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SENATE BILL NO. 236

Offered January 13, 2010

Prefiled January 13, 2010

A BILL to amend and reenact §§ 2.2-106, 2.2-225, 2.2-603, 2.2-1115.1, 2.2-1507, 2.2-1509.3, 2.2-2005, 2.2-2006, 2.2-2007, 2.2-2009, 2.2-2012, 2.2-2013, 2.2-2023, 2.2-2033, 2.2-2034, 2.2-2423, 2.2-4343, 23-38.88, 23-38.111, 23-77.4, 56-484.12, 56-484.13, 56-484.14, 56-484.15, 56-484.17, and 58.1-1840.1 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 20.1 of Title 2.2 an article numbered 8, consisting of sections numbered 2.2-2035 and 2.2-2036, by adding in Title 2.2 a chapter numbered 20.2, containing articles numbered 1 through 4, consisting of sections numbered 2.2-2037 through 2.2-2052, and by adding in Chapter 26 of Title 2.2 articles numbered 35 and 36, consisting of sections numbered 2.2-2699.5 through 2.2-2699.8; and to repeal §§ 2.2-2008, 2.2-2010, 2.2-2011, 2.2-2014, 2.2-2015, Article 2 (§§ 2.2-2016 through 2.2-2021), Article 4 (§§ 2.2-2025 through 2.2-2030), and Article 5 (§ 2.2-2031) of Chapter 20.1 of Title 2.2, and Article 20 (§§ 2.2-2457 through 2.2-2458.1) of Chapter 24 of Title 2.2 of the Code of Virginia, relating to Information Technology governance in the Commonwealth; the Chief Information Officer; the Information Technology Investment Board; the Department of Technology Management, established; the Information Technology Investment Council, established; and the Council on Technology Services, established.

Patrons—Howell, Stosch and McDougle

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-106, 2.2-225, 2.2-603, 2.2-1115.1, 2.2-1507, 2.2-1509.3, 2.2-2005, 2.2-2006, 2.2-2007, 2.2-2009, 2.2-2012, 2.2-2013, 2.2-2023, 2.2-2033, 2.2-2034, 2.2-2423, 2.2-4343, 23-38.88, 23-38.111, 23-77.4, 56-484.12, 56-484.13, 56-484.14, 56-484.15, 56-484.17, and 58.1-1840.1 of the Code of Virginia and that the Code of Virginia is amended by adding in Chapter 20.1 of Title 2.2 an article numbered 8, consisting of sections numbered 2.2-2035 and 2.2-2036, by adding in Title 2.2 a chapter numbered 20.2, containing articles numbered 1 through 4, consisting of sections numbered 2.2-2037 through 2.2-2052, and by adding in Chapter 26 of Title 2.2 articles numbered 35 and 36, consisting of sections numbered 2.2-2699.5 through 2.2-2699.8, as follows:

§ 2.2-106. Appointment of agency heads; severance.

A. Notwithstanding any provision of law to the contrary, the Governor shall appoint the administrative head of each agency of the executive branch of state government except the:

1. Executive Director of the Virginia Port Authority;
2. Director of the State Council of Higher Education for Virginia;
3. Executive Director of the Department of Game and Inland Fisheries;
4. Executive Director of the Jamestown-Yorktown Foundation;
5. Executive Director of the Motor Vehicle Dealer Board;
6. Librarian of Virginia;
7. Administrator of the Commonwealth's Attorneys' Services Council;
8. Executive Director of the Virginia Housing Development Authority; and
9. Executive Director of the Board of Accountancy; and
10. Chief Information Officer of the Commonwealth.

However, the manner of selection of those heads of agencies chosen as set forth in the Constitution of Virginia shall continue without change. Each administrative head and Secretary appointed by the Governor pursuant to this section shall (i) be subject to confirmation by the General Assembly, (ii) have the professional qualifications prescribed by law, and (iii) serve at the pleasure of the Governor.

B. As part of the confirmation process for each administrative head and Secretary, the Secretary of the Commonwealth shall provide copies of the resumes and statements of economic interests filed pursuant to § 2.2-3117 to the chairs of the House of Delegates and Senate Committees on Privileges and Elections. For appointments made before January 1, copies shall be provided to the chairs within 30 days of the appointment or by January 7 whichever time is earlier; and for appointments made after January 1 through the regular session of that year, copies shall be provided to the chairs within seven days of the appointment. Each appointee shall be available for interviews by the Committees on Privileges and Elections or other applicable standing committee. For the purposes of this section and § 2.2-107, there shall be a joint subcommittee of the House of Delegates and Senate Committees on Privileges and Elections consisting of five members of the House Committee and three members of the

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59 Senate Committee appointed by the respective chairs of the committees to review the resumes and  
60 statements of economic interests of gubernatorial appointees. The members of the House of Delegates  
61 shall be appointed in accordance with the principles of proportional representation contained in the Rules  
62 of the House of Delegates. No appointment confirmed by the General Assembly shall be subject to  
63 challenge by reason of a failure to comply with the provisions of this ~~paragraph~~ subsection pertaining to  
64 the confirmation process.

65 C. For the purpose of this section, "agency" includes all administrative units established by law or by  
66 executive order that are not (i) arms of the legislative or judicial branches of government; (ii)  
67 institutions of higher education as classified under §§ 23-253.7, 22.1-346, 23-14, and 23-252; and; (iii)  
68 regional planning districts, regional transportation authorities or districts, or regional sanitation districts;  
69 and (iv) assigned by law to other departments or agencies, not including assignments to secretaries under  
70 Article 7 (§ 2.2-215 et seq.) of Chapter 2 of this title.

71 D. Severance benefits provided to any departing agency head, whether or not appointed by the  
72 Governor, shall be publicly announced by the appointing authority prior to such departure.

73 § 2.2-225. Position established; agencies for which responsible.

74 A. The position of Secretary of Technology (the Secretary) is created. The Secretary shall be  
75 responsible to the Governor for the following agencies and boards: ~~Information Technology Investment~~  
76 ~~Board~~, Innovation and Entrepreneurship Investment Authority, Virginia Information Technologies  
77 Agency, *Department of Technology Management*, Virginia Geographic Information Network Advisory  
78 Board, and the Wireless E-911 Services Board. The Governor, by executive order, may assign any other  
79 state executive agency to the Secretary, or reassign any agency listed in this section to another  
80 Secretary.

81 B. Unless the Governor expressly reserves such power to himself, the Secretary may, with regard to  
82 strategy development, planning, and budgeting for technology programs in the Commonwealth:

83 1. *Develop a comprehensive, statewide, two-year strategic plan for information technology that*  
84 *includes, but is not limited to, (i) trends in needs for application and infrastructure services by state*  
85 *agencies and recommendations on appropriate services to meet those needs, including telework; (ii)*  
86 *progress in the use of information technology standards by state agencies, local government, and state*  
87 *institutions of higher education in a manner that promotes the security of sensitive information and the*  
88 *efficient exchange of electronic information between the public and private sectors in the*  
89 *Commonwealth; (iii) identification of unmet needs for access to technology that may impede the secure*  
90 *and free flow of information, including but not limited to broadband access; and (iv) opportunities for*  
91 *collaboration, and steps to address any barriers thereto, between state agencies, local governments, and*  
92 *state institutions of higher education that may promote more efficient and effective provision of service.*

93 *The strategic plan shall also identify how information technology can be used to increase economic*  
94 *efficiency, citizen convenience, and public access to state government. The strategic plan shall be*  
95 *updated annually and submitted to the Governor.*

96 2. *Upon the advice of the Director of the Department of Technology Management pursuant to*  
97 *§ 2.2-2042, and in consultation with the Information Technology Investment Council pursuant to*  
98 *§ 2.2-2699.6, terminate information technology projects.*

99 3. *Coordinate the efforts of, and resolve any conflicts that might arise between, the Virginia*  
100 *Information Technologies Agency and the Department of Technology Management.*

101 C. *Unless the Governor expressly reserves such power to himself, the Secretary may, with regard to*  
102 *strategy development, technology-related research, and economic development:*

103 1. Monitor trends and advances in fundamental technologies of interest and importance to the  
104 economy of the Commonwealth and direct and approve a stakeholder-driven technology strategy  
105 development process that results in a comprehensive and coordinated view of research and development  
106 goals for industry, academia and government in the Commonwealth. This strategy shall be updated  
107 biennially and submitted to the Governor, the Speaker of the House of Delegates and the President Pro  
108 Tempore of the Senate.

109 2. Work closely with the appropriate federal research and development agencies and program  
110 managers to maximize the participation of Commonwealth industries and universities in these programs  
111 consistent with agreed strategy goals.

112 3. Direct the development of plans and programs for strengthening the technology resources of the  
113 Commonwealth's high technology industry sectors and for assisting in the strengthening and  
114 development of the Commonwealth's Regional Technology Councils.

115 4. Direct the development of plans and programs for improving access to capital for  
116 technology-based entrepreneurs.

117 5. Assist the Joint Commission on Technology and Science created pursuant to § 30-85 in its efforts  
118 to stimulate, encourage, and promote the development of technology in the Commonwealth.

119 6. Continuously monitor and analyze the technology investments and strategic initiatives of other  
120 states to ensure the Commonwealth remains competitive.

121 7. Strengthen interstate and international partnerships and relationships in the public and private  
122 sectors to bolster the Commonwealth's reputation as a global technology center.

123 8. Develop and implement strategies to accelerate and expand the commercialization of intellectual  
124 property created within the Commonwealth.

125 9. Ensure the Commonwealth remains competitive in cultivating and expanding growth industries,  
126 including life sciences, advanced materials and nanotechnology, biotechnology, and aerospace.

127 10. Monitor the trends in the availability and deployment of and access to broadband  
128 communications services, which include, but are not limited to, competitively priced, high-speed data  
129 services and Internet access services of general application, throughout the Commonwealth and  
130 advancements in communications technology for deployment potential. The Secretary shall report  
131 annually by December 1 to the Governor and General Assembly on those trends.

132 § 2.2-603. Authority of agency directors.

133 A. Notwithstanding any provision of law to the contrary, the agency director of each agency in the  
134 executive branch of state government shall have the power and duty to (i) supervise and manage the  
135 department or agency and (ii) prepare, approve, and submit to the Governor all requests for  
136 appropriations and to be responsible for all expenditures pursuant to appropriations.

137 B. The director of each agency in the executive branch of state government, except those that by law  
138 are appointed by their respective boards, shall not proscribe any agency employee from discussing the  
139 functions and policies of the agency, without prior approval from his supervisor or superior, with any  
140 person unless the information to be discussed is protected from disclosure by the Virginia Freedom of  
141 Information Act (§ 2.2-3700 et seq.) or any other provision of state or federal law.

142 C. Subsection A shall not be construed to restrict any other specific or general powers and duties of  
143 executive branch boards granted by law.

144 D. This section shall not apply to those agency directors that are appointed by their respective boards  
145 or by the Board of Education. Directors appointed in this manner shall have the powers and duties  
146 assigned by law or by the board.

147 E. In addition to the requirements of subsection C of § 2.2-619, the director of each agency in any  
148 branch of state government shall, at the end of each fiscal year, report to (i) the Secretary of Finance  
149 and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance a  
150 listing and general description of any federal contract, grant, or money in excess of \$1,000,000 \$1  
151 million for which the agency was eligible, whether or not the agency applied for, accepted, and received  
152 such contract, grant, or money, and, if not, the reasons ~~therefore~~ *therefor* and the dollar amount and  
153 corresponding percentage of the agency's total annual budget that was supplied by funds from the  
154 federal government and (ii) the Chairmen of the House Committees on Appropriations and Finance, and  
155 the Senate Committee on Finance any amounts owed to the agency from any source that are more than  
156 six months delinquent, the length of such delinquencies, and the total of all such delinquent amounts in  
157 each six-month interval. Clause (i) shall not be required of public institutions of higher education.

158 F. The director of every department in the executive branch of state government shall report to the  
159 Chief Information Officer as described in § 2.2-2005; *and the Director of the Department of Technology*  
160 *Management (DTM) as described in § 2.2-2037* all known incidents that threaten the security of the  
161 Commonwealth's databases and data communications resulting in exposure of data protected by federal  
162 or state laws, or other incidents compromising the security of the Commonwealth's information  
163 technology systems with the potential to cause major disruption to normal agency activities. Such reports  
164 shall be made to the Chief Information Officer *and Director of DTM* within 24 hours from when the  
165 department discovered or should have discovered their occurrence.

166 § 2.2-1115.1. Standard vendor accounting information.

