE RESOURCES BEFORE PROJECT INITIATION;

B. THERE IS NO SUFFICIENT ALTERNATIVE WITHIN THE STATE’S INFORMATION TECHNOLOGY INVENTORY; AND

C. THE PROJECT WILL RESULT IN A ~~SINGLE~~ COMPREHENSIVE SOLUTION DESIGNED TO MEET A COHESIVE SET OF BUSINESS AND TECHNOLOGICAL OBJECTIVES.

[(i)] (K) “Master plan” means the statewide information technology master plan and statewide cybersecurity strategy.

[(j)] (L) “Nonvisual access” means the ability, through keyboard control, synthesized speech, Braille, or other methods not requiring sight to receive, use, and manipulate information and operate controls necessary to access information technology in accordance with standards adopted under § 3.5–303(b) of this subtitle.

~~(M) (1) SUBJECT TO THE PROVISIONS OF § 3.5–302 OF THIS SUBTITLE, “OVERSIGHT” MEANS THE OBLIGATION TO MONITOR, ASSESS, APPROVE, AND~~

~~REPORT ON THE IMPLEMENTATION AND FINANCIAL STATUS OF MAJOR INFORMATION TECHNOLOGY DEVELOPMENT PROJECTS.~~

~~(2) "OVERSIGHT" DOES NOT INCLUDE CONTINUED PROJECT OR PROGRAM MANAGEMENT SUPPORT OR RESPONSIBILITY OVER PROJECT ACTIVITIES OF A SUCCESSFULLY IMPLEMENTED PROJECT AS DELEGATED BY THE SECRETARY TO A UNIT OF STATE GOVERNMENT UNDER § 3.5 308(E)(2) OF THIS SUBTITLE.~~

~~[(k)] ~~(N)~~ (M)~~ "Resource sharing" means the utilization of a State resource by private industry in exchange for the provision to the State of a communication service or other consideration.

~~(O) (N)~~ "STATE MODERNIZATION PLAN" MEANS THE PLAN DEVELOPED AND ADOPTED BY THE SECRETARY TO MODERNIZE STATE INFORMATION TECHNOLOGY.

~~[(l)] ~~(P)~~ (O)~~ "Systems development life cycle plan" means a plan that defines all actions, functions, or activities to be performed by a unit of State government in the definition, planning, acquisition, development, testing, implementation, operation, enhancement, and modification of information technology systems.

~~3.5 303.~~

~~(a) The Secretary is responsible for carrying out the following duties:~~

~~(4) developing and maintaining a statewide information technology master plan that will:~~

~~(i) IN CONSULTATION WITH THE MODERNIZE MARYLAND OVERSIGHT COMMISSION ESTABLISHED UNDER § 3.5 316 OF THIS SUBTITLE, centralize the management and direction of information technology policy within the Executive Branch of State government under the control of the Department;~~

~~(ii) include all aspects of State information technology including telecommunications, security, data processing, and information management;~~

~~(iii) consider interstate transfers as a result of federal legislation and regulation;~~

~~(iv) ensure that the State information technology plan and related policies and standards are consistent with State goals, objectives, and resources, and represent a long range vision for using information technology to improve the overall effectiveness of State government;~~

~~(v) include standards to assure nonvisual access to the information and services made available to the public over the Internet; and~~

~~(vi) allows a State agency to maintain the agency's own information technology unit that provides for information technology services to support the mission of the agency;~~

3.5–307.

(a) (1) A unit of State government may not purchase, lease, or rent information technology unless consistent with the master plan, **AS DETERMINED BY THE SECRETARY.**

(2) A unit of State government other than a public institution of higher education may not make expenditures for major information technology development projects or cybersecurity projects except as provided in § 3.5–308 of this subtitle.

(b) The Secretary may review any information technology project or cybersecurity project for consistency with the master plan.

(c) (1) A unit of State government shall advise the Secretary of any information technology proposal involving:

(i) resource sharing;

(ii) the exchange of goods or services;

(iii) a gift, contribution, or grant of real or personal property; or

(iv) the sale, lease, exchange, or other disposition of communications facilities or communications frequencies.

(2) The Secretary shall determine if the value of the resources, services, property, or other consideration to be obtained by the State under the terms of any proposal submitted in accordance with paragraph (1) of this subsection equals or exceeds \$100,000.

(3) If the value of any proposal submitted in accordance with this subsection equals or exceeds \$100,000 and the Secretary and unit agree to proceed with the proposal, information on the proposal shall be:

(i) advertised for a period of at least 30 days in the eMaryland Marketplace; and

(ii) submitted, simultaneously with the advertisement, to the Legislative Policy Committee for a 60-day review and comment period, during which time

the Committee may recommend that the proposal be treated as a procurement contract under Division II of this article.

(4) ~~(H) [Following] EXCEPT AS PROVIDED IN SUBJECT TO SUBPARAGRAPH (H) OF THIS PARAGRAPH, FOLLOWING~~ the period for review and comment by the Legislative Policy Committee under paragraph (3) of this subsection, the proposal is subject to approval by the Board of Public Works.

