

HOUSE No.

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES

**MESSAGE FROM HIS EXCELLENCY THE
GOVERNOR SUBMITTING REORGANIZATION PLAN
NUMBER 2 OF 2017, RELATIVE TO REORGANIZING
THE INFORMATION TECHNOLOGY FUNCTION
OF THE COMMONWEALTH TO IMPROVE DATA
SECURITY, SAFEGUARD PRIVACY, AND
PROMOTE BETTER SERVICE DELIVERY.**

**(under Article LXXXVII
of the Amendments
to the Constitution)**

May 31, 2017

HOUSE No.

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CHARLES D. BAKER
GOVERNOR

OFFICE OF THE GOVERNOR
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KARYN POLITO
LIEUTENANT GOVERNOR

June 1, 2017

To the Honorable Senate and House of Representatives,

As provided in Article LXXXVII of the Amendments to the Constitution, I submit for your consideration “An Act to Reorganize the Information Technology Function of the Commonwealth to Improve Data Security, Safeguard Privacy, and Promote Better Service Delivery.”

This Article 87 plan will transform MassIT into the Executive Office of Technology Services and Security and establish a legal framework to allow EOTSS centralize IT infrastructure service across the executive department and to update policies and procedures governing state cybersecurity, digital platforms, and data management.

As with any large enterprise, the Commonwealth must continually protect against threats to its digital infrastructure and keep pace with technology innovation. Empowering EOTSS to strengthen the executive department’s digital operations through standardization and centralization will help reduce overall risks, allow efficiencies in procurement and operations, and incorporate to new technologies appropriately, enabling state government to better serve our constituents.

Accordingly, I urge your favorable consideration of this plan.

Respectfully submitted,

Charles D. Baker,
Governor

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act to reorganize the information technology function of the Commonwealth to improve data security, safeguard privacy, and promote better service delivery.

Whereas, The use of modern, cost-effective technologies is essential to ensure optimal delivery of public services to the citizens of the commonwealth within the framework of a fiscally responsible budget, in a manner that is reliably and demonstrably secure and provides greater public accountability;

Whereas, Effectively ensuring data security and protecting the privacy of citizens' data requires a commonwealth-wide strategy, first-class talent, best-in-class technologies, and a modern, dynamic organizational structure;

Whereas, Deep subject matter expertise resides in commonwealth agencies and secretariats, making it crucial that the organizational structure envisioned by this legislation respect and preserve the proper role of agencies and secretariats in managing the aspects of the application layer that relate to the day-to-day operations of the commonwealth's core programs and services;

Be it approved by the Senate and the House of Representatives in General Court assembled, pursuant to Article LXXXVII of the Amendments to the Constitution, and by the authority of the same, as follows:

1 SECTION 1. Section 2 of chapter 6A of the General Laws, as appearing in the 2016
2 Official Edition, is hereby amended by striking out, in line 5, the words “transportation and
3 public works” and inserting in place thereof the following words:- technology services and
4 security, and transportation and public works.

5 SECTION 2. Said chapter 6A, as so appearing, is hereby amended by striking out section
6 7A and inserting in place thereof the following section:-

7 Section 7A. The executive office of technology services and security is the
8 commonwealth’s lead information technology organization. Each executive office may perform
9 activities concerning information technology for the executive office and its constituent agencies
10 only to the extent such activities are approved by the executive office of technology services and
11 security. Notwithstanding any general or special law, rule, regulation, executive order, policy or
12 procedure to the contrary, the executive office of technology services and security, upon written
13 notice to the affected executive office or agency, may direct the transfer of any information
14 technology resources, including, without limitation, hardware, software, services, personnel,
15 contracts and infrastructure related to information technology, from any executive office or any
16 agency within any executive office to the executive office of technology services and security.

17 SECTION 3. Subsection (c) of section 14A of said chapter 6A, as so appearing, is
18 hereby amended by striking out subparagraph (8) and inserting in place thereof the following
19 subparagraph:-

20 (8) subject to the oversight of the executive office of technology services and security,
21 assemble all resources necessary to implement a longitudinal data system to coordinate the
22 collection and analysis of educational data from prekindergarten programs through higher

23 education and oversee the departments' compliance with all standards and policies of the
24 executive office of technology services and security.

25 SECTION 4. Section 5 of chapter 6C of the General Laws, as so appearing, is hereby
26 amended by striking out, in lines 12 and 13, the words "information technology, legal,
27 procurement, and asset management" and inserting in place thereof the following words:- legal,
28 procurement, asset management, and, subject to the approval of the executive office of
29 technology services and security, information technology.

30 SECTION 5. Said section 5 of said chapter 6C, as so appearing, is hereby further
31 amended by striking out subsection (c).