167 ~~A.~~ The Division, the Virginia Information Technologies Agency, and the State Comptroller shall  
168 develop and maintain data standards for use by all agencies and institutions for payments and purchases  
169 of goods and services pursuant to §§ 2.2-1115 and 2.2-2012. Such standards shall include at a minimum  
170 the vendor number, name, address, and tax identification number; commodity code, order number,  
171 invoice number, and receipt information; and other information necessary to appropriately and  
172 consistently identify all suppliers of goods, commodities, and other services to the Commonwealth. The  
173 Division, the Virginia Information Technologies Agency, and the State Comptroller shall annually  
174 review and update these standards to provide the Commonwealth information to monitor all procurement  
175 of goods and services and to implement adequate controls to pay only authorized providers of goods and  
176 services to the Commonwealth.

177 ~~B.~~ ~~The Division and the Virginia Information Technologies Agency shall submit these standards to~~  
178 ~~the Information Technology Investment Board in accordance with § 2.2-2458 for approval as statewide~~  
179 ~~technical and data standards for information technology.~~

180 § 2.2-1507. Participation of certain agencies in budget development process of other agencies.

181 Agencies having responsibilities granted under §§ 2.2-703; ~~2.2-2011~~, and 2.2-2696 shall participate in

182 the budget development process of relevant agencies and receive from these agencies, prior to  
 183 submission to the Department their proposed programs and budgets. Recommendations to the appropriate  
 184 agencies and the secretaries of the Governor on related matters shall be made prior to budget  
 185 submissions.

186 § 2.2-1509.3. Budget bill to include appropriations for major information technology projects.

187 A. For purposes of this section:

188 *"Director" means the Director of the Department of Technology Management.*

189 *"Major information technology project" means the same as that term is defined in § 2.2-2006.*

190 *"Major information technology project funding" means an estimate of each funding source for a  
 191 major information technology project for the duration of the project.*

192 B. In "The Budget Bill" submitted pursuant to § 2.2-1509, the Governor shall provide for the funding  
 193 of major information technology projects, as specified herein. Such funding recommendations shall be  
 194 for major information technology projects that have or are pending project development *or procurement*  
 195 approval as defined by ~~§ 2.2-2019~~ *or procurement approval as defined by § 2.2-2020* § 2.2-2045.

196 The Governor shall include in "The Budget Bill" submitted pursuant to § 2.2-1509 a biennial  
 197 appropriation for major information technology projects and the following information for each such  
 198 project:

199 1. A brief statement explaining the project, the ~~Information Technology Investment Board's~~ *Director's*  
 200 ranking and recommendations on the project as required by § 2.2-2458, an explanation, if necessary, if  
 201 the Governor informed the ~~Chief Information Officer~~ *Director* that an emergency existed as set forth in  
 202 ~~§ 2.2-2008~~ § 2.2-2043, and the anticipated duration of the project;

203 2. A brief explanation of the inclusion of any project in the budget bill that has not undergone  
 204 review and approval by the ~~Information Technology Investment Board~~ as required by ~~§ 2.2-2458~~  
 205 *Director*;

206 3. Total estimated project costs, as defined by the Commonwealth's Project Management Standards,  
 207 including the amount of the agency's or institution's operating appropriation, which will support the  
 208 project, and long-term contract cost beyond the biennium;

209 4. Costs incurred to date, as defined by the Commonwealth's Project Management Standards, which  
 210 includes both the project planning cost and internal operating costs to support the project;

211 5. Recommendations or comments of the Public-Private Partnership Advisory Commission, if the  
 212 project is part of a proposal under the Public-Private Education Facilities and Infrastructure Act of 2002  
 213 (§ 56-575.1 et seq.); and

214 6. The ~~Information Technology Investment Board's~~ *Director's* assessment of the project and the status  
 215 as of the date of the budget bill submission to the General Assembly.

216 C. The ~~Information Technology Investment Board~~ *Secretary of Technology* shall immediately notify  
 217 each member of the Senate Finance Committee and the House Appropriations Committee of any ~~Board~~  
 218 decision to terminate in accordance with § 2.2-2458 any major information technology project in the  
 219 budget bill. Such communication shall include the ~~Information Technology Investment Board's~~ reason  
 220 for such termination.

221 § 2.2-2005. Creation of Agency; appointment of Chief Information Officer.

222 A. There is hereby created the Virginia Information Technologies Agency (VITA), which shall serve  
 223 as the agency responsible for administration and enforcement of the provisions of this ~~Chapter and the~~  
 224 ~~rules and policies of the Board chapter.~~ *VITA is created in order to manage the consolidation and*  
 225 *provision of the Commonwealth's information technology infrastructure services and to oversee the*  
 226 *Commonwealth's efforts to modernize the planning, development, implementation, improvement, and*  
 227 *retirement of Commonwealth applications, including the coordination and development of*  
 228 *enterprise-wide or multi-agency applications.*

229 B. The ~~Board~~ Governor shall appoint, *subject to confirmation by the General Assembly*, a Chief  
 230 Information Officer (the CIO) as ~~the chief administrative officer of the Board~~ to oversee the operation of  
 231 VITA. The CIO shall be ~~employed under special contract for a term not to exceed five years and shall,~~  
 232 under the direction and control of the ~~Board,~~ *Governor and* exercise the powers and perform the duties  
 233 conferred or imposed upon him by law and perform such other duties as may be required by the ~~Board~~  
 234 *Governor.*

235 C. *The head of each state agency shall designate an existing employee to be the agency's information*  
 236 *technology resource who shall be responsible for compliance with the procedures, policies, and*  
 237 *guidelines developed pursuant to this chapter.*

238 § 2.2-2006. Definitions.

239 *As used in this chapter For purposes of this chapter and Chapter 20.2 (§ 2.2-2037 et seq.):*

240 *"Board" means the Information Technology Investment Board created in § 2.2-2457.*

241 *"Application" means an automated solution or computer program designed to fulfill one or more*  
 242 *functions. It may be a single program designed for a single business function, or it may be an enterprise*  
 243 *system that supports multiple business functions.*

244 "Architecture" means an organizing model used to manage and align business processes and  
 245 information technology.

246 "CIO" means the Chief Information Officer.

247 "Communications services" includes telecommunications services, automated data processing services,  
 248 and management information systems that serve the needs of state agencies and institutions.

249 "Confidential data" means information made confidential by federal or state law that is maintained by  
 250 a state agency in an electronic format.

251 "Department" means the Department of Technology Management.

252 "Enterprise" means a strategic approach to information technology that includes all executive branch  
 253 agencies collectively, and may also include institutes of higher education and the judicial and legislative  
 254 branches of state government.

255 "Information technology" means telecommunications, automated data processing, databases, the  
 256 Internet, management information systems, and related information, equipment, goods, and services. It is  
 257 in the interest of the Commonwealth that its public institutions of higher education in Virginia be in the  
 258 forefront of developments in technology. Therefore, the provisions of this chapter shall not be construed  
 259 to hamper the pursuit of the missions of the institutions in instruction and research.

260 "Infrastructure" means the basic physical and organizational structure necessary to implement  
 261 information technology assets and service, including telecommunications.

262 "Major information technology project" means any state agency information technology project that  
 263 (i) is mission-critical, (ii) has statewide application is for the enterprise, or (iii) has a total estimated cost  
 264 of more than \$1 million or more.

265 "Noncommercial telecommunications entity" means any public broadcasting station as defined in  
 266 § 2.2-2427.

267 "Public telecommunications entity" means any public broadcasting station as defined in § 2.2-2427.

268 "Public telecommunications facilities" means all apparatus, equipment and material necessary for or  
 269 associated in any way with public broadcasting stations or public broadcasting services as those terms  
 270 are defined in § 2.2-2427, including the buildings and structures necessary to house such apparatus,  
 271 equipment and material, and the necessary land for the purpose of providing public broadcasting  
 272 services, but not telecommunications services.

273 "Public telecommunications services" means public broadcasting services as defined in § 2.2-2427.

274 "Secretary" means the Secretary of Technology.

275 "State agency" or "agency" means any agency, institution, board, bureau, commission, council, or  
 276 instrumentality of state government in the executive branch listed in the appropriation act. However, the  
 277 terms "state agency," "agency," "institution," "public body," and "public institution of higher education,"  
 278 shall not include the University of Virginia Medical Center.

279 "Technology asset" means hardware and communications equipment not classified as traditional  
 280 mainframe-based items, including personal computers, mobile computers, and other devices capable of  
 281 storing and manipulating electronic data.

282 "Telecommunications" means any origination, transmission, emission, or reception of signs, signals,  
 283 writings, images, and sounds or intelligence of any nature, by wire, radio, television, optical, or other  
 284 electromagnetic systems.

285 "Telecommunications facilities" means apparatus necessary or useful in the production, distribution,  
 286 or interconnection of electronic communications for state agencies or institutions including the buildings  
 287 and structures necessary to house such apparatus and the necessary land.

288 § 2.2-2007. Powers and Duties of the CIO.

289 A. In addition to such other duties as the Board Governor may assign, the CIO shall: 1. Monitor  
 290 trends and advances in information technology; develop a comprehensive, statewide, four-year strategic  
 291 plan for information technology to include specific projects that implement the plan; and plan for the  
 292 acquisition, management, and use of information technology by state agencies. The statewide plan shall  
 293 be updated annually and submitted to the Board for approval. Report annually to the Secretary of  
 294 Technology on the needs of VITA's customer agencies with regard to (i) consistent, reliable, and secure  
 295 information technology applications and infrastructure services; (ii) existing capabilities for building and  
 296 supporting those services; (iii) existing and anticipated opportunities for enterprise or multi-agency  
 297 application or infrastructure solutions; (iv) projected future needs for those services; and (v)  
 298 recommended approaches to ensure the future development, maintenance, and financing of information  
 299 technology services to ensure the provision of capabilities befitting the needs of state agencies and the  
 300 service level requirements of its citizens. 2. Direct the formulation and promulgation of policies,  
 301 guidelines, standards, and specifications for the purchase, development, and maintenance of information  
 302 technology for state agencies, including, but not limited to, those (i) required to support state and local  
 303 government exchange, acquisition, storage, use, sharing, and distribution of geographic or base map data  
 304 and related technologies; (ii) concerned with the development of electronic transactions including the use

305 of electronic signatures as provided in ~~§ 59.1-496~~, and (iii) necessary to support a unified approach to  
306 information technology across the totality of state government, thereby assuring that the citizens and  
307 businesses of the Commonwealth receive the greatest possible security, value, and convenience from  
308 investments made in technology. *Oversee the development of any enterprise information technology*  
309 *project unless otherwise provided for by the Secretary of Technology.*

310 3. Direct the development of policies and procedures, in consultation with the Department of  
311 Planning and Budget, that are integrated into the Commonwealth's strategic planning and performance  
312 budgeting processes, and that state agencies and public institutions of higher education shall follow in  
313 developing information technology plans and technology-related budget requests. Such policies and  
314 procedures shall require consideration of the contribution of current and proposed technology  
315 expenditures to the support of agency and institution priority functional activities, as well as current and  
316 future operating expenses, and shall be utilized by all state agencies and public institutions of higher  
317 education in preparing budget requests.

318 4. Review budget requests for information technology from state agencies and public institutions of  
319 higher education and recommend budget priorities to the Information Technology Investment Board.

320 Review of such budget requests shall include, but not be limited to, all data processing or other  
321 related projects for amounts exceeding \$100,000 in which the agency or institution has entered into or  
322 plans to enter into a contract, agreement or other financing agreement or such other arrangement that  
323 requires that the Commonwealth either pay for the contract by foregoing revenue collections, or allows  
324 or assigns to another party the collection on behalf of or for the Commonwealth any fees, charges, or  
325 other assessments or revenues to pay for the project. For each project, the agency or institution, with the  
326 exception of public institutions of higher education that meet the conditions prescribed in subsection B  
327 of ~~§ 23-38.88~~, shall provide the CIO (i) a summary of the terms, (ii) the anticipated duration, and (iii)  
328 the cost or charges to any user, whether a state agency or institution or other party not directly a party  
329 to the project arrangements. The description shall also include any terms or conditions that bind the  
330 Commonwealth or restrict the Commonwealth's operations and the methods of procurement employed to  
331 reach such terms.

332 5. Direct the development of policies and procedures for the effective management of information  
333 technology investments throughout their entire life cycles, including, but not limited to, project  
334 definition, procurement, development, implementation, operation, performance evaluation, and  
335 enhancement or retirement. Such policies and procedures shall include, at a minimum, the periodic  
336 review by the CIO of agency and public institution of higher education information technology projects  
337 estimated to cost \$1 million or more or deemed to be mission-critical or of statewide application by the  
338 CIO. The CIO shall provide technical guidance to the Department of General Services in the  
339 development of policies and procedures for the recycling and disposal of computers and other  
340 technology assets. Such policies and procedures shall include the expunging, in a manner as determined  
341 by the CIO, of all state confidential data and personal identifying information of citizens of the  
342 Commonwealth prior to such sale, disposal, or other transfer of computers or other technology assets.

343 63. Oversee and administer the Virginia Technology Infrastructure Fund created pursuant to  
344 ~~§ 2.2-2023~~.