~~(H) A PROPOSAL CONTRACT TO MODERNIZE AN INFORMATION TECHNOLOGY SYSTEM THAT IS AN EXPEDITED PROJECT FUNDED WITH MONEY SET ASIDE FOR EXPEDITED PROJECTS IN THE FUND SHALL BE EXEMPT FROM EXPEDITED FOR APPROVAL BY THE BOARD OF PUBLIC WORKS AS PROVIDED IN § 12-101 OF THIS ARTICLE.~~

(5) This subsection may not be construed as authorizing an exception from the requirements of Division II of this article for any contract that otherwise would be subject to the State procurement process.

~~(6) (D) (1) THE DEPARTMENT OF GENERAL SERVICES, IN CONSULTATION WITH THE DEPARTMENT OF GENERAL SERVICES, SHALL HIRE A CONTRACTOR CONSULTANT TO ASSESS THE PROCUREMENT PROCESS FOR INFORMATION TECHNOLOGY PROJECTS INVOLVING MODERNIZATION AND MAKE RECOMMENDATIONS TO INCREASE THE STATE'S ABILITY TO PROCEED WITH A MODERNIZATION PROJECT IN A RAPID AND RESPONSIVE MANNER.~~

~~(7) (2) (I) ON OR BEFORE JANUARY JULY 1, 2025, THE DEPARTMENT SHALL INVENTORY AND ASSESS THE STATE'S LEGACY SYSTEMS AND PRIORITIZE MODERNIZATION.~~

~~(II) ON OR BEFORE JANUARY 1, 2026, AND EACH EVERY OTHER JANUARY 1 THEREAFTER, THE DEPARTMENT, IN CONSULTATION WITH EACH UNIT OF STATE GOVERNMENT, SHALL SUBMIT A REPORT TO THE GOVERNOR, THE SECRETARY, AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY THAT PROVIDES:~~

~~1. AN ESTIMATE OF THE FUNDING REQUIRED TO MODERNIZE EACH LEGACY SYSTEM IN THE UNIT; AND~~

~~2. A 5-YEAR PROJECTION OF FUNDING REQUIRED TO MODERNIZE EACH LEGACY SYSTEM.~~

3.5-308.

(a) This section does not apply to a public institution of higher education.

(b) [In] BEFORE submitting its information technology project requests, a unit of State government shall [designate projects which are major information technology development projects] **SUBMIT INFORMATION IN SUPPORT OF THE REQUEST REQUIRED BY THE SECRETARY FOR REVIEW AND DETERMINATION CONSISTENT WITH § 3.5-301(J) OF THIS SUBTITLE.**

(c) In reviewing information technology project requests, the Secretary may change a unit's designation of a major information technology development project.

(d) The Secretary shall review and, with the advice of the Secretary of Budget and Management, approve major information technology development projects and specifications for consistency with all statewide plans, policies, and standards, including a systems development life cycle plan.

(e) ~~(1) The Secretary shall be responsible for [overseeing] **THE OVERSIGHT OF** the implementation of major information technology development projects **AND EXPEDITED PROJECTS**, regardless of fund source.~~

~~(2) (i) **THE SECRETARY MAY DELEGATE OVERSIGHT OF A SUCCESSFULLY IMPLEMENTED PROJECT TO A UNIT OF STATE GOVERNMENT IF THE SECRETARY DETERMINES THE UNIT HAS THE INTERNAL CAPACITY, INCLUDING HUMAN CAPITAL, SUBJECT MATTER EXPERTISE, AND TECHNICAL INFRASTRUCTURE, TO ADEQUATELY SUPPORT CONTINUED PROJECT AND PROGRAM MANAGEMENT AND RESPONSIBILITY OVER PROGRAM ACTIVITIES.**~~

~~(ii) **THE SECRETARY, INDEPENDENT OF THE REQUIRED OVERSIGHT, MAY PROVIDE SUPPORT, INCLUDING DESIGN, ENGINEERING, AND PRODUCT SUPPORT, TO A UNIT OF STATE GOVERNMENT.**~~

~~(iii) **THE SECRETARY MAY REVOKE THE DELEGATION UNDER SUBPARAGRAPH (i) OF THIS PARAGRAPH IF THE SECRETARY DETERMINES A UNIT NO LONGER HAS THE CAPACITY TO ADEQUATELY SUPPORT CONTINUED PROJECT OR PROGRAM MANAGEMENT OR RESPONSIBILITY OVER PROGRAM ACTIVITIES.**~~

(f) (1) With the advice of the Secretary of Budget and Management, expenditures for major information technology development projects shall be subject to the approval of the Secretary who shall approve expenditures only when those projects are consistent with statewide plans, policies, and standards.