32 SECTION 6. Section 12 of said chapter 6C, as so appearing, is hereby amended by
33 inserting, in line 1, after the word "shall" the following words:- , subject to the approval and
34 oversight of the executive office of technology services and security,.

35 SECTION 7. Section 4A of chapter 7 of the General Laws, as so appearing, is hereby
36 amended by striking out, in lines 4 to 6, inclusive, the words "the Massachusetts office of
37 information technology, which shall be headed by a chief information officer as provided in
38 chapter 7D,".

39 SECTION 8. Section 1 of chapter 7D of the General Laws, as so appearing, is hereby
40 amended by striking out, in line 5, the words "Massachusetts office of information technology"
41 and inserting in place thereof the following word:- commonwealth.

42 SECTION 9. Said section 1 of said chapter 7D, as so appearing, is hereby further
43 amended by striking out the definition of the word "Director".

44 SECTION 10. Said section 1 of said chapter 7D, is hereby further amended by striking
45 out, in line 19, the definition of “Office” and inserting in place thereof the following definition:-
46 “Office”, the executive office of technology services and security.

47 SECTION 11. Said section 1 of said chapter 7D, is hereby further amended by inserting
48 the following definition: “Secretariat chief information officer” or “SCIO”, the person
49 responsible for technology services, security and information technology in each executive office
50 other than the executive office of technology services and security, who reports to both the
51 secretary of technology services and security and the secretary of the executive office for whose
52 technology services the SCIO is responsible.

53 SECTION 12. Said chapter 7D is hereby further amended by striking out section 2 and
54 inserting in place thereof the following section:-

55 Section 2. There shall be an executive office of technology services and security that will
56 be an executive office within the meaning of section 2 of chapter 6A. The office shall be
57 administered by a secretary who shall be appointed by the governor and who shall supervise all
58 activities concerning information technology of state agencies. The Governor may designate the
59 secretary of the executive office of technology services and security as the chief information
60 officer for the commonwealth. If the Governor does not designate the secretary as the chief
61 information officer, the secretary shall, notwithstanding section 45 of chapter 30 and chapter 31,
62 subject to the approval of the governor, appoint a chief information officer who shall report to
63 the secretary and serve at the pleasure of the secretary. Notwithstanding any general or special
64 law, rule, regulation, executive order, policy or procedure to the contrary, all executive
65 department agencies shall, and other state agencies may, adhere to the policies, procedures and

66 objectives established by the executive office of technology services and security with respect to
67 activities concerning information technology.

68 SECTION 13. Said chapter 7D is hereby further amended by striking out section 3 and
69 inserting in place thereof the following section:-

70 Section 3. (a) The office shall have all powers necessary or convenient to carry out its
71 duties including, but not limited to, the power to:

72 (i) establish bureaus and other functional units within the office and hire employees;

73 (ii) as needed, require the consolidation of IT functions into a centralized service delivery
74 model as determined by the executive office of technology services and security;

75 (iii) oversee, coordinate with and provide assistance, advice, and expertise in connection
76 with business relationships between state agencies and private sector providers of information
77 technology;

78 (iv) eliminate, where appropriate, duplication of duties and functions among IT personnel
79 within state agencies;

80 (v) monitor trends and advances in information technology resources;

81 (vi) oversee and supervise the maintenance of information technology and the initiation
82 of information technology updates or projects for state agencies;

83 (vii) initiate procurements of information technology resources for state agencies and
84 enter into agreements or contracts in connection with such procurement on behalf of a state
85 agency or other political subdivision of the commonwealth;

- 86 (viii) set policy regarding all procurements of information technology resources;
- 87 (ix) review and approve the information technology budget requests of a state agency and
88 IT spending priorities of executive offices and agencies within any executive office;
- 89 (x) implement standards for product or service specifications, characteristics or
90 performance requirements of IT resources that increase efficiency and improve security and
91 identify opportunities for cost savings within state agencies based on such standardization;
92 specifically, the office may implement the following: (a) the centralized acquisition and
93 standardization of specifications for desktop computing equipment; (b) consolidation and
94 centralized management of all network resources for the executive department; (c) the
95 consolidation of information technology infrastructure; and (d) following consultation with the
96 secretary of the executive office and the head of the agency or department within the executive
97 offices, effectuate the centralization of other IT services and functions when centralization or
98 standardization will promote greater security, improve service, or reduce costs;
- 99 (xi) establish special requirements for vendors of IT services to state agencies; and
- 100 (xii) adapt standards as necessary for individual agencies to comply with federal law.

101 (b) The office may issue administrative directives pursuant to the authority set forth in
102 this chapter, which shall be binding on all executive department agencies and offices.