345 7. Periodically evaluate the feasibility of outsourcing information technology resources and services,  
346 and outsource those resources and services that are feasible and beneficial to the Commonwealth.

347 8. Have the authority to enter into contracts, and with the approval of the Board for any contracts  
348 over \$1 million, with one or more other public bodies, or public agencies or institutions or localities of  
349 the several states, of the United States or its territories, or the District of Columbia for the provision of  
350 information technology services.

351 9. Report annually to the Governor and the Joint Commission on Technology and Science created  
352 pursuant to ~~§ 30-85~~ on the use and application of information technology by state agencies and public  
353 institutions of higher education to increase economic efficiency, citizen convenience, and public access  
354 to state government.

355 10. Direct the development of policies and procedures that require VITA to review information  
356 technology projects proposed by state agencies and institutions exceeding \$100,000, and recommend  
357 whether such projects be approved or disapproved. The CIO shall disapprove projects between \$100,000  
358 and \$1 million that do not conform to the statewide information plan or to the individual plans of state  
359 agencies or institutions of higher education.

360 B. Consistent with ~~§ 2.2-2012~~, the CIO may enter into public-private partnership contracts to finance  
361 or implement information technology programs and projects. The CIO may issue a request for  
362 information to seek out potential private partners interested in providing programs or projects pursuant to  
363 an agreement under this subsection. The compensation for such services shall be computed with  
364 reference to and paid from the increased revenue or cost savings attributable to the successful  
365 implementation of the program or project for the period specified in the contract. The CIO shall be  
366 responsible for reviewing and approving the programs and projects and the terms of contracts for same

367 under this subsection. The CIO shall determine annually the total amount of increased revenue or cost  
 368 savings attributable to the successful implementation of a program or project under this subsection and  
 369 such amount shall be deposited in the Virginia Technology Infrastructure Fund created in § 2.2-2023.  
 370 The CIO is authorized to use moneys deposited in the Fund to pay private partners pursuant to the terms  
 371 of contracts under this subsection. All moneys in excess of that required to be paid to private partners,  
 372 as determined by the CIO, shall be reported to the Comptroller and retained in the Fund. The CIO shall  
 373 prepare an annual report to the Governor and General Assembly on all contracts under this subsection,  
 374 describing each information technology program or project, its progress, revenue impact, and such other  
 375 information as may be relevant.

376 § 2.2-2009. Additional duties of the CIO relating to security of government information.

377 A. To provide for the security of state government electronic information from unauthorized uses,  
 378 intrusions or other security threats, the CIO shall direct the development of policies, procedures and  
 379 standards for assessing security risks, determining the appropriate security measures and performing  
 380 security audits of government electronic information. Such policies, procedures, and standards will apply  
 381 to the Commonwealth's executive, legislative, and judicial branches, and independent agencies and  
 382 institutions of higher education. The CIO shall work with representatives of the Chief Justice of the  
 383 Supreme Court and Joint Rules Committee of the General Assembly to identify their needs.

384 B. The CIO shall also develop policies, procedures, and standards that shall address the scope of  
 385 security audits and the frequency of such security audits. In developing and updating such policies,  
 386 procedures, and standards, the CIO shall designate a government entity to oversee, plan and coordinate  
 387 the conduct of periodic security audits of all executive branch and independent agencies and institutions  
 388 of higher education. The CIO will coordinate these audits with the Auditor of Public Accounts and the  
 389 Joint Legislative Audit and Review Commission. The Chief Justice of the Supreme Court and the Joint  
 390 Rules Committee of the General Assembly shall determine the most appropriate methods to review the  
 391 protection of electronic information within their branches.

392 C. The CIO shall report to the Governor and General Assembly by December 2008 and annually  
 393 thereafter, those executive branch and independent agencies and institutions of higher education that  
 394 have not implemented acceptable policies, procedures, and standards to control unauthorized uses,  
 395 intrusions, or other security threats. For any executive branch and independent agency or institution of  
 396 higher education whose security audit results and plans for corrective action are unacceptable, the CIO  
 397 shall report such results to the (i) Information Technology Investment Board, (ii) affected cabinet  
 398 secretary, (iii) Governor, and (iv) Auditor of Public Accounts. Upon review of the security audit results  
 399 in question, the Information Technology Investment Board may take action to suspend the public bodies  
 400 information technology projects pursuant to subdivision 3 of § 2.2-2458, limit additional information  
 401 technology investments pending acceptable corrective actions, and recommend to the Governor any other  
 402 appropriate actions.

403 D. All public bodies subject to such audits as required by this section shall fully cooperate with the  
 404 entity designated to perform such audits and bear any associated costs. Public bodies that are not  
 405 required to but elect to use the entity designated to perform such audits shall also bear any associated  
 406 costs.

407 E. The provisions of this section shall not infringe upon responsibilities assigned to the Comptroller,  
 408 the Auditor of Public Accounts, or the Joint Legislative Audit and Review Commission by other  
 409 provisions of the Code of Virginia.

410 F. To ensure the security and privacy of citizens of the Commonwealth in their interactions with  
 411 state government, the CIO shall direct the development of policies, procedures, and standards for the  
 412 protection of confidential data maintained by state agencies against unauthorized access and use. Such  
 413 policies, procedures, and standards shall include, but not be limited to:

414 1. Requirements that any state employee or other authorized user of a state technology asset provide  
 415 passwords or other means of authentication to (i) use a technology asset and (ii) access a state-owned or  
 416 operated computer network or database; and

417 2. Requirements that a digital rights management system or other means of authenticating and  
 418 controlling an individual's ability to access electronic records be utilized to limit access to and use of  
 419 electronic records that contain confidential data to authorized individuals.

420 G. The CIO shall promptly receive reports from directors of departments in the executive branch of  
 421 state government made in accordance with § 2.2-603 and shall take such actions as are necessary,  
 422 convenient or desirable to ensure the security of the Commonwealth's electronic information and  
 423 confidential data.

424 *The CIO is responsible for ensuring the security of information technology infrastructure and*  
 425 *applications that are directly owned or managed by VITA or its contractual partners, including but not*  
 426 *limited to the security of computers, networks, and messaging systems. All agencies in the*  
 427 *Commonwealth shall cooperate with the CIO and VITA in ensuring the security of IT infrastructure,*

428 including but not limited to assisting the CIO and VITA in (i) controlling access to information  
429 technology infrastructure located at agency facilities, (ii) controlling access to information technology  
430 infrastructure used by agency personnel, and (iii) ensuring agency personnel comply with regulations,  
431 standards, policies, and guidelines for proper use of information technology infrastructure. In fulfilling  
432 this duty, the CIO shall take all necessary and prudent steps as should be reasonably anticipated or as  
433 otherwise directed by existing regulations, standards, policies, and guidelines developed by the  
434 Department of Technology Management (DTM).

435 § 2.2-2012. Procurement of information technology and telecommunications goods and services;  
436 computer equipment to be based on performance-based specifications.

437 A. Information technology and telecommunications goods and services of every description shall be  
438 procured by (i) VITA Pursuant to regulations, standards, policies, and guidelines developed by DTM,  
439 the CIO or his authorized designees may enter into contracts and otherwise procure information  
440 technology and telecommunications goods and services of every description for its own benefit or on  
441 behalf of other state agencies and institutions or (ii) such other agencies or institutions to the extent  
442 authorized by VITA. Such procurements shall be made in accordance with the Virginia Public  
443 Procurement Act (§ 2.2-4300 et seq.), regulations that implement the electronic and information  
444 technology accessibility standards of the Rehabilitation Act of 1973 (29 U.S.C. § 794d), as amended,  
445 and any regulations as may be prescribed by VITA. In no case shall such procurements exceed the  
446 requirements of the regulations that implement the electronic and information technology accessibility  
447 standards of the Rehabilitation Act of 1973, as amended.

448 The CIO shall disapprove any procurement that does not conform to the statewide information  
449 technology plan or to the individual plans of state agencies or public institutions of higher education.

450 B. All statewide contracts and agreements made and entered into by VITA for the purchase of  
451 communications services, telecommunications facilities, and information technology goods and services  
452 shall provide for the inclusion of counties, cities, and towns in such contracts and agreements.  
453 Notwithstanding the provisions of § 2.2-4301, VITA may enter into multiple vendor contracts for the  
454 referenced services, facilities, and goods and services.

455 B1. The Department VITA may establish contracts for the purchase of personal computers and related  
456 devices by licensed teachers employed in a full-time teaching capacity in Virginia public schools or in  
457 state educational facilities for use outside the classroom. The computers and related devices shall not be  
458 purchased with public funds, but shall be paid for and owned by teachers individually provided that no  
459 more than one such computer and related device per year shall be so purchased.

460 C. If VITA, or any agency or institution authorized by VITA, elects to procure personal computers  
461 and related peripheral equipment pursuant to any type of blanket purchasing arrangement under which  
462 public bodies, as defined in § 2.2-4301, may purchase such goods from any vendor following  
463 competitive procurement but without the conduct of an individual procurement by or for the using  
464 agency or institution, it shall establish performance-based specifications for the selection of equipment.  
465 Establishment of such contracts shall emphasize performance criteria including price, quality, and  
466 delivery without regard to "brand name." All vendors meeting the Commonwealth's performance  
467 requirements shall be afforded the opportunity to compete for such contracts. The CIO may enter into  
468 contracts with one or more other public bodies, or public agencies or institutions or localities of the  
469 several states, of the United States or its territories, or the District of Columbia for the provision of  
470 information technology services. Any contracts with a value of \$1 million or more must be approved by  
471 the Secretary of Technology.

472 D. This section shall not be construed or applied so as to infringe upon, in any manner, the  
473 responsibilities for accounting systems assigned to the Comptroller under § 2.2-803. The CIO shall  
474 periodically evaluate the feasibility of outsourcing information technology resources and services and  
475 outsource those resources and services that are feasible and beneficial to the Commonwealth.

476 E. The CIO of VITA shall, on or before October 1, 2009, and every two years thereafter, solicit  
477 from each state agency and public institution of higher education a list of procurements that were  
478 competed with the private sector that appear on the Commonwealth Competition Council's commercial  
479 activities list and were, until that time, being performed by each state agency and public institution of  
480 higher education during the previous two years, and the outcome of that competition. The CIO shall  
481 make the lists available to the public on VITA's website. The CIO may enter into public-private  
482 partnership contracts to finance or implement information technology programs and projects. The CIO  
483 may issue a request for information to seek out potential private partners interested in providing  
484 programs or projects pursuant to an agreement under this subsection. The compensation for such  
485 services shall be computed with reference to and paid from the increased revenue or cost savings  
486 attributable to the successful implementation of the program or project for the period specified in the  
487 contract. The Secretary of Technology shall be responsible for reviewing and approving the programs  
488 and projects and the terms of contracts pursuant to this subsection. The CIO shall determine annually  
489 the total amount of increased revenue or cost savings attributable to the successful implementation of a



490 program or project initiated pursuant to this subsection and such amount shall be deposited in the  
 491 Virginia Technology Infrastructure Fund created in § 2.2-2023. The CIO is authorized to use moneys  
 492 deposited in the Fund to pay private partners pursuant to contract terms for programs or projects  
 493 initiated pursuant to this section. All moneys in excess of that required to be paid to private partners, as  
 494 determined by the CIO, shall be reported to the Comptroller and retained in the Fund. The CIO shall  
 495 prepare an annual report to the Governor and General Assembly on all contracts entered pursuant to  
 496 this subsection, describing each information technology program or project, its progress, revenue  
 497 impact, and such other information as may be relevant.

498 F. The CIO may provide for the centralized marketing, provision, leasing, and executing of license  
 499 agreements for electronic access to public information and government services through the Internet,  
 500 wireless devices, personal digital assistants, kiosks, or other such related media on terms and conditions  
 501 as may be determined to be in the best interest of the Commonwealth. VITA may fix and collect fees  
 502 and charges for (i) public information, media, and other incidental services furnished by it to any  
 503 private individual or entity, notwithstanding the charges set forth in § 2.2-3704, and (ii) such use and  
 504 services it provides to any state agency or local government. Nothing in this subsection authorizing  
 505 VITA to fix and collect fees for providing information services shall be construed to prevent access to  
 506 the public records of any public body pursuant to the provisions of the Virginia Freedom of Information  
 507 Act (§ 2.2-3700 et seq.). VITA is authorized, subject to approval by the Secretary of Technology and any  
 508 other affected Secretariat, to delegate the powers and responsibilities granted in this subsection to any  
 509 agency within the executive branch.

510 G. This section shall not be construed or applied so as to infringe upon, in any manner, the  
 511 responsibilities for accounting systems assigned to the Comptroller under § 2.2-803.

512 § 2.2-2013. Internal service funds; Applications Services Internal Service Fund; Infrastructure  
 513 Services Internal Service Fund; Telecommunication Services Internal Service Fund.