(2) **THE SECRETARY SHALL MAKE A RECOMMENDATION TO THE SECRETARY OF BUDGET AND MANAGEMENT THAT PROJECT FUNDS, REGARDLESS OF FUND SOURCE, BE WITHHELD IF:**

(I) A UNIT OF STATE GOVERNMENT IS NOT CONSISTENTLY REPORTING ON THE STATUS OF A PROJECT OR PROJECTS TO THE DEPARTMENT IN THE FORM AND MANNER REQUIRED BY THE DEPARTMENT; OR

(II) THE DEPARTMENT DETERMINES THAT PROJECT IMPLEMENTATION ISSUES EXIST, INCLUDING PROJECT TIMELINE DELAYS, SIGNIFICANT COST INCREASES, VENDOR NONPERFORMANCE, DECREASED AGENCY CAPACITY, OR OTHER ISSUES THAT INDICATE ISSUES OF CONCERN THAT COULD JEOPARDIZE SUCCESSFUL IMPLEMENTATION.

(g) (1) The Secretary shall approve funding for major information technology development projects, EXPEDITED PROJECTS, AND OTHER EXPENDITURES FROM THE FUND only when [those]:

(I) THE MAJOR INFORMATION TECHNOLOGY DEVELOPMENT PROJECTS OR THE EXPEDITED PROJECTS ARE IN COMPLIANCE WITH STATEWIDE PLANS, POLICIES, AND STANDARDS, AS DETERMINED BY THE SECRETARY; AND

(II) THE MAJOR INFORMATION TECHNOLOGY DEVELOPMENT projects are supported by an approved systems development life cycle plan.

(2) An approved systems development life cycle plan shall include submission of:

(i) a project planning request that details initial planning for the project, including:

1. the project title, appropriation code, and summary;

2. a description of:

A. the [needs addressed by the project] BUSINESS AND TECHNOLOGY OUTCOMES TO BE ACHIEVED BY THE PROJECT;

B. THE FEATURES AVAILABLE TO THE END USER ON COMPLETION, INCLUDING USER ACCEPTANCE TESTING AND ACCESSIBILITY PLANS;

C. the potential risks associated with the project;

[C.] D. possible alternatives; and

[D.] E. the scope and complexity of the project; and

3. an estimate of:

- A. the total costs required to complete through planning; and
- B. the fund sources available to support planning costs; and
- (ii) a project implementation request to begin full design, development, and implementation of the project after the completion of planning, including:
 - 1. the project title, appropriation code, and summary;
 - 2. a description of:
 - A. the [needs addressed by the project] **BUSINESS AND TECHNOLOGY OUTCOMES TO BE ACHIEVED BY THE PROJECT AND THE METRICS BY WHICH THE SUCCESS OF THOSE OUTCOMES WILL BE MEASURED;**
 - B. **THE FEATURES AVAILABLE TO THE END USER ON COMPLETION, INCLUDING USER ACCEPTANCE TESTING AND ACCESSIBILITY PLANS;**
 - C. the potential risks associated with the project;
 - [C.] D. possible alternatives;
 - [D.] E. the scope and complexity of the project; and
 - [E.] F. how the project meets the goals of the statewide master plan; and
 - 3. an estimate of:
 - A. the total project cost, **BY PHASE;** and
 - B. the fund sources [available] **TO BE UTILIZED.**

(3) The Secretary may approve funding incrementally, consistent with the systems development life cycle plan.

(H) THE DEPARTMENT, IN CONSULTATION WITH THE MODERNIZE MARYLAND COMMISSION ESTABLISHED UNDER § 3.5-316 OF THIS ~~ARTICLE~~ SUBTITLE, SHALL:

(1) DEVELOP STANDARDS FOR UNITS OF STATE GOVERNMENT TO ASSIST IN IDENTIFYING LEGACY SYSTEMS THAT REQUIRE MODERNIZATION PROJECTS APPROPRIATE TO BE FINANCED AS AN EXPEDITED PROJECT THROUGH THE FUND;

(2) ADOPT AN INFORMATION TECHNOLOGY INVESTMENT MATURITY MODEL THAT INCLUDES:

(I) CRITERIA TO INFORM AND PRIORITIZE INVESTMENT DECISIONS;

(II) PROCESSES TO DEVELOP THE INFORMATION REQUIRED TO EVALUATE INVESTMENT PROPOSALS AGAINST THE CRITERIA UNDER ITEM (I) OF THIS ITEM; AND

(III) MANAGEMENT PROCESSES TO MONITOR THE IMPLEMENTATION OF APPROVED MODERNIZATION PROJECTS; AND

(3) DEVELOP A STATE MODERNIZATION PLAN.

3.5–309.

(a) There is [a Major Information Technology Development Project Fund] AN INFORMATION TECHNOLOGY INVESTMENT FUND.

(b) The purpose of the Fund is to support major information technology development projects AND EXPEDITED PROJECTS.

(c) The Secretary:

(1) shall administer the Fund in accordance with this section; and

(2) subject to the provisions of § 2–201 of this article and § 3.5–307 of this subtitle, may receive and accept contributions, grants, or gifts of money or property.

(d) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of this article.

(2) The State Treasurer shall hold the Fund separately and the Comptroller shall account for the Fund.

(3) The State Treasurer shall invest and reinvest the money of the Fund in the same manner as other State money may be invested.

(4) Any investment earnings of the Fund shall be paid into the Fund.