103 SECTION 14. Said chapter 7D is hereby further amended by striking out section 4 and
104 inserting in place thereof the following section:-

105 Section 4. The secretary shall, notwithstanding section 45 of chapter 30 and chapter 31,
106 appoint a qualified individual to serve as an enterprise chief information security officer (CISO)

107 for the commonwealth who shall serve at the pleasure of the secretary. The CISO shall advise
108 the secretary and the CIO on preventing data loss and fraud and protecting privacy. The CISO
109 shall ensure all existing IT policies applicable to executive offices and agencies reflect best
110 practices related to security and privacy.

111 SECTION 15. Said chapter 7D is hereby amended by inserting after section 4 the
112 following three sections:-

113 Section 4A. The secretary may, notwithstanding section 45 of chapter 30 and chapter 31,
114 appoint a qualified individual to serve as the chief data officer for the commonwealth, who shall
115 serve at the pleasure of the secretary. Notwithstanding any general or special law, rule,
116 regulation, executive order, policy or procedure to the contrary, the chief data officer shall
117 develop administrative directives to govern the use, storage, collection, and dissemination of data
118 assets for the executive department, and shall develop procedures for facilitating, where
119 appropriate, resolution of disputes between or among agencies, departments, and executive
120 offices regarding the use and sharing of data. The chief data officer shall have the role of
121 promoting and facilitating, subject to all applicable federal and state laws, rules, and regulation,
122 the sharing and use of data assets of the commonwealth in support of data-driven policymaking,
123 research, analysis, study, or economic development.

124 Section 4B. The secretary may, notwithstanding section 45 of chapter 30 and chapter 31,
125 appoint a qualified individual to serve as commonwealth chief privacy officer, who shall serve at
126 the pleasure of the secretary. The chief privacy officer shall promote privacy and security in the
127 use and dissemination of sensitive data, and shall serve as an ombudsperson to effectuate
128 resolution of concerns regarding privacy and security in the use of data.

129 Section 4C. The secretary may, notwithstanding section 45 of chapter 30 and chapter 31,
130 appoint a qualified individual to serve as chief digital officer, who shall serve at the pleasure of
131 the secretary. The chief digital officer is directed to lead an effort to improve the public facing
132 web presence and related services for executive department offices and agencies.

133 SECTION 16. Section 5 of said chapter 7D, as so appearing, is hereby amended, by
134 striking out, in line 8, the words “The office shall also” and inserting in place thereof the
135 following words:- Subject to sufficient appropriation, the office shall.

136 SECTION 17. Said section 5 of said chapter 7D, as so appearing, is hereby further
137 amended by striking out, in lines 9 and 10, the words “The CIO shall” and inserting in place
138 thereof the following words:- The secretary may, as needed,.

139 SECTION 18. Said chapter 7D is hereby amended by striking out section 6 and inserting
140 in place thereof the following section:-

141 Section 6. (a) The secretary of each executive office established pursuant to section 2 of
142 chapter 6A shall, in consultation with and approval by the secretary, appoint an SCIO of each
143 executive office who shall report to the secretary of that executive office and to the secretary of
144 technology services and security. Each SCIO shall manage all activities concerning information
145 technology within the executive office and supervise all information technology personnel.

146 (b) Each SCIO shall manage the information technology personnel needs of their
147 respective executive offices. Each SCIO shall develop an IT strategic plan for the executive
148 office that shall be approved by the CIO that sets forth: (i) operational and project priorities; (ii)
149 budgets; (iii) planned procurements; (iv) efficiency goals; (v) security initiatives; and (vi)
150 staffing plans.

151 (c) The secretary shall supervise the activities of all SCIOs and may conduct annual
152 compliance reviews across the executive offices to ensure full compliance with statutes,
153 regulations, policies, standards and contractual obligations related to information technology and
154 security.

155 SECTION 19. Section 7 of said chapter 7D, as so appearing, is hereby amended by
156 striking out, in lines 1 and 2, the words “, in consultation with the operational services division,”.

157 SECTION 20. Said section 7 of said chapter 7D, as so appearing, is hereby further
158 amended by inserting at the end of subsection (a), the following two sentences:- The operational
159 services division and the comptroller shall adopt procedures and policies to ensure cooperation
160 with the executive office of technology services and security’s IT procurement review policies
161 and shall assist in enforcing them.

162 SECTION 21. Said section 7 of said chapter 7D, as so appearing, is hereby further
163 amended by inserting, after the first sentence of subsection (b) the following sentence:- The
164 executive office of technology services and security may require that it be named as a party to
165 any IT contract that any agency or office within the executive department enters into.