514 A. There are established the following internal service funds to be administered by VITA:

515 1. The ~~Automated~~ Applications Services Internal Service Fund to be used to finance automated  
 516 systems design, development and testing services and staff of VITA;

517 2. The ~~Computer~~ Infrastructure Services Internal Service Fund to be used to finance ~~computer~~  
 518 infrastructure operations and staff of VITA, *excluding telecommunications infrastructure*; and

519 3. The Telecommunication Services Internal Service Fund to be used to finance telecommunications  
 520 operations and staff of VITA.

521 B. There is established the Acquisition Services Special Fund to be administered by VITA and used  
 522 to finance procurement and contracting activities and programs unallowable for federal fund  
 523 reimbursement.

524 C. All users of services provided for in this chapter administered by VITA shall be assessed a  
 525 surcharge, which shall be deposited in the appropriate fund. This charge shall be an amount sufficient to  
 526 allow VITA to finance the operations and staff of the services offered.

527 D. Additional moneys necessary to establish these funds or provide for the administration of the  
 528 activities of VITA may be advanced from the general account of the state treasury.

529 E. The CIO shall direct that the following activities be conducted with respect to VITA's internal  
 530 service funds:

531 1. VITA shall establish fee schedules for the collection of fees from users when general fund  
 532 appropriations are not available for the services rendered.

533 2. VITA shall develop and implement information, billing, and collections systems that will aid state  
 534 agencies in analyzing their use of VITA's services and allow VITA to forecast trends in service demands.

535 3. By October 1 of each year, VITA shall submit biennial projections of future revenues and  
 536 expenditures for each internal service fund and estimates of any anticipated changes to fee schedules to  
 537 the Joint Legislative Audit and Review Commission and the Department of Planning and Budget.

538 4. That on or before October 1, 2010, the CIO shall, in consultation with the Joint Legislative Audit  
 539 and Review Commission and the Department of Planning and Budget, develop standard documentation  
 540 and information to be used as part of any requests for changes to its fee schedules and rates. In the  
 541 event that changes to fee schedules or rates are required, the CIO shall submit the documentation  
 542 developed in accordance with this section to the Joint Legislative Audit and Review Commission and the  
 543 Department of Planning and Budget no later than September 1 prior to the fiscal year in which the new  
 544 or revised rates are to take effect so that the impact of the rate changes can be considered for inclusion  
 545 in the executive budget submitted to the General Assembly pursuant to §2.2-1508 of the Code of  
 546 Virginia. In emergency circumstances, deviations from this approach shall be approved in advance by  
 547 the Joint Legislative Audit and Review Commission.

548 § 2.2-2023. Virginia Technology Infrastructure Fund created; contributions.

549 A. The Virginia Technology Infrastructure Fund (the Fund) is created in the state treasury. The Fund  
 550 is to be used to fund major information technology projects or to pay private partners as authorized in

551 subsection B of ~~§ 2.2-2007 E~~ of § 2.2-2012.

552 B. The Fund shall consist of: (i) the transfer of general and nongeneral fund appropriations from  
 553 state agencies which represent savings that accrue from reductions in the cost of information technology  
 554 and communication services, (ii) the transfer of general and nongeneral fund appropriations from state  
 555 agencies which represent savings from the implementation of information technology enterprise projects,  
 556 (iii) funds identified pursuant to subsection B of ~~§ 2.2-2007 E~~ of § 2.2-2012, (iv) such general and  
 557 nongeneral fund fees or surcharges as may be assessed to agencies for enterprise *or collaborative*  
 558 technology projects *or use of enterprise and collaborative applications*, (v) gifts, grants, or donations  
 559 from public or private sources, and (vi) such other funds as may be appropriated by the General  
 560 Assembly. Savings shall be as identified by the CIO through a methodology approved by the Board  
 561 Secretary of Technology and the Secretary of Finance. The Auditor of Public Accounts shall certify the  
 562 amount of any savings identified by the CIO. For public institutions of higher education, however,  
 563 savings shall consist only of that portion of total savings that represent general funds. The State  
 564 Comptroller is authorized to transfer cash consistent with appropriation transfers. Appropriated funds  
 565 from federal sources are exempted from transfer. Except for funds to pay private partners as authorized  
 566 in subsection B of ~~§ 2.2-2007 E~~ of § 2.2-2012, moneys in the Fund shall only be expended as provided  
 567 by the appropriation act.

568 Interest earned on the Fund shall be credited to the Fund. The Fund shall be permanent and  
 569 nonreverting. Any unexpended balance in the Fund at the end of the biennium shall not be transferred to  
 570 the general fund of the state treasury.

#### 571 Article 7.

##### 572 ~~Division of Enterprise Applications~~ *Division.*

573 § 2.2-2033. Enterprise Applications Division established; appointment of Deputy CIO for  
 574 Applications.

575 A. There is hereby established within VITA a ~~Division of an~~ Enterprise Applications ~~(the Division)~~  
 576 *Division (EAD)* to oversee the Commonwealth's efforts to modernize the planning, development,  
 577 implementation, improvement, and retirement of Commonwealth applications, including the coordination  
 578 and development of enterprise-wide or multi-agency applications. ~~The Division shall exercise the powers~~  
 579 ~~and duties conferred in this article.~~

580 B. The ~~Division EAD~~ shall be headed by a ~~Virginia Chief Applications Officer (CAO)~~ *Deputy CIO*  
 581 *for Applications*, appointed by and reporting to the CIO ~~with the advice and consent of the Board~~. The  
 582 ~~Board CIO~~ shall provide the ~~CAO Deputy CIO for Applications~~ with the powers necessary to direct the  
 583 Commonwealth's efforts to modernize and oversee the planning, development, implementation,  
 584 improvement, and retirement of enterprise-wide or multi-agency applications; *and to manage the*  
 585 *Commonwealth portal; and to approve and oversee annual agency technology application budgets and*  
 586 *contractor-based personnel IT services expenditures for presentation to and approval by the Board.*

587 C. *The Deputy CIO for Applications shall have the following additional powers and duties*  
 588 *concerning the planning, budgeting, acquisition, use, and disposal of information technology*  
 589 *applications goods and services:*

590 1. *Formulate specifications and related architecture for the management, modification, and exchange*  
 591 *of data pursuant to regulations, standards, policies, and guidelines developed by the Department of*  
 592 *Technology Management (DTM);*

593 2. *Provide technical assistance to state agencies in such areas as (i) designing specifications and*  
 594 *related architecture for applications and (ii) performing applications development services, including*  
 595 *design, application programming, and maintenance; and*

596 3. *Identify any needed changes to existing regulations, standards, policies, and guidelines developed*  
 597 *by DTM and submit those to the CIO.*

598 § 2.2-2034. Agency cooperation with EAD.

599 All agencies in the Commonwealth shall cooperate with the ~~Chief Applications Officer~~ *Deputy CIO*  
 600 *for Applications* and ~~the Division EAD~~ in carrying out ~~its~~ *the* duties and responsibilities set forth in this  
 601 article, including implementing data standards, managing and modernizing the Commonwealth's  
 602 applications portfolio, developing an enterprise architecture, ~~overseeing and approving technology~~  
 603 ~~applications expenditures~~, and improving portal collaboration.

#### 604 Article 8.

##### 605 *Infrastructure Services Division.*

606 § 2.2-2035. *Infrastructure Services Division* established; appointment of Deputy CIO for  
 607 *Infrastructure.*

608 A. *There is hereby established within VITA an Infrastructure Services Division (ISD) to manage the*  
 609 *consolidation and provision of the Commonwealth's information infrastructure services.*

610 B. *ISD shall be headed by a Deputy CIO for Infrastructure, appointed by and reporting to the CIO.*  
 611 *The CIO shall provide the Deputy CIO for Infrastructure with the powers necessary to manage the*  
 612 *Commonwealth's infrastructure services, including any managed services contracts.*

613 C. The Deputy CIO for Infrastructure shall have the following additional powers and duties  
614 concerning the planning, budgeting, acquiring, using, operating, managing, and disposing of information  
615 technology infrastructure goods and services:

616 1. Formulate infrastructure specifications pursuant to regulations, standards, policies, and guidelines  
617 developed by the Department of Technology Management;

618 2. Identify any needed changes to existing regulations, standards, policies, and guidelines developed  
619 by the Department of Technology Management and submit those to the CIO;

620 3. Manage and coordinate the various information technology facilities and services, centers, and  
621 operations used by the Commonwealth; and

622 4. With the consent of the CIO, acquire, lease, or construct such facilities and equipment as  
623 necessary to deliver comprehensive information technology infrastructure services and to maintain such  
624 facilities and equipment owned or leased.

625 § 2.2-2036. Agency cooperation with ISD.

626 All agencies in the Commonwealth shall cooperate with the Deputy CIO for Infrastructure and ISD  
627 in carrying out the duties and responsibilities set forth in this article.

628 CHAPTER 20.2.

629 DEPARTMENT OF TECHNOLOGY MANAGEMENT.

630 Article 1.

631 General Provisions.

632 § 2.2-2037. Department of Technology Management established; appointment of Director.

633 A. There is hereby created the Department of Technology Management (DTM) which shall serve as  
634 the agency responsible for administration and enforcement of the provisions of this chapter. DTM is  
635 created in order to (i) develop regulations, standards, policies, and guidelines for management of  
636 information technology in the Commonwealth; (ii) oversee information technology security,  
637 procurements, projects, investments, planning, and budgeting; (iii) report on information technology  
638 status and trends in the Commonwealth; and (iv) in consultation with the Virginia Information  
639 Technologies Agency, identify and plan for the information technology needs of the Commonwealth.

640 B. The Governor shall appoint, subject to confirmation by the General Assembly, a Director to  
641 oversee the operation of DTM (the Director). The Director shall, under the direction and control of the  
642 Governor, exercise the powers and perform the duties conferred or imposed upon him by law and  
643 perform such other duties as may be required by the Governor.

644 C. The head of each state agency shall designate an existing employee to be the agency's information  
645 technology resource liaison who shall be responsible for compliance with the regulations, standards,  
646 policies, and guidelines developed pursuant to this chapter.

647 § 2.2-2038. Duties of the Director; information technology standards.

648 A. The Director shall prescribe regulations, standards, policies, and guidelines necessary or  
649 incidental to the performance of duties or execution of powers conferred under this chapter.

650 B. The Director shall direct the formulation and promulgation of regulations, standards, policies,  
651 and guidelines for the procurement, development, and maintenance of information technology and  
652 telecommunications goods and services of every description for state agencies including, but not limited  
653 to, those (i) required to support state and local government exchange, acquisition, storage, use, sharing,  
654 and distribution of geographic, base map, or other data and related technologies, (ii) associated with  
655 the development of electronic transactions including the use of electronic signatures as provided in  
656 § 59.1-496, and (iii) necessary to support a unified approach to information technology throughout state  
657 government, thereby assuring the citizens and businesses of the Commonwealth receive the greatest  
658 possible security, value, and convenience from investments made in technology.

659 C. The Director shall have the following duties with regard to information technology investment  
660 management:

661 1. Direct the development of regulations, standards, policies, and guidelines for the effective  
662 management of information technology investments throughout their entire life cycles, including, but not  
663 limited to, project definition, procurement, development, implementation, operation, performance  
664 evaluation, and enhancement or retirement. Such regulations, standards, policies, and guidelines shall  
665 include, at a minimum, the periodic review by the Director of agency and public institutions of higher  
666 education information technology projects with an estimated cost threshold of \$1 million or more or  
667 deemed to be mission-critical or of an enterprise nature by the Director. On a biennial basis beginning  
668 in 2010, the Director, in consultation with the Department of Planning and Budget, shall review the  
669 foregoing threshold and recommend to the Secretary of Technology any proposed statutory adjustments  
670 to the threshold deemed necessary to account for inflation or other policy considerations; and

671 2. Provide technical guidance to the Department of General Services and the Virginia Information  
672 Technologies Agency in the development of regulations, standards, policies, and guidelines for the  
673 recycling and disposal of computers and other technology assets. Such regulations, standards, policies,

674 and guidelines shall include the expunging, in a manner as determined by the Director, of all state  
675 confidential data and personal identifying information of citizens of the Commonwealth prior to such  
676 sale, disposal, or other transfer of computers or other technology assets.

677 § 2.2-2039. Duties of the Director relating to security of government information.

678 A. To provide for the security of state government electronic information from unauthorized uses,  
679 intrusions, or other security threats, the Director shall direct the development of regulations, standards,  
680 policies, and guidelines for assessing security risks, determining the appropriate security measures, and  
681 performing security audits of government electronic information. Such regulations, standards, policies,  
682 and guidelines shall apply to the Commonwealth's executive, legislative, and judicial branches and  
683 independent agencies and institutions of higher education. The Director shall work with representatives  
684 of the Chief Justice of the Supreme Court and the Joint Rules Committee of the General Assembly to  
685 identify their needs.