(e) Except as provided in subsection (f) of this section, the Fund consists of:

(1) money appropriated in the State budget to the Fund;

- (2) as approved by the Secretary, money received from:
- (i) the sale, lease, or exchange of communication sites, communication facilities, or communication frequencies for information technology purposes; or
- (ii) an information technology agreement involving resource sharing;
- (3) that portion of money earned from pay phone commissions to the extent that the commission rates exceed those in effect in December 1993;
- (4) money received and accepted as contributions, grants, or gifts as authorized under subsection (c) of this section;
- (5) general funds appropriated for major information technology development projects of any unit of State government other than a public institution of higher education that:
- (i) are unencumbered and unexpended at the end of a fiscal year;
- (ii) have been abandoned; or
- (iii) have been withheld by the General Assembly or the Secretary;
- (6) any investment earnings; and
- (7) any other money from any source accepted for the benefit of the Fund.
- (f) The Fund does not include any money:
- (1) received by the Department of Transportation, the Maryland Transportation Authority, Baltimore City Community College, or the Maryland Public Broadcasting Commission;
- (2) received by the Judicial or Legislative branches of State government; or
- (3) generated from pay phone commissions that are credited to other accounts or funds in accordance with other provisions of law or are authorized for other purposes in the State budget or through an approved budget amendment.
- (g) The Governor shall submit with the State budget:
- (1) a summary showing the unencumbered balance in the Fund as of the close of the prior fiscal year and a listing of any encumbrances;

(2) an estimate of projected revenue from each of the sources specified in subsection (e) of this section for the fiscal year for which the State budget is submitted; [and]

(3) a descriptive listing of MAJOR INFORMATION TECHNOLOGY DEVELOPMENT projects reflecting projected costs for the fiscal year for which the State budget is submitted and any estimated future year costs; AND

(4) THE AMOUNT PROPOSED TO BE SET ASIDE FOR EXPEDITED PROJECTS.

(h) Expenditures from the Fund shall be made only:

(1) in accordance with an appropriation approved by the General Assembly in the annual State budget; [or]

(2) through an approved State budget amendment under Title 7, Subtitle 2, Part II of this article, provided that a State budget amendment for any project not requested as part of the State budget submission or for any project for which the scope or cost has increased by more than 5% or \$250,000 shall be submitted to the budget committees allowing a 30-day period for their review and comment; OR

(3) FOR EXPEDITED PROJECT CONTRACTS APPROVED FOR FUNDING BY THE SECRETARY AND APPROVED BY THE BOARD OF PUBLIC WORKS AS PROVIDED IN § 12-101 OF THIS ARTICLE.

(i) The Fund may be used:

(1) for major information technology development projects;

(2) as provided in subsections (j) and [(l)] (M) of this section; [or]

(3) notwithstanding § 3.5-301(b)(2) of this subtitle, for the costs of the first 12 months of operation and maintenance of a major information technology development project;

(4) FOR EXPEDITED PROJECTS; OR

(5) FOR MAJOR INFORMATION TECHNOLOGY DEVELOPMENT PROJECTS AND EXPEDITED PROJECTS THROUGH A REVOLVING LOAN PROCESS THROUGH WHICH AN AGENCY MAY REIMBURSE THE FUND IN FUTURE FISCAL YEARS AS ESTABLISHED BY THE SECRETARY IN REGULATION.

(j) Notwithstanding subsection (b) of this section and except for the cost incurred in administering the Fund, each fiscal year up to \$1,000,000 of this Fund may be used for:

- (1) educationally related information technology projects;
- (2) application service provider initiatives as provided for in Title 9, Subtitle 22 of the State Government Article; or
- (3) information technology projects, including:
 - (i) pilots; and
 - (ii) prototypes.

(k) A unit of State government or local government may submit a request to the Secretary to support the cost of an information technology project with money under subsection (j) of this section.

(L) (1) EACH FISCAL YEAR, AT LEAST 20% OF THE AMOUNT INCLUDED IN THE GOVERNOR'S ALLOWANCE AND APPROPRIATED TO THE FUND SHALL BE SET ASIDE TO BE USED FOR EXPEDITED PROJECTS.

(2) ANY AMOUNT SET ASIDE UNDER PARAGRAPH (1) OF THIS SUBSECTION THAT IS NOT USED IN THE FISCAL YEAR THAT IT IS SET ASIDE SHALL REMAIN SET ASIDE IN THE FUND AND AVAILABLE TO BE USED FOR FUTURE EXPEDITED PROJECTS.

~~[(l)]~~ **(M) (1) Notwithstanding subsection (b) of this section and in accordance with paragraph (2) of this subsection, money paid into the Fund under subsection (e)(2) of this section shall be used to support:**

(i) the State telecommunication and computer network established under § 3.5–404 of this title, including program development for these activities; and

(ii) the Statewide Public Safety Interoperability Radio System, also known as Maryland First (first responder interoperable radio system team), under Title 1, Subtitle 5 of the Public Safety Article.

(2) The Secretary may determine the portion of the money paid into the Fund that shall be allocated to each program described in paragraph (1) of this subsection.