166 SECTION 22. Said section 7 of said chapter 7D, as so appearing, is hereby further
167 amended by striking out subsection (c) and inserting in place thereof the following subsection:-

168 (c) For IT projects that present a complex set of challenges as defined in an
169 administrative directive promulgated by the executive office of technology services and security,
170 the executive office of technology services and security may establish a project oversight
171 function that may include the formation of a committee to develop criteria and benchmarks to
172 evaluate the project and advise the executive office of technology services and security as to

173 whether the project is accomplishing its objectives. A committee established pursuant to this
174 section may include members from the private sector; provided, however, that members shall
175 have no financial interest in the project overseen by the committee.

176 SECTION 23. Said chapter 7D is hereby further amended by inserting after section 9 and
177 inserting in place thereof the following section:-

178 Section 10. Subject to and consistent with all applicable federal and state laws, rules, and
179 regulations, the executive office of technology services and security is authorized to collect,
180 maintain, store, share, utilize, analyze and disseminate data.

181 SECTION 24. Section 27B of chapter 29 is hereby repealed.

182 SECTION 25. Notwithstanding any general or special law or regulation to the contrary,
183 for purposes of chapter 66 of the General Laws, the executive office of technology services and
184 security shall not be deemed to have possession, custody, or control of any record or data
185 belonging to any other agency, office, instrumentality, or other entity. For purposes of chapter
186 66 of the General Laws, such agency, office, instrumentality, or other entity shall be deemed to
187 retain possession, custody, and control of such record and data.

188 SECTION 26. (a) Notwithstanding any general or special law to the contrary, this
189 section shall facilitate the orderly transfer of the employees, proceedings, rules and regulations,
190 property and legal obligations and functions of state government from the Massachusetts office
191 of information technology, as transferor agency, to the executive office of technology services
192 and security, as transferee agency.

193 (b) Subject to appropriation, any employees transferred to the transferee agency,
194 including those who immediately before the effective date of this act held permanent
195 appointment in positions classified under chapter 31 of the General Laws or have tenure in their
196 positions as provided by section 9A of chapter 30 of the General Laws or did not hold such
197 tenure, or held confidential positions, are hereby transferred to the transferee agency, without
198 interruption of service within the meaning of section 9A of chapter 30, without impairment of
199 seniority, retirement or other rights of the employee, and without reduction in compensation or
200 salary grade, notwithstanding any change in title or duties resulting from such reorganization,
201 and without loss of accrued rights to holidays, sick leave, vacation and benefits, and without
202 change in union representation or certified collective bargaining unit as certified by the state
203 labor relations commission or in local union representation or affiliation. Any collective
204 bargaining agreement in effect immediately before the transfer date shall continue in effect and
205 the terms and conditions of employment therein shall continue as if the employees had not been
206 so transferred. The reorganization shall not impair the civil service status of any such reassigned
207 employee who immediately before the effective date of this act either held a permanent
208 appointment in a position classified under chapter 31 of the General Laws or had tenure in a
209 position by reason of section 9A of chapter 30 of the General Laws.

210 (c) Notwithstanding any general or special law to the contrary, all such employees shall
211 continue to retain their right to bargain collectively pursuant to chapter 150E of the General
212 Laws and shall be considered employees for the purposes of chapter 150E. Nothing in this
213 section shall confer upon any employee any right not held immediately before the date of the
214 transfer, or to prohibit any reduction of salary grade, transfer, reassignment, suspension,
215 discharge or layoff not prohibited before such date; nor shall anything in this section prohibit the

216 abolition of any management position within the executive office of technology services and
217 security.

218 (d) All petitions, requests, investigations, filings and other proceedings appropriately and
219 duly brought before the transferor agency, or pending before it before the effective date of this
220 act, shall continue unabated and remain in force, but shall be assumed and completed by the
221 transferee agency.

222 (e) All orders, advisories, findings, rules and regulations duly made and all approvals
223 duly granted by the transferor agency, which are in force immediately before the effective date of
224 this act, shall continue in force and shall thereafter be enforced, until superseded, revised,
225 rescinded or canceled, in accordance with law, by the transferee agency.

226 (f) All books, papers, records, documents, equipment, buildings, facilities, cash and other
227 property, both personal and real, including all such property held in trust, which immediately
228 before the effective date of this act are in the custody of the transferor agency, shall be
229 transferred to the transferee agency.

230 (g) All duly existing contracts, leases and obligations of the transferor agency, shall
231 continue in effect but shall be assumed by the transferee agency. No such existing right or
232 remedy of any character shall be lost, impaired or affected by this act.

233 SECTION 27. This act shall take effect as soon as it has the force of law under
234 subsection (c) of section 2 of Article LXXXVII of the Amendments to the Constitution.