686 B. The Director shall also develop regulations, standards, policies, and guidelines that shall address  
687 the scope of security audits and the frequency of such security audits. In developing and updating such  
688 regulations, standards, policies, and guidelines, the Director shall designate a government entity to  
689 oversee, plan, and coordinate the conduct of periodic security audits of all executive branch and  
690 independent agencies and institutions of higher education. The Director shall coordinate these audits  
691 with the Auditor of Public Accounts and the Joint Legislative Audit and Review Commission. The Chief  
692 Justice of the Supreme Court and the Joint Rules Committee of the General Assembly shall determine  
693 the most appropriate methods to review the protection of electronic information within their branches.

694 C. For any executive branch agency, independent agency, or institution of higher education whose  
695 security audit results and plans for corrective action are unacceptable, the Director shall report such  
696 results to (i) the affected cabinet secretary, (ii) the Governor, and (iii) the Auditor of Public Accounts.  
697 Upon review of the security audit results in question, the Director may take action to suspend a public  
698 body's information technology projects pursuant to § 2.2-2043, limit additional information technology  
699 investments pending acceptable corrective actions, and recommend to the Governor any other  
700 appropriate actions.

701 D. All public bodies subject to such audits as required by this section shall fully cooperate with the  
702 entity designated to perform such audits and bear any associated costs. Public bodies that are not  
703 required to but elect to use the entity designated to perform such audits shall also bear any associated  
704 costs.

705 E. The provisions of this section shall not infringe upon responsibilities assigned to the Comptroller,  
706 the Auditor of Public Accounts, or the Joint Legislative Audit and Review Commission by other  
707 provisions of the Code of Virginia.

708 F. To ensure the security and privacy of citizens of the Commonwealth in their interactions with  
709 state government, the Director shall direct the development of regulations, standards, policies, and  
710 guidelines for the protection of confidential data maintained by state agencies against unauthorized  
711 access and use. Such regulations, standards, policies, and guidelines shall include, but not be limited to:

712 1. Requirements that any state employee or other authorized user of a state technology asset provide  
713 passwords or other means of authentication to (i) use a technology asset and (ii) access a state-owned  
714 or state-operated computer network or database; and

715 2. Requirements that a digital rights management system or other means of authenticating and  
716 controlling an individual's ability to access electronic records be utilized to limit access to and use of  
717 electronic records that contain confidential data to authorized individuals.

718 G. The Director shall promptly receive reports from directors of departments in the executive branch  
719 of state government made in accordance with § 2.2-603 and shall take such actions as are necessary,  
720 convenient, or desirable to ensure the security of the Commonwealth's electronic information and  
721 confidential data.

722 § 2.2-2040. Duties of the Director; fiscal impact of any proposed regulations, standards, policies, or  
723 guidelines.

724 Prior to modifying existing regulations, standards, policies, or guidelines or promulgating new  
725 regulations, standards, policies, or guidelines, the Director shall submit to the Secretary of Technology  
726 a proposal with a description of, and need for, the modification or promulgation of a new standard,  
727 regulation, or policy and a fiscal impact analysis with an estimate of its potential fiscal impact on  
728 customer agencies.

729 § 2.2-2041. Duties of the Director; procurement of information technology goods and services;  
730 computer equipment to be based on performance-based specifications.

731 A. The Director shall direct the formulation and promulgation of regulations, standards, policies,  
732 and guidelines for the procurement of information technology and telecommunications goods and  
733 services of every description for state agencies. Such regulations, standards, policies, and guidelines  
734 shall be developed in accordance with the Virginia Public Procurement Act (§ 2.2-4300 et seq.) and  
735 regulations that implement the electronic and information technology accessibility standards of the

736 Rehabilitation Act of 1973 (29 U.S.C. § 794d), as amended. In no case shall such regulations,  
737 standards, policies, and guidelines exceed the requirements of the regulations that implement the  
738 electronic and information technology accessibility standards of the Rehabilitation Act of 1973, as  
739 amended.

740 B. If any agency or institution authorized pursuant to this section elects to procure personal  
741 computers and related peripheral equipment pursuant to any type of blanket purchasing arrangement  
742 under which public bodies, as defined in § 2.2-4301, may purchase such goods from any vendor  
743 following competitive procurement but without the conduct of an individual procurement by or for the  
744 using agency or institution, it shall establish performance-based specifications for the selection of  
745 equipment. Establishment of such contracts shall emphasize performance criteria including price,  
746 quality, and delivery without regard to "brand name." All vendors meeting the Commonwealth's  
747 performance requirements shall be afforded the opportunity to compete for such contracts.

748 C. On a biennial basis beginning in 2010, the Director shall solicit from each state agency and  
749 public institution of higher education a list of procurements that were competed with the private sector  
750 that appear on the Commonwealth Competition Council's commercial activities list and were, until that  
751 time, being performed by each state agency and public institution of higher education during the  
752 previous two years, and the outcome of that competition. The Director shall make the lists available to  
753 the public on DTM's website.

754 D. The Director shall have the following duties with respect to the review and approval of  
755 information technology procurements and contracts:

756 1. Analyze and approve all procurements of information technology applications and infrastructure  
757 that are not delegated pursuant to this section;

758 2. Review and approve all agreements and contracts for information technology applications and  
759 infrastructure that are not delegated pursuant to this section, prior to execution between a state agency  
760 and another public or private agency;

761 3. Develop a policy to allow the delegation of varying degrees of approval that would exempt  
762 procurements and contracts from review requirements, but not from the Commonwealth's competitive  
763 procurement process, for any state agency that establishes, to the satisfaction of the Director, (i) its  
764 ability and willingness to administer efficiently and effectively the procurement of information technology  
765 goods and services or (ii) that it has been subjected to another review process coordinated through or  
766 approved by the Director.

767 E. This section shall not be construed or applied so as to infringe upon, in any manner, the  
768 responsibilities for accounting systems assigned to the Comptroller under § 2.2-803.

769 § 2.2-2042. Duties of the Director relating to review of annual state agency technology budget  
770 requests and strategic planning; annual reports.

771 A. The Director shall have the following duties with regard to review of agency information  
772 technology budget requests:

773 1. Direct the development of regulations, standards, policies, and guidelines, in consultation with the  
774 Department of Planning and Budget, that are integrated into the Commonwealth's strategic planning  
775 and performance budgeting processes and ensure that state agencies and public institutions of higher  
776 education shall follow in developing technology-related budget requests.

777 Such regulations, standards, policies, and guidelines shall require consideration of the contribution  
778 of current and proposed technology expenditures to the support of agency and institution priority  
779 functional activities, as well as current and future operating expenses, and shall be utilized by all state  
780 agencies and public institutions of higher education in preparing budget requests.

781 2. Assist state agencies and public institutions of higher education in the preparation of budget  
782 requests for information technology that are consistent with the regulations, standards, policies, and  
783 guidelines developed pursuant to this section.

784 3. Review budget requests for information technology from state agencies and public institutions of  
785 higher education and recommend budget priorities to the Department of Planning and Budget. For state  
786 agencies, the review shall include annual agency technology application expenditures and  
787 contractor-based personnel IT services expenditures incurred by state agencies. Review of such budget  
788 requests shall also include, but not be limited to:

789 a. All projects and contracts for amounts exceeding \$250,000. The Director shall disapprove projects  
790 between \$250,000 and \$1 million that do not conform to the statewide information plan, created  
791 pursuant to § 2.2-225, or to the individual plans of state agencies or institutions of higher education. On  
792 a biennial basis, the Director, in consultation with the Department of Planning and Budget, shall review  
793 the foregoing range and recommend to the Secretary of Technology any proposed statutory adjustments  
794 to the range deemed necessary to account for inflation or other policy considerations;

795 b. All projects in which the agency or institution has entered into or plans to enter into a contract,  
796 agreement, financing agreement, or such other arrangement that either requires the Commonwealth to

797 pay for the contract by forgoing revenue collections; and

798 c. All projects in which the agency or institution allows or assigns to another party the responsibility  
799 of collecting on behalf of or for the Commonwealth any fees, charges, or other assessments or revenues  
800 to pay for the project.

801 For each project reviewed pursuant to this subdivision, the agency or institution, with the exception  
802 of public institutions of higher education that meet the conditions prescribed in subsection B of  
803 § 23-38.88, shall provide the Director (i) a summary of the terms, (ii) the anticipated duration, and (iii)  
804 the cost or charges to any user, whether a state agency or institution or other party not directly a party  
805 to the project arrangements. The description shall also include any terms or conditions that bind the  
806 Commonwealth or restrict the Commonwealth's operations and the methods of procurement employed to  
807 reach such terms.

808 B. The Director shall have the following duties with regard to information technology strategic  
809 planning:

810 1. Direct the development of regulations, standards, policies, and guidelines, in consultation with the  
811 Department of Planning and Budget, that are integrated into the Commonwealth's strategic planning  
812 and performance budgeting processes and ensure that state agencies and public institutions of higher  
813 education shall follow in developing information technology strategic plans.

814 On an annual basis, all state agencies and public institutions of higher education shall prepare and  
815 submit information technology plans to the Director for review and approval. These plans shall include  
816 but not be limited to information on new technology investments that are needed to address needs and  
817 opportunities in the current biennium; all projected investment needs in future biennia in a manner  
818 consistent with the life-cycle management standards promulgated by the Director; and information on  
819 the ongoing operations and maintenance costs of current applications and infrastructure under the  
820 direction of the agency. All state agencies and public institutions of higher education shall maintain  
821 current information technology plans that have been approved by the Director. As part of the strategic  
822 plan, the agency head, or the agency head's designee, must provide an accurate and up-to-date  
823 inventory of the agency's inventory of applications and infrastructure, as maintained or otherwise under  
824 the administration of the agency, prior to the Director's review and approval of the agency's information  
825 technology strategic plan. The Director shall disapprove such plans if the agency does not certify that  
826 such inventories are complete, accurate, and up to date.

827 2. Ensure that assistance is provided to state agencies and public institutions of higher education in  
828 the preparation of strategic plans for information technology that are consistent with the regulations,  
829 standards, policies, and guidelines developed pursuant to this section.

830 C. The Director shall have the following reporting responsibilities with regard to information  
831 technology:

832 1. The Director shall prepare an annual report for submission to the Secretary of Technology and  
833 the Joint Commission on Technology and Science on (i) the current status of the promulgation and  
834 adoption of regulations, standards, policies, and guidelines required pursuant to this chapter, plus any  
835 needed actions required to ensure their successful use by state agencies and institutions of higher  
836 education; (ii) the current condition of information technology in state agencies and institutions of  
837 higher education, factors impacting information technology, goals and objectives for information  
838 technology, and actions and investments needed to achieve goals and objectives; (iii) the status of  
839 recently completed or ongoing information technology projects undertaken by state agencies in terms of  
840 trends in their performance and plans to address areas of concern; (iv) trends in current and projected  
841 information technology spending by state agencies and at the enterprise level, including spending on  
842 projects, operations and maintenance, and payments to VITA; (v) results of security audits, including  
843 those state agencies, independent agencies and institutions of higher education that have not  
844 implemented acceptable regulations, standards, policies, and guidelines to control unauthorized uses,  
845 intrusions, or other security threats; and (vi) the extent to which security standards and guidelines have  
846 been adopted by state agencies.

847 The report submitted pursuant to this subdivision shall include an annual compilation and  
848 maintenance of an inventory of information technology used by agencies, including but not limited to  
849 personnel, facilities, equipment, goods, applications, infrastructure, and contracts for services.

850 2. The Director shall prepare an annual report for submission to the Secretary of Technology, the  
851 Information Technology Investment Council, and the Joint Commission on Technology and Science on a  
852 prioritized list of Recommended Technology Investment Projects based upon projects submitted for  
853 approval pursuant to this chapter. As part of this plan, the Director shall develop and regularly update  
854 a methodology for prioritizing projects based upon the allocation of points to defined criteria. The  
855 criteria and their definitions shall be presented in the plan. For each project listed in the plan, the  
856 Director shall indicate the number of points and how they were awarded. For each listed project, the  
857 Director also shall indicate the projected cost of the project, all projected costs of ongoing operations  
858 and maintenance activities, the projected useful life of the applications and infrastructure involved in the

859 project, and the extent to which the project will incorporate existing standards for the maintenance,  
860 exchange, and security of data.

861 § 2.2-2043. Duties of the Director; approval, modification, or suspension of any major information  
862 technology project.

863 A. Prior to approving the development of a major information technology project or the procurement  
864 of any major information technology project, the Director shall determine that the funding for such  
865 project has been included in the budget bill in accordance with § 2.2-1509.3. Notwithstanding the  
866 provisions of this section, upon determination by the Governor that an emergency exists and a major  
867 information technology project is necessary to address the emergency, the Director shall refer such  
868 project directly to the Secretary of Technology.