~~[(m)]~~ **(N) (1) On or before November 1 of each year, the Secretary shall report to the Governor[,] AND the Secretary of Budget and Management[, and to the budget committees of the General Assembly and submit a copy of the report to the General Assembly.] AND, in accordance with § 2–1257 of the State Government Article, TO THE SENATE BUDGET AND TAXATION COMMITTEE, THE SENATE COMMITTEE ON EDUCATION, ENERGY, AND THE ENVIRONMENT, THE HOUSE APPROPRIATIONS**

COMMITTEE, THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, AND THE JOINT COMMITTEE ON CYBERSECURITY, INFORMATION TECHNOLOGY, AND BIOTECHNOLOGY.

(2) The report shall include:

(i) the financial status of the Fund and a summary of its operations for the preceding fiscal year;

(ii) an accounting for the preceding fiscal year of all money from each of the revenue sources specified in subsection (e) of this section, including any expenditures made from the Fund; and

(iii) for each project receiving money from the Fund in the preceding fiscal year and for each major information technology development project OR EXPEDITED PROJECT receiving funding from any source other than the Fund in the preceding fiscal year:

1. the status of the project AND PROJECT FUNDING

DECISIONS:

2. a comparison of estimated and actual costs of the project;

3. any known or anticipated changes in scope or costs of the project;

4. an evaluation of whether the project is using best practices; and

5. a summary of any monitoring and oversight of the project from outside the agency in which the project is being developed, including a description of any problems identified by any external review and any corrective actions taken.

[(n)] (O) On or before January 15 of each year, for each major information technology development project OR EXPEDITED PROJECT currently in development or for which operations and maintenance funding is being provided in accordance with subsection (i)(3) of this section, subject to § 2-1257 of the State Government Article, the Secretary shall provide a summary report to the Department of Legislative Services with the most up-to-date project information including:

(1) project FUNDING DECISIONS AND PROJECT status;

(2) any schedule, cost, and scope changes since the last annual report;

(3) a risk assessment including any problems identified by any internal or external review and any corrective actions taken; and

(4) any change in the monitoring or oversight status.

(P) (1) THE SECRETARY MAY ADOPT REGULATIONS NECESSARY TO CARRY OUT THIS SECTION.

(2) THE SECRETARY SHALL ADOPT REGULATIONS NECESSARY TO ESTABLISH A PROCESS FOR UNITS OF STATE GOVERNMENT TO REQUEST AND RECEIVE FUNDING FOR AN EXPEDITED PROJECT ALIGNED WITH THE STATE MODERNIZATION PLAN THAT SHALL:

(I) ALLOW UNITS OF STATE GOVERNMENT TO APPLY FOR PROJECT FUNDING BIANNUALLY;

(II) BE CONSISTENT WITH THE GOALS AND PREFERENCES ESTABLISHED UNDER TITLE 14 OF THIS ARTICLE AND ENCOURAGE SMALL AND MINORITY BUSINESS ENTERPRISE VENDORS; AND

(III) PROVIDE MEASURES THAT ENSURE COMPLIANCE WITH THIS SUBTITLE AND THE DEPARTMENT'S REGULATIONS BY BOTH VENDORS AND UNITS OF STATE GOVERNMENT.

~~3.5 309.1.~~

~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED:~~

~~(2) "FUND" MEANS THE INFORMATION TECHNOLOGY INVESTMENT FUND.~~

~~(3) "LEGACY SYSTEM" MEANS A HARDWARE OR SOFTWARE SYSTEM THAT IS OUTMODED OR OBSOLETE.~~

~~(B) THERE IS AN INFORMATION TECHNOLOGY INVESTMENT FUND.~~

~~(C) (1) THE PURPOSE OF THE FUND IS TO ASSESS AND REPLACE LEGACY SYSTEMS.~~

~~(2) THE DEPARTMENT SHALL HIRE A CONSULTANT TO ASSESS A LEGACY SYSTEM, PRIORITIZED BASED ON THE SECURITY RISK OF THE SYSTEM.~~

~~(D) THE SECRETARY SHALL ADMINISTER THE FUND.~~

~~(E) THE DEPARTMENT, IN CONSULTATION WITH EACH UNIT OF STATE GOVERNMENT, SHALL DETERMINE THE FUNDING REQUIRED TO ASSESS EACH LEGACY SYSTEM IN THE UNIT AND A 5-YEAR PROJECTION OF FUNDING REQUIRED TO MODERNIZE THE LEGACY SYSTEM.~~

~~(F) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THIS ARTICLE.~~

~~(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.~~

~~(G) THE FUND CONSISTS OF:~~

~~(1) TO THE EXTENT PRACTICABLE, MONEY RECEIVED FROM THE SALE OF STATE GENERAL OBLIGATION BONDS; AND~~

~~(2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND.~~

~~(H) THE FUND MAY BE USED FOR LEGACY SYSTEM ASSESSMENTS AND REPLACEMENTS.~~

~~(I) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.~~

~~(2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO THE GENERAL FUND OF THE STATE.~~

~~(J) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET.~~

~~(K) (1) BEGINNING IN FISCAL YEAR 2026 AND EACH FISCAL YEAR THEREAFTER, THE GOVERNOR MAY INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION TO THE FUND ALIGNED WITH THE STATE MODERNIZATION PLAN.~~

~~(2) IN FISCAL YEAR 2026, THE APPROPRIATION MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE GREATER THAN THE DEPARTMENT'S BUDGET FOR FISCAL YEAR 2025 FOR MAJOR INFORMATION TECHNOLOGY DEVELOPMENT PROJECTS.~~

~~(L) ON OR BEFORE JANUARY 1, 2028, THE DEPARTMENT SHALL:~~

~~(1) ESTABLISH A PROCESS THROUGH WHICH THE PROCESS TO ASSESS AND REPLACE LEGACY SYSTEMS IS REPLACED WITH THE PROCESS FOR APPROVING AND REVIEWING MAJOR INFORMATION TECHNOLOGY DEVELOPMENT PROJECTS~~

~~UNDER § 3.5 308 OF THIS SUBTITLE, INCLUDING GUARDRAILS TO ENSURE COMPLIANCE WITH THE PROCESS; AND~~

~~(2) SUBMIT A REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2 1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE PROCESS ESTABLISHED UNDER ITEM (1) OF THIS SUBSECTION.~~

~~3.5 309.2.~~

~~(A) IN THIS SECTION, “BOARD” MEANS THE TECHNOLOGY INVESTMENT BOARD.~~

~~(B) THERE IS A TECHNOLOGY INVESTMENT BOARD IN THE DEPARTMENT.~~

~~(C) THE BOARD CONSISTS OF:~~

~~(1) THE SECRETARY, OR THE SECRETARY’S DESIGNEE;~~

~~(2) THE COMPTROLLER, OR THE COMPTROLLER’S DESIGNEE;~~

~~(3) THE STATE TREASURER, OR THE STATE TREASURER’S DESIGNEE;~~

~~(4) THE GOVERNOR, OR THE GOVERNOR’S DESIGNEE;~~

~~(5) A MEMBER OF THE PUBLIC, APPOINTED BY THE GOVERNOR; AND~~

~~(6) ANY OTHER MEMBERS THE GOVERNOR DETERMINES ARE APPROPRIATE.~~

~~(D) THE SECRETARY OR THE SECRETARY’S DESIGNEE SHALL SERVE AS CHAIR OF THE BOARD.~~

~~(E) THE DEPARTMENT SHALL PROVIDE STAFF FOR THE BOARD.~~

~~(F) THE BOARD SHALL:~~

~~(1) DEVELOP ENTERPRISE ARCHITECTURE STANDARDS FOR UNITS OF STATE GOVERNMENT TO ASSIST IN IDENTIFYING LEGACY SYSTEMS THAT REQUIRE MODERNIZATION;~~

~~(2) BEGINNING JANUARY 1, 2028, EVALUATE AND APPROVE ALL MAJOR INFORMATION TECHNOLOGY DEVELOPMENT PROJECTS INVOLVING THE MODERNIZATION OF INFORMATION TECHNOLOGY AND LEGACY SYSTEMS; AND~~

~~(3) ADOPT AN INFORMATION TECHNOLOGY INVESTMENT MATURITY MODEL THAT INCLUDES:~~

~~(I) CRITERIA TO INFORM INVESTMENT DECISIONS;~~

~~(II) PROCESSES TO DEVELOP THE INFORMATION REQUIRED TO EVALUATE INVESTMENT PROPOSALS AGAINST THE CRITERIA UNDER ITEM (I) OF THIS ITEM; AND~~

~~(III) MANAGEMENT PROCESSES TO MONITOR THE IMPLEMENTATION OF APPROVED MODERNIZATION PROJECTS.~~

~~(C) ON OR BEFORE DECEMBER 1 EACH YEAR, THE BOARD SHALL REPORT FUNDING DECISIONS MADE UNDER SUBSECTION (F) OF THIS SECTION TO THE BOARD OF PUBLIC WORKS.~~

3.5-316.

(a) (1) In this section the following words have the meanings indicated.

(2) “Commission” means the Modernize Maryland ~~Oversight~~ Commission.

(3) “Critical system” means an information technology or cybersecurity system that is severely outdated, as determined by the Department.

~~(4) “LEGACY SYSTEM” HAS THE MEANING STATED IN § 3.5-309.1 OF THIS SUBTITLE.~~

(b) There is an independent Modernize Maryland ~~Oversight~~ Commission.

(c) The purpose of the Commission is to[:

(1) ensure the confidentiality, integrity, and availability of information held by the State concerning State residents; and

(2) advise the Secretary and State Chief Information Security Officer on:

(i) the appropriate information technology and cybersecurity investments and upgrades;

(ii) the funding sources for the appropriate information technology and cybersecurity upgrades; and

(iii) future mechanisms for the procurement of appropriate information technology and cybersecurity upgrades, including ways to increase the

efficiency of procurements made for information technology and cybersecurity upgrades] ~~ENSURE~~ **RECOMMEND BEST PRACTICES RELATED TO THE MODERNIZATION AND THE REPLACEMENT OF LEGACY SYSTEMS.**

(d) The Commission consists of the following members:

(1) the Secretary, **OR THE SECRETARY'S DESIGNEE;**

(2) the State Chief Information Security Officer, **OR THE CHIEF INFORMATION SECURITY OFFICER'S DESIGNEE;**