869 B. The Director may direct the modification or suspension of any major information technology  
870 project that, as the result of a periodic review, has not met the performance measures agreed to by the  
871 Director and the sponsoring agency or public institution of higher education or if he otherwise deems  
872 such action appropriate and consistent with the terms of any affected contracts. The Director may  
873 recommend to the Secretary of Technology the termination of such project. Nothing in this section shall  
874 be construed to supersede the responsibility of a board of visitors for the management and operation of  
875 a public institution of higher education.

876 The provisions of this section shall not apply to research projects, research initiatives, or  
877 instructional programs at public institutions of higher education. However, technology investments in  
878 research projects, research initiatives, or instructional programs at such institutions estimated to cost \$1  
879 million or more of general fund appropriations may be reviewed if the projects are deemed  
880 mission-critical by the institution or of enterprise application by the Director. The Director and the  
881 Secretary of Education, in consultation with public institutions of higher education, shall develop and  
882 provide to such institution criteria to be used in determining whether projects are mission-critical.

883 Article 2.

884 Project Management Division.

885 § 2.2-2044. Project Management Division established; powers and duties.

886 A. There is established within DTM a Project Management Division (PMD). PMD shall exercise the  
887 powers and duties conferred in this article.

888 B. PMD shall have the power and duty to:

- 889 1. Establish minimum qualifications and training standards for project managers;
- 890 2. Review and approve all procurement solicitations involving major information technology projects;
- 891 3. Develop, implement, and regularly update regulations, standards, policies, and guidelines to be  
892 used by state agencies for the identification, selection, planning, and execution of information technology  
893 investments, including a methodology for the management of information technology projects;
- 894 4. Assign project management specialists to review and recommend to the Director information  
895 technology proposals based on criteria developed by PMD based on the (i) degree to which the project  
896 is consistent with the requesting agency's strategic plan; (ii) technical feasibility of the project; (iii)  
897 benefits to the Commonwealth, including customer service improvements; (iv) risks associated with the  
898 project; (v) continued funding requirements; and (vi) past performance by the agency on other projects;  
899 and
- 900 5. Provide oversight for state agency information technology projects.

901 § 2.2-2045. Project approval and monitoring.

902 A. Prior to proceeding with any major information technology project, an agency shall submit to  
903 PMD a project proposal, outlining the business need for the project, the proposed technology solution, if  
904 known, and an explanation of how the project would support the agency's business objectives and the  
905 information technology strategic plan developed by the Secretary of Technology pursuant to § 2.2-225.  
906 The project management specialist may require the submission of additional information if needed to  
907 adequately review any such proposal. The project management specialist shall review the proposal and  
908 recommend its approval or rejection to the Director.

909 B. Upon approval of the Director of the project plan, an agency shall submit to PMD a project  
910 development proposal containing (i) a detailed business case including a cost-benefit analysis; (ii) a  
911 business process analysis, if applicable; (iii) system requirements, if known; (iv) a proposed development  
912 plan and project management structure; and (v) a proposed resource or funding plan. The project  
913 management specialist may require the submission of additional information necessary to meet the  
914 criteria developed by PMD. The project management specialist assigned to review the project  
915 development proposal shall recommend its approval or rejection to the Director. If the Director  
916 determines that the proposal should be approved, he shall recommend such approval to the Secretary of  
917 Technology.

918 C. Upon approval of the Secretary of Technology of the project development proposal involving a  
919 major information technology project that requires the procurement of goods or services, the agency

920 shall submit a copy of any Invitation for Bid (IFB) or Request for Proposal (RFP) to PMD. The project  
 921 management specialist shall review the IFB or RFP and recommend its approval or rejection to the  
 922 Director. The Director shall have the final authority to approve the IFB or RFP prior to its release and  
 923 shall approve the proposed contract for the award of the project.

924 D. Whenever an agency has received approval from the Secretary of Technology to proceed with the  
 925 development and acquisition of a major information technology project, an internal agency oversight  
 926 committee shall be established by the Director. The internal agency oversight committee shall provide  
 927 ongoing oversight for the project and have the authority to approve or reject any changes in the  
 928 project's scope, schedule, or budget. The Director shall ensure that the project has in place adequate  
 929 project management and oversight structures for addressing major issues that could affect the project's  
 930 scope, schedule or budget and shall address issues that cannot be resolved by the internal agency  
 931 oversight committee. Whenever an enterprise or multiagency project has received approval from the  
 932 Secretary of Technology, the primary project oversight shall be conducted by a committee composed of  
 933 representatives from agencies impacted by the project, which shall be established by the Director.

934 Article 3.

935 Virginia Geographic Information Network.

936 § 2.2-2046. Definitions.

937 As used in this article, unless the context requires a different meaning:

938 "Base map data" means the digitized common geographic data that are used by most geographic  
 939 information systems applications to reference or link attribute or other geographic data.

940 "Division" means the Geographic Information Network Division.

941 "Geographic data" means data that contain either coordinates that reference a geographic location  
 942 or area or attribute data that can be related to a geographic area or location.

943 "Geographic information system (GIS)" means a computerized system that stores and links  
 944 geographic data to allow a wide range of information processing and display operations, as well as  
 945 map production, analysis, and modeling.

946 § 2.2-2047. Geographic Information Network Division; Division coordinator; established.

947 There is established within DTM a Geographic Information Network Division, which shall foster the  
 948 creative utilization of geographic information and oversee the development of a catalog of GIS data  
 949 available in the Commonwealth. The Division shall be headed by a coordinator who shall be under the  
 950 supervision of and report to the Director. The Division shall exercise the powers and duties conferred in  
 951 this article.

952 § 2.2-2048. Powers and duties of the Division; Division coordinator.

953 A. The powers and duties of the Division shall include:

954 1. Requesting the services, expertise, supplies and facilities of DTM from the Director on issues  
 955 concerning the Division;

956 2. Accepting grants from the United States government and agencies and instrumentalities thereof  
 957 and any other source. To those ends, the Division shall have the power to comply with such conditions  
 958 and execute such agreements as may be necessary or desirable;

959 3. Fixing, altering, charging, and collecting rates, rentals, and other charges for the use or sale of  
 960 products of, or services rendered by, the Division, at rates which reflect the fair market value;

961 4. Soliciting, receiving, and considering proposals for funding projects or initiatives from any state  
 962 or federal agency, local or regional government, public institution of higher education, nonprofit  
 963 organization, or private person or corporation;

964 5. Soliciting and accepting funds, goods and in-kind services that are part of any accepted project  
 965 proposal;

966 6. Establishing ad hoc committees or project teams to investigate related technology or technical  
 967 issues and providing results and recommendations for Division action; and

968 7. Establishing such bureaus, sections or units as the Division deems appropriate to carry out its  
 969 powers and duties.

970 B. The Division coordinator shall:

971 1. Oversee the development of and recommend to DTM the promulgation of those policies and  
 972 guidelines required to support state and local government exchange, acquisition, storage, use, sharing  
 973 and distribution of geographic or base map data and related technologies;

974 2. Foster the development of a coordinated comprehensive system for providing ready access to  
 975 electronic state government geographic data products for individuals, businesses, and other entities;

976 3. Initiate and manage projects or conduct procurement activities relating to the development or  
 977 acquisition of geographic data or statewide base map data or both;

978 4. Plan for and coordinate the development or procurement of priority geographic base map data;

979 5. Develop, maintain, and provide, in the most cost-effective manner, access to the catalog of  
 980 Virginia geographic data and governmental geographic data users;

981 6. Provide, upon request, advice and guidance on all agreements and contracts from all branches of



982 state government for geographic data acquisition and design and the installation and maintenance of  
983 geographic information systems;

984 7. Compile a data catalog consisting of descriptions of GIS coverages maintained by individual state  
985 and local government agencies;

986 Nothing in this article shall be construed to require that GIS data be physically delivered to the  
987 Division. All state agencies that maintain GIS databases shall report to the Division the details of the  
988 data that they develop, acquire, and maintain. Each agency shall submit quarterly reports to the  
989 Division specifying all updates to existing data as well as all data development and acquisition currently  
990 in progress. Data exempt from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) need not be  
991 reported to the Division.

992 8. Identify and collect information and technical requirements to assist the Division in setting  
993 priorities for the development of state digital geographic data and base maps that meet the needs of  
994 state agencies, institutions of higher education, and local governments;

995 9. Provide services, geographic data products, and access to the repository at rates established by  
996 the Division; and

997 10. Ensure the compliance of those policies, standards, and guidelines developed by DTM required  
998 to support and govern the security of state and local government exchange, acquisition, storage, use,  
999 sharing, and distribution of geographic or base map data and related technologies.

1000 § 2.2-2049. GIS Fund created.

1001 There is hereby created in the state treasury a special, nonreverting fund to be known as the GIS  
1002 Fund, hereafter referred to as the Fund. The Fund shall be established on the books of the Comptroller.  
1003 All moneys collected pursuant to subsection A of § 2.2-2027 shall be paid into the state treasury and  
1004 credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited  
1005 to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall  
1006 not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for  
1007 the purposes set forth in this article. Expenditures and disbursements from the Fund shall be made by  
1008 the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.

1009 § 2.2-2050. Additional powers and duties of the Director.

1010 The Director shall have the power and duty, on the recommendation of the Division coordinator, to  
1011 (i) receive and disburse funds; (ii) enter into contracts for the purpose of carrying out the provisions of  
1012 this article; and (iii) rent office space and procure equipment, goods, and services that are necessary to  
1013 carry out the provisions of this article.

1014 § 2.2-2051. Nonstock corporation to assist in the development of GIS data.

1015 DTM is hereby authorized to establish a nonstock corporation under Chapter 10 (§ 13.1-801 et seq.)  
1016 of Title 13.1 as an instrumentality to assist DTM and the Division in the development and acquisition of  
1017 geographic data and statewide base map data. On or before December 1 of each year, DTM shall  
1018 report on the activities of the nonstock corporation to the Governor and the General Assembly.

1019 Article 4.

1020 Public Safety Communications Division.

1021 § 2.2-2052. Public Safety Communications Division established; appointment of Virginia Public  
1022 Safety Communications Coordinator; duties of PSCD.

1023 A. There is established within DTM a Public Safety Communications Division (PSCD), which shall  
1024 be headed by a Virginia Public Safety Communications Coordinator, appointed by the Director with the  
1025 advice and consent of the Wireless E-911 Services Board. The PSCD shall consist of such personnel as  
1026 the Director deems necessary. The operating expenses, administrative costs, and salaries of the  
1027 employees of PSCD shall be paid from the Wireless E-911 Fund created pursuant to § 56-484.17.

1028 B. PSCD shall provide staff support to the Wireless E-911 Services Board and encourage, promote,  
1029 and assist in the development and deployment of statewide enhanced emergency telecommunications  
1030 systems.

1031 Article 35.

1032 Information Technology Investment Council.

1033 § 2.2-2699.5. Information Technology Investment Council; purpose; membership; chairman; staff;  
1034 compensation.