(3) three chief information security officers representing different units of State government, appointed by the Governor;

(4) one information technology modernization expert with experience in the private sector, appointed by the Governor;

(5) one representative ~~from~~ **RECOMMENDED BY** the Maryland Chamber of Commerce with knowledge of cybersecurity issues, **APPOINTED BY THE GOVERNOR;**

(6) two individuals who are end users of State information technology systems, appointed by the Governor;

(7) one representative ~~from~~ **RECOMMENDED BY** the Cybersecurity Association of Maryland, **APPOINTED BY THE GOVERNOR;** [and]

(8) one individual who is either an instructor or a professional in the academic field of cybersecurity at a college or university in the State, appointed by the Governor; AND

~~(9) ONE EMPLOYEE OF THE OFFICE OF LEGISLATIVE AUDITS, APPOINTED BY THE LEGISLATIVE AUDITOR~~ **ONE REPRESENTATIVE OF THE INFORMATION TECHNOLOGY INDUSTRY, APPOINTED BY THE GOVERNOR.**

(e) The cochairs of the Joint Committee on Cybersecurity, Information Technology, and Biotechnology shall serve as advisory, nonvoting members of the Commission.

~~(F) THE UNIVERSITY OF MARYLAND GLOBAL CAMPUS SHALL STAFF THE COMMISSION.~~

(F) A MEMBER OF THE COMMISSION;

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COMMISSION; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(G) (1) THE TERM OF AN APPOINTED MEMBER IS 3 YEARS.

(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE COMMISSION ON JULY 1, 2024.

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(H) (1) THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF LEGISLATIVE SERVICES, SHALL PROVIDE STAFF TO THE COMMISSION.

(2) THE SECRETARY OR THE SECRETARY'S DESIGNEE IS THE CHAIR OF THE COMMISSION.

(f) ~~(e)~~ (1) The Commission shall:

(1) advise the Secretary on a strategic roadmap with a timeline and budget that will:

(i) require the updates and investments of critical information technology and cybersecurity systems identified by the Commission in the first recommendations reported under paragraph (2) of this subsection to be completed on or before December 31, 2025; and

(ii) require all updates and investments of information technology and cybersecurity to be made on or before December 31, 2030;

(2) make periodic recommendations on investments in State information technology structures based on the assessments completed in accordance with the framework developed in § 3.5–317 of this subtitle;

(3) review and provide recommendations on the Department's basic security standards for use of the network established under § 3.5–404(b) of this title; and

(4) each year, in accordance with § 2–1257 of the State Government Article, report its findings and recommendations to the Senate Budget and Taxation Committee, the Senate Education, Health, and Environmental Affairs Committee, the House Appropriations Committee, the House Health and Government Operations Committee, and the Joint Committee on Cybersecurity, Information Technology, and Biotechnology.]

(1) IDENTIFY BEST PRACTICES FOR INFORMATION TECHNOLOGY MODERNIZATION AND THE REPLACEMENT OF LEGACY SYSTEMS;

(2) PROVIDE RECOMMENDATIONS FOR MODERNIZATION OF INFORMATION TECHNOLOGY SYSTEMS TO ~~EACH UNIT OF STATE GOVERNMENT~~ THE GOVERNOR, THE SECRETARY, AND THE GENERAL ASSEMBLY;

(3) PROVIDE RECOMMENDATIONS TO PROMOTE TRANSPARENCY IN MODERNIZATION EFFORTS IN UNITS OF STATE GOVERNMENT; AND

(4) EACH YEAR, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE GOVERNOR, THE SECRETARY, THE SENATE BUDGET AND TAXATION COMMITTEE, THE SENATE COMMITTEE ON EDUCATION, ENERGY, AND THE ENVIRONMENT, THE HOUSE APPROPRIATIONS COMMITTEE, THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, AND THE JOINT COMMITTEE ON CYBERSECURITY, INFORMATION TECHNOLOGY, AND BIOTECHNOLOGY.

[(g)] ~~(H)~~ (J) The report submitted under subsection [(f)(4)] ~~(G)(4)~~ (I)(4) of this section may not contain information about the security of an information system.

~~12-101.~~

~~(a) (1) This section does not apply to:~~

~~[(1)] (I) capital expenditures by the Department of Transportation or the Maryland Transportation Authority, in connection with State roads, bridges, or highways, as provided in § 12-202 of this title; [or]~~

~~[(2)] (II) procurements by the Department of General Services for the purpose of modernizing cybersecurity infrastructure for the State valued below \$1,000,000; OR~~

~~(III) PROCUREMENTS BY THE DEPARTMENT OF INFORMATION TECHNOLOGY TO MODERNIZE AN INFORMATION TECHNOLOGY SYSTEM.~~

~~(2) THE AMOUNT IN PARAGRAPH (1)(II) OF THIS SUBSECTION MAY BE ADJUSTED BY THE DEPARTMENT OF INFORMATION TECHNOLOGY EACH YEAR FOR INFLATION.~~