1035 A. The Information Technology Investment Council (ITIC) is established as a policy board, within the  
1036 meaning of § 2.2-2100, in the executive branch of state government. The ITIC shall consist of 16  
1037 members as follows: the Governor's Chief of Staff and each Cabinet Secretary, who shall serve ex  
1038 officio with voting privileges; the Directors of the Senate Finance and House Appropriations Committees  
1039 or their designees, who shall each serve ex officio with nonvoting privileges; and three nonlegislative  
1040 citizen members appointed by the Governor to serve with nonvoting privileges. One nonlegislative citizen  
1041 member shall have experience as senior information technology management personnel for a company  
1042 with annual gross revenues in excess of \$50 million and two nonlegislative citizen members shall have

1043 *experience in information technology systems or other technology systems, including but not limited to*  
 1044 *human resources, environment, transportation, or finance.*

1045 *The ex officio members of the ITIC shall serve terms coincident with their respective terms of office.*  
 1046 *Nonlegislative citizen members shall be appointed for terms of four years. Appointments to fill*  
 1047 *vacancies, other than by expiration of a term, shall be for the unexpired terms. All members may be*  
 1048 *reappointed. However, no nonlegislative citizen member shall serve more than two consecutive four-year*  
 1049 *terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute*  
 1050 *a term in determining the member's eligibility for reappointment. Vacancies shall be filled in the same*  
 1051 *manner as the original appointments.*

1052 *B. The Chief of Staff shall serve as chairman and the ITIC shall meet at least quarterly each year.*  
 1053 *The meetings of the ITIC shall be held at the call of the chairman or whenever the majority of the*  
 1054 *members so request.*

1055 *C. The disclosure requirements of subsection B of § 2.2-3114 of the State and Local Government*  
 1056 *Conflict of Interests Act (§ 2.2-3100 et seq.) shall apply to citizen members of the ITIC.*

1057 *D. The Governor's Office shall provide staff to the ITIC.*

1058 *E. Nonlegislative citizen members shall receive compensation and shall be reimbursed for all*  
 1059 *reasonable and necessary expenses incurred in the performance of their duties, as provided in*  
 1060 *§ 2.2-2813 and § 2.2-2825. Funding for the costs of compensation and expenses of the members shall be*  
 1061 *provided by the Governor's Office.*

1062 *§ 2.2-2699.6. Powers and duties of the ITIC.*

1063 *The ITIC shall:*

1064 *1. Approve the Recommended Technology Investment Projects report prepared by the Project*  
 1065 *Management Division pursuant to § 2.2-2042.*

1066 *2. Approve plans for the development, maintenance, and replacement of enterprise and multiagency*  
 1067 *applications developed by the Council on Technology Services established pursuant to § 2.2-2699.7.*

1068 *3. Advise the Secretary of Technology on the termination of projects pursuant to § 2.2-225.*

1069 *Article 36.*

1070 *Council on Technology Services.*

1071 *§ 2.2-2699.7. Council on Technology Services; purpose; membership; compensation; chairman.*

1072 *A. The Council on Technology Services (COTS) is established as an advisory council, within the*  
 1073 *meaning of § 2.2-2100, in the executive branch of state government. COTS shall consist of 22 members*  
 1074 *as follows: the Directors of the Departments of Accounts, General Services, Human Resource*  
 1075 *Management, and Planning and Budget, who shall serve ex officio; one employee from an agency under*  
 1076 *each of the remaining Cabinet Secretaries, as set out in Chapter 2 (§ 2.2-200), to be appointed by the*  
 1077 *Governor; one member from an independent agency of state government to be appointed by the*  
 1078 *Governor; two members from public institutions of higher education to be appointed by the Governor;*  
 1079 *two members from local government to be appointed by the Governor; one member from the Supreme*  
 1080 *Court of Virginia to be appointed by the Chief Justice; the Director of the Division of Legislative*  
 1081 *Automated Systems, who shall serve ex officio; and three nonlegislative citizen members to be appointed*  
 1082 *by the Governor. Nonlegislative citizen members shall have experience in information technology*  
 1083 *systems or other technology systems including but not limited to human resources, environment,*  
 1084 *transportation, or finance. Ex officio members shall serve for terms coincident with their terms of office*  
 1085 *and all other members shall serve for a term of two years and be eligible for reappointment. All*  
 1086 *members shall serve with voting privileges. COTS shall elect from its membership a chairman,*  
 1087 *vice-chairman, and other officers as deemed necessary. COTS shall meet at least once per*  
 1088 *quarter and at other times as shall be called by the chairman.*

1089 *B. The disclosure requirements of subsection B of § 2.2-3114 of the State and Local Government*  
 1090 *Conflict of Interests Act (§ 2.2-3100 et seq.) shall apply to citizen members of the Council.*

1091 *C. The Virginia Information Technologies Agency shall provide staff to the Council.*

1092 *D. Nonlegislative citizen members shall receive compensation and shall be reimbursed for all*  
 1093 *reasonable and necessary expenses incurred in the performance of their duties, as provided in*  
 1094 *§ 2.2-2813 and § 2.2-2825. Funding for the costs of compensation and expenses of the members shall be*  
 1095 *provided by the Virginia Information Technologies Agency.*

1096 *E. COTS may form advisory committees composed of representatives from executive branch agencies*  
 1097 *and institutions to carry out the purposes of this article. Nothing in this section shall prevent executive*  
 1098 *branch agencies and institutions from committing additional resources to COTS.*

1099 *§ 2.2-2699.8. Powers and duties of COTS.*

1100 *COTS shall have the following duties:*

1101 *1. To advise the Chief Information Officer on the application and infrastructure services provided by*  
 1102 *the Virginia Information Technologies Agency;*

1103 *2. To advise the Director of the Department of Technology Management on the development of*  
 1104 *information technology regulations, standards, policies, and guidelines; the list of Recommended*

1105 *Technology Investment Projects; and proposed uses of state funds resulting from agency budget reviews;*  
 1106 *and*

1107 3. *To develop, for approval by the Information Technology Investment Council, plans for the*  
 1108 *development, maintenance, and replacement of enterprise and multiagency applications.*

1109 § 2.2-2423. Virginia Geographic Information Network Advisory Board; membership; terms; quorum;  
 1110 compensation and expenses.

1111 A. The Virginia Geographic Information Network Advisory Board (the Board) is hereby established  
 1112 as an advisory board, within the meaning of § 2.2-2100, in the executive branch of state government.  
 1113 The Board shall advise the Geographic Information Network Division (the Division) of the Virginia  
 1114 Information Technologies Agency Department of Technology Management on issues related to the  
 1115 exercise of the Division's powers and duties.

1116 B. The Board shall consist of 18 members appointed as follows: nine nonlegislative citizen members  
 1117 to be appointed by the Governor that consist of one agency director from one of the natural resources  
 1118 agencies, one official from a state university, one elected official representing a local government in the  
 1119 Commonwealth, one member of the Virginia Association of Surveyors, one elected official who serves  
 1120 on a planning district commission, two representatives of utilities or transportation industries utilizing  
 1121 geographic data, and two representatives of private businesses with expertise and experience in the  
 1122 establishment, operation, and maintenance of geographic information systems; four members of the  
 1123 House of Delegates to be appointed by the Speaker of the House of Delegates; two members of the  
 1124 Senate to be appointed by the Senate Committee on Rules; the ~~Chief Information Officer~~ *Director of the*  
 1125 *Department of Technology Management*, the Commonwealth Transportation Commissioner, and the  
 1126 Executive Director of the Economic Development Partnership Authority or their designees who shall  
 1127 serve as ex officio, voting members. Gubernatorial appointees may be nonresidents of the  
 1128 Commonwealth. All members of the Board appointed by the Governor shall be confirmed by each house  
 1129 of the General Assembly. The agency director and state university official appointed by the Governor  
 1130 may each designate a member of his organization as an alternate who may attend meetings in his place  
 1131 and be counted as a member of the Board for the purposes of a quorum.

1132 Any members of the Board who are representatives of private businesses that provide geographic  
 1133 information services, and their companies, are precluded from contracting to provide goods or services  
 1134 to the Division.

1135 C. Legislative members' terms shall be coincident with their terms of office. The gubernatorial  
 1136 appointees to the Board shall serve five-year terms, except for the initial appointees whose terms were  
 1137 staggered. Members appointed by the Governor shall serve no more than two consecutive five-year  
 1138 terms. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term.  
 1139 Vacancies shall be filled in the same manner as the original appointments. The remainder of any term to  
 1140 which a member is appointed to fill a vacancy shall not constitute a term in determining the member's  
 1141 eligibility to serve.

1142 D. The Board shall elect from its membership a chairman, vice-chairman, and any other officers  
 1143 deemed necessary. The duties and terms of the officers shall be prescribed by the members. A majority  
 1144 of the Board shall constitute a quorum. The Board shall meet at least quarterly or at the call of its  
 1145 chairman or the Chief Information Officer.

1146 E. Legislative members of the Board shall receive such compensation as provided in § 30-19.12 and  
 1147 nonlegislative citizen members shall receive such compensation as provided in § 2.2-2813 for their  
 1148 services. All members shall be reimbursed for all reasonable and necessary expenses incurred in the  
 1149 performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of  
 1150 compensation and expenses of the members shall be provided by the Virginia Geographic Information  
 1151 Network Division of the Virginia Information Technologies Agency.

1152 F. The Geographic Information Network Division shall provide staff support to the Board.

1153 § 2.2-4343. Exemption from operation of chapter for certain transactions.

1154 A. The provisions of this chapter shall not apply to:

1155 1. The Virginia Port Authority in the exercise of any of its powers in accordance with Chapter 10  
 1156 (§ 62.1-128 et seq.) of Title 62.1, provided the Authority implements, by policy or regulation adopted by  
 1157 the Board of Commissioners and approved by the Department of General Services, procedures to ensure  
 1158 fairness and competitiveness in the procurement of goods and services and in the administration of its  
 1159 capital outlay program. This exemption shall be applicable only so long as such policies and procedures  
 1160 meeting the requirements remain in effect.

1161 2. The Virginia Retirement System for selection of services related to the management, purchase or  
 1162 sale of authorized investments, actuarial services, and disability determination services. Selection of these  
 1163 services shall be governed by the standard set forth in § 51.1-124.30.

1164 3. The State Treasurer in the selection of investment management services related to the external  
 1165 management of funds shall be governed by the standard set forth in § 2.2-4514, and shall be subject to

1166 competitive guidelines and policies that are set by the Commonwealth Treasury Board and approved by  
1167 the Department of General Services.

1168 4. The Department of Social Services or local departments of social services for the acquisition of  
1169 motor vehicles for sale or transfer to Temporary Assistance to Needy Families (TANF) recipients.

1170 5. The College of William and Mary in Virginia, Virginia Commonwealth University, the University  
1171 of Virginia, and Virginia Polytechnic Institute and State University in the selection of services related to  
1172 the management and investment of their endowment funds, endowment income, gifts, all other  
1173 nongeneral fund reserves and balances, or local funds of or held by the College or Universities pursuant  
1174 to § 23-44.1, 23-50.10:01, 23-76.1, or 23-122.1. However, selection of these services shall be governed  
1175 by the Uniform Prudent Management of Institutional Funds Act (§ 55-268.11 et seq.) as required by  
1176 §§ 23-44.1, 23-50.10:01, 23-76.1, and 23-122.1.

1177 6. The Board of the Virginia College Savings Plan for the selection of services related to the  
1178 operation and administration of the Plan, including, but not limited to, contracts or agreements for the  
1179 management, purchase, or sale of authorized investments or actuarial, record keeping, or consulting  
1180 services. However, such selection shall be governed by the standard set forth in § 23-38.80.

1181 7. Public institutions of higher education for the purchase of items for resale at retail bookstores and  
1182 similar retail outlets operated by such institutions. However, such purchase procedures shall provide for  
1183 competition where practicable.

1184 8. The purchase of goods and services by agencies of the legislative branch that may be specifically  
1185 exempted therefrom by the Chairman of the Committee on Rules of either the House of Delegates or the  
1186 Senate. ~~Nor shall the contract review provisions of § 2.2-2014 apply to such procurements.~~ The  
1187 exemption shall be in writing and kept on file with the agency's disbursement records.

1188 9. Any town with a population of less than 3,500, except as stipulated in the provisions of  
1189 §§ 2.2-4305, 2.2-4308, 2.2-4311, 2.2-4315, 2.2-4330, 2.2-4333 through 2.2-4338, 2.2-4343.1, and  
1190 2.2-4367 through 2.2-4377.

1191 10. Any county, city or town whose governing body has adopted, by ordinance or resolution,  
1192 alternative policies and procedures which are (i) based on competitive principles and (ii) generally  
1193 applicable to procurement of goods and services by such governing body and its agencies, except as  
1194 stipulated in subdivision 12.

1195 This exemption shall be applicable only so long as such policies and procedures, or other policies  
1196 and procedures meeting the requirements of § 2.2-4300, remain in effect in such county, city or town.  
1197 Such policies and standards may provide for incentive contracting that offers a contractor whose bid is  
1198 accepted the opportunity to share in any cost savings realized by the locality when project costs are  
1199 reduced by such contractor, without affecting project quality, during construction of the project. The fee,  
1200 if any, charged by the project engineer or architect for determining such cost savings shall be paid as a  
1201 separate cost and shall not be calculated as part of any cost savings.

1202 11. Any school division whose school board has adopted, by policy or regulation, alternative policies  
1203 and procedures that are (i) based on competitive principles and (ii) generally applicable to procurement  
1204 of goods and services by the school board, except as stipulated in subdivision 12.

1205 This exemption shall be applicable only so long as such policies and procedures, or other policies or  
1206 procedures meeting the requirements of § 2.2-4300, remain in effect in such school division. This  
1207 provision shall not exempt any school division from any centralized purchasing ordinance duly adopted  
1208 by a local governing body.

1209 12. Notwithstanding the exemptions set forth in subdivisions 9 through 11, the provisions of  
1210 subsections C and D of § 2.2-4303, and §§ 2.2-4305, 2.2-4308, 2.2-4311, 2.2-4315, 2.2-4317, 2.2-4330,  
1211 2.2-4333 through 2.2-4338, 2.2-4343.1, and 2.2-4367 through 2.2-4377 shall apply to all counties, cities  
1212 and school divisions, and to all towns having a population greater than 3,500 in the Commonwealth.