~~(b) (1) The Board may control procurement by units.~~

~~(2) To implement the provisions of this Division II, the Board may:~~

- ~~(i) set policy;~~
- ~~(ii) adopt regulations, in accordance with Title 10, Subtitle 1 of the State Government Article; and~~
- ~~(iii) establish internal operational procedures consistent with this Division II.~~

~~(3) The Board shall ensure that the regulations of the primary procurement units provide for procedures that are consistent with this Division II and Title 13, Subtitle 4 of the State Personnel and Pensions Article and, to the extent the circumstances of a particular type of procurement or a particular unit do not require otherwise, are substantially the same.~~

~~(4) The Board may delegate any of its authority that it determines to be appropriate for delegation and may require prior Board approval for specified procurement actions.~~

~~(5) Except as limited by the Maryland Constitution, the Board may exercise any control authority conferred on a primary procurement unit by this Division II and, to the extent that its action conflicts with the action of the primary procurement unit, the action of the Board shall prevail.~~

~~(e) On or before December 1 each year, the Department of General Services shall submit a report to the Board on procurements made under subsection (a)(2) of this section that shall include for each procurement:~~

- ~~(1) the purpose of the procurement;~~
- ~~(2) the name of the contractor;~~
- ~~(3) the contract amount;~~
- ~~(4) the method of procurement utilized;~~
- ~~(5) the number of bidders who bid on the procurement; and~~
- ~~(6) the contract term.~~

12-101.

(D) A CONTRACT TO MODERNIZE AN INFORMATION TECHNOLOGY SYSTEM OR TO PROCEED WITH AN EXPEDITED PROJECT AS DEFINED IN § ~~3.5-101~~ 3.5-301 OF THIS ARTICLE SHALL BE EXPEDITED FOR APPROVAL BY THE BOARD AND PLACED ON THE AGENDA OF THE BOARD AS SOON AS PRACTICABLE.

SECTION 2. AND BE IT FURTHER ENACTED, That on or before December 1, ~~2024~~ 2025, the Secretary of Information Technology shall:

- (1) develop a State Modernization Plan that includes:
 - (i) identification of technical debt and legacy systems including their criticality, complexity, and risk to the State;
 - (ii) designation of priority systems and applications for modernization including rehosting, rebuilding, replacing, or retiring;
 - (iii) in consultation with the Comptroller, specific recommendations for a process to remove State agencies from the Annapolis Data Center mainframes ~~and the development of a sunset goal~~ consistent with the January 1, 2029, sunset goal of the Comptroller; ~~and~~
 - (iv) high level timeframe and cost estimates;
 - (v) identification of funding sources for the appropriate information technology and cybersecurity upgrades; and
 - (vi) plans to train and uptrain existing employees to be able to fully utilize technology as part of a modernization project.
- (2) develop a strategy for centralization of information technology management across the Executive Branch of State government under the Department of Information Technology; ~~and~~
- (3) identify positions in the Department of Information Technology that would be suitable for independent salary setting authority or greater flexibility in position classification to ensure the Department can recruit and retain the necessary staff to meet the mission of the Department; and
- (4) submit the strategic plan and centralization strategy to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly.

SECTION 3. AND BE IT FURTHER ENACTED, That, beginning in fiscal year 2026, the Governor shall include in the annual budget bill two position identification numbers and an appropriation in an amount sufficient to create two positions within the Department of Information Technology to carry out duties as follows:

- (1) one shall assist in administering the process for units of State government to apply for expedited projects under this Act; and

(2) one position shall be a grants administrator responsible for aggressively seeking all possible federal or private grant funding to support major information technology projects or expedited projects under this Act.

~~SECTION 4. AND BE IT FURTHER ENACTED, That, on or before December 1, 2024, the Department of Information Technology shall evaluate how the Information Technology Investment Fund could be used as a reimbursable fund to assist with State and local fiber and broadband projects and report on the evaluation and any related recommendations to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly, including the Senate Budget and Taxation Committee, the Senate Committee on Education, Energy, and the Environment, the House Appropriations Committee, the House Health and Government Operations Committee, and the Joint Committee on Cybersecurity, Information Technology, and Biotechnology.~~

SECTION 4. AND BE IT FURTHER ENACTED, That, on or before December 1, 2024, the Joint Audit and Evaluation Committee, in consultation with the Joint Committee on Cybersecurity, Information Technology, and Biotechnology, shall study and make recommendations for any statutory and operational changes necessary to address the findings of the audit issued on April 2, 2024, by the Office of Legislative Audits in the Department of Legislative Services and shall report on any recommendations for statutory changes to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly, including the Senate Budget and Taxation Committee, the Senate Committee on Education, Energy, and the Environment, the House Appropriations Committee, and the House Health and Government Operations Committee.

~~SECTION 4. 5. AND BE IT FURTHER ENACTED, That the terms of the appointed members of the Modernize Maryland Commission shall expire as follows:~~

- (1) two members on July 1, 2024, as determined by the Governor;
- (2) two members on July 1, 2025, as determined by the Governor; and
- (3) the remaining appointed member on July 1, 2026.

~~SECTION 3. 5. 6. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2024.~~

Approved by the Governor, May 9, 2024.