1213 The method for procurement of professional services set forth in subdivision 3 a of § 2.2-4301 in the  
1214 definition of competitive negotiation shall also apply to all counties, cities and school divisions, and to  
1215 all towns having a population greater than 3,500, where the cost of the professional service is expected  
1216 to exceed \$30,000 in the aggregate or for the sum of all phases of a contract or project. A school board  
1217 that makes purchases through its public school foundation or purchases educational technology through  
1218 its educational technology foundation, either as may be established pursuant to § 22.1-212.2:2 shall be  
1219 exempt from the provisions of this chapter, except, relative to such purchases, the school board shall  
1220 comply with the provisions of §§ 2.2-4311 and 2.2-4367 through 2.2-4377.

1221 13. A public body that is also a utility operator may purchase services through or participate in  
1222 contracts awarded by one or more utility operators that are not public bodies for utility marking services  
1223 as required by the Underground Utility Damage Prevention Act (§ 56-265.14 et seq.). A purchase of  
1224 services under this subdivision may deviate from the procurement procedures set forth in this chapter  
1225 upon a determination made in advance by the public body and set forth in writing that competitive  
1226 sealed bidding is either not practicable or not fiscally advantageous to the public, and the contract is  
1227 awarded based on competitive principles.

1228 14. Procurement of any construction or planning and design services for construction by a Virginia  
1229 nonprofit corporation or organization not otherwise specifically exempted when (i) the planning, design  
1230 or construction is funded by state appropriations of \$10,000 or less or (ii) the Virginia nonprofit  
1231 corporation or organization is obligated to conform to procurement procedures that are established by  
1232 federal statutes or regulations, whether those federal procedures are in conformance with the provisions  
1233 of this chapter.

1234 15. Purchases, exchanges, gifts or sales by the Citizens' Advisory Council on Furnishing and  
1235 Interpreting the Executive Mansion.

1236 16. The Eastern Virginia Medical School in the selection of services related to the management and  
1237 investment of its endowment and other institutional funds. The selection of these services shall, however,  
1238 be governed by the Uniform Prudent Management of Institutional Funds Act (§ 55-268.11 et seq.).

1239 17. The Department of Corrections in the selection of pre-release and post-incarceration services.

1240 18. The Board of the Chippokes Plantation Farm Foundation in entering into agreements with  
1241 persons for the construction, operation, and maintenance of projects consistent with the Chippokes  
1242 Plantation State Park Master Plan approved by the Director of the Department of Conservation and  
1243 Recreation pursuant to the requirements of § 10.1-200.1 and designed to further an appreciation for rural  
1244 living and the contributions of the agricultural, forestry, and natural resource based industries of the  
1245 Commonwealth, provided such projects are supported solely by private or nonstate funding.

1246 19. The University of Virginia Medical Center to the extent provided by subdivision B 3 of  
1247 § 23-77.4.

1248 20. The purchase of goods and services by a local governing body or any authority, board,  
1249 department, instrumentality, institution, agency or other unit of state government when such purchases  
1250 are made under a remedial plan established by the Governor pursuant to subsection C of § 2.2-4310 or  
1251 by a chief administrative officer of a county, city or town pursuant to § 15.2-965.1.

1252 21. The contract by community services boards or behavioral health authorities with an administrator  
1253 or management body pursuant to a joint agreement authorized by § 37.2-512 or 37.2-615.

1254 B. Where a procurement transaction involves the expenditure of federal assistance or contract funds,  
1255 the receipt of which is conditioned upon compliance with mandatory requirements in federal laws or  
1256 regulations not in conformance with the provisions of this chapter, a public body may comply with such  
1257 federal requirements, notwithstanding the provisions of this chapter, only upon the written determination  
1258 of the Governor, in the case of state agencies, or the governing body, in the case of political  
1259 subdivisions, that acceptance of the grant or contract funds under the applicable conditions is in the  
1260 public interest. Such determination shall state the specific provision of this chapter in conflict with the  
1261 conditions of the grant or contract.

1262 § 23-38.88. Eligibility for restructured financial and administrative operational authority.

1263 A. Public institutions of higher education shall be eligible for the following restructured financial and  
1264 operational authority:

1265 1. To dispose of their surplus materials at the location where the surplus materials are held and to  
1266 retain any proceeds from such disposal as provided in subdivision B 14 of § 2.2-1124;

1267 2. To have the option, as provided in subsection C of § 2.2-1132 and pursuant to the conditions and  
1268 provisions under such subsection, to contract with a building official of the locality in which  
1269 construction is taking place and for such official to perform any inspection and certifications required for  
1270 the purpose of complying with the Uniform Statewide Building Code (§ 36-97 et seq.) pursuant to  
1271 subsection C of § 36-98.1;

1272 3. For those public institutions of higher education that have in effect a signed memorandum of  
1273 understanding with the Secretary of Administration regarding participation in the nongeneral fund  
1274 decentralization program as set forth in the appropriation act, as provided in subsection C of § 2.2-1132,  
1275 to enter into contracts for specific construction projects without the preliminary review and approval of  
1276 the Division of Engineering and Buildings of the Department of General Services, provided such  
1277 institutions are in compliance with the requirements of the Virginia Public Procurement Act (§ 2.2-4300  
1278 et seq.) and utilize the general terms and conditions for those forms of procurement approved by the  
1279 Division and the Office of the Attorney General;

1280 4. To acquire easements as provided in subdivision 4 of § 2.2-1149;

1281 5. To enter into an and/or lease or capital lease pursuant to the conditions and provisions provided in  
1282 subdivision 5 of § 2.2-1149;

1283 6. To convey an easement pertaining to any property such institution owns or controls as provided in  
1284 subsection C of § 2.2-1150;

1285 7. In accordance with the conditions and provisions of subdivision C 2 of § 2.2-1153, to sell surplus  
1286 real property valued at less than \$5 million, which is possessed and controlled by the institution;

1287 8. For purposes of compliance with § 2.2-4310, to procure goods, services, and construction from a  
1288 vendor that the institution has certified as a small, women-, and minority-owned business enterprise

1289 pursuant to the conditions and provisions provided in § 2.2-1404.1;

1290 9. To be exempt from review of their budget request for information technology by the CIO as

1291 provided in subdivision A 4 of § 2.2-2007 *Department of Technology Management*;

1292 10. To be allowed to establish policies for the designation of administrative and professional faculty

1293 positions at the institution pursuant to the conditions and provisions provided in subsection E of

1294 § 2.2-2901;

1295 11. To receive the financial benefits described under § 2.2-5005 pursuant to the conditions and

1296 provisions of such section;

1297 12. To be exempt from reporting its purchases to the Secretary of Education, provided that all

1298 purchases, including sole source purchases, are placed through the Commonwealth's electronic

1299 procurement system using proper system codes for the methods of procurement;

1300 13. To utilize as methods of procurement a fixed price, design-build or construction management

1301 contract notwithstanding the provisions of § 2.2-4306; and

1302 14. The restructured financial and operational authority set forth in ~~Subchapter Article 2~~ (§ 23-38.90)

1303 and ~~Subchapter Article 3~~ (§ 23-38.91 et seq.) of this chapter.

1304 No such authority shall be granted unless the institution meets the conditions set forth in this chapter.

1305 B. The Board of Visitors of a public institution of higher education shall commit to the Governor

1306 and the General Assembly by August 1, 2005, through formal resolution adopted according to its own

1307 bylaws, to meeting the state goals specified below, and shall be responsible for ensuring that such goals

1308 are met, in addition to such other responsibilities as may be prescribed by law. Each such institution

1309 shall commit to the Governor and the General Assembly to:

1310 1. Consistent with its institutional mission, provide access to higher education for all citizens

1311 throughout the Commonwealth, including underrepresented populations, and, consistent with subdivision

1312 4 of § 23-9.6:1 and in accordance with anticipated demand analysis, meet enrollment projections and

1313 degree estimates as agreed upon with the State Council of Higher Education for Virginia. Each such

1314 institution shall bear a measure of responsibility for ensuring that the statewide demand for enrollment is

1315 met;

1316 2. Consistent with § 23-9.2:3.03, ensure that higher education remains affordable, regardless of

1317 individual or family income, and through a periodic assessment, determine the impact of tuition and fee

1318 levels net of financial aid on applications, enrollment, and student indebtedness incurred for the payment

1319 of tuition and fees;

1320 3. Offer a broad range of undergraduate and, where appropriate, graduate programs consistent with

1321 its mission and assess regularly the extent to which the institution's curricula and degree programs

1322 address the Commonwealth's need for sufficient graduates in particular shortage areas, including specific

1323 academic disciplines, professions, and geographic regions;

1324 4. Ensure that the institution's academic programs and course offerings maintain high academic

1325 standards, by undertaking a continuous review and improvement of academic programs, course

1326 availability, faculty productivity, and other relevant factors;

1327 5. Improve student retention such that students progress from initial enrollment to a timely

1328 graduation, and that the number of degrees conferred increases as enrollment increases;

1329 6. Consistent with its institutional mission, develop articulation agreements that have uniform

1330 application to all Virginia community colleges and meet appropriate general education and program

1331 requirements at the four-year institution, provide additional opportunities for associate degree graduates

1332 to be admitted and enrolled, and offer dual enrollment programs in cooperation with high schools;

1333 7. Actively contribute to efforts to stimulate the economic development of the Commonwealth and

1334 the area in which the institution is located, and for those institutions subject to a management agreement

1335 set forth in ~~Subchapter Article 3~~ (§ 23-38.91 et seq.) of this chapter, in areas that lag the Commonwealth

1336 in terms of income, employment, and other factors;

1337 8. Consistent with its institutional mission, increase the level of externally funded research conducted

1338 at the institution and facilitate the transfer of technology from university research centers to private

1339 sector companies;

1340 9. Work actively and cooperatively with elementary and secondary school administrators, teachers,

1341 and students in public schools and school divisions to improve student achievement, upgrade the

1342 knowledge and skills of teachers, and strengthen leadership skills of school administrators;

1343 10. Prepare a six-year financial plan consistent with § 23-9.2:3.03;

1344 11. Conduct the institution's business affairs in a manner that maximizes operational efficiencies and

1345 economies for the institution, contributes to maximum efficiencies and economies of state government as

1346 a whole, and meets the financial and administrative management standards as specified by the Governor

1347 pursuant to § 2.2-5004 and included in the appropriation act that is in effect, which shall include best

1348 practices for electronic procurement and leveraged purchasing, information technology, real estate

1349 portfolio management, and diversity of suppliers through fair and reasonable consideration of small,

1350 women-owned, and minority-owned business enterprises; and

1351 12. Seek to ensure the safety and security of the Commonwealth's students on college and university  
1352 campuses.

1353 Upon making such commitments to the Governor and the General Assembly by August 1, 2005, the  
1354 public institution of higher education shall be allowed to exercise the restructured financial and  
1355 operational authority set forth in subdivisions A 1 through A 13 of ~~§ 23-38.88~~, subject to such  
1356 conditions as may be provided under the enabling statutes granting the additional authority.

1357 C. As provided in § 23-9.6:1.01, the State Council of Higher Education shall in consultation with the  
1358 respective chairmen of the House Committees on Education and Appropriations and the Senate  
1359 Committees on Finance and Education and Health or their designees, representatives of public  
1360 institutions of higher education, and such other state officials as may be designated by the Governor,  
1361 develop objective measures of educational-related performance and institutional performance benchmarks  
1362 for such objective measures. At a minimum, the State Council shall develop such objective measures  
1363 and institutional performance benchmarks for the goals and objectives set forth in subdivisions B 1  
1364 through B 10 and B 12. In addition, the Governor shall develop objective measures of financial and  
1365 administrative management performance and related institutional performance benchmarks for the goals  
1366 and objectives set forth in subdivision B 11.

1367 As provided in subsection C of § 23-9.6:1.01, any public institution of higher education that has been  
1368 certified during the fiscal year by the State Council of Higher Education for Virginia as meeting the  
1369 institutional performance benchmarks in effect for the fiscal year as set forth in the general appropriation  
1370 act shall be provided the financial benefits under § 2.2-5005. Such benefits shall first be provided as  
1371 determined under such section.

1372 D. 1. The restructured financial and operational authority set forth in ~~Subchapter Article 3~~  
1373 (~~§ 23-38.91 et seq.~~) of ~~this chapter~~ shall only be granted in accordance with the expressed terms of a  
1374 management agreement between the public institution of higher education and the Commonwealth.

1375 No restructured financial or operational authority set forth in ~~Subchapter Article 3~~ (§ 23-38.91 et  
1376 seq.) of ~~this chapter~~ shall be granted to a public institution of higher education unless such authority is  
1377 expressly included in the management agreement. In addition, the only implied authority that shall be  
1378 granted from entering into a management agreement is that implied authority that is actually necessary  
1379 to carry out the expressed grant of restructured financial or operational authority. As a matter of law, the  
1380 initial presumption shall be that any restructured financial or operational authority set forth in  
1381 ~~Subchapter Article 3~~ is not included in the management agreement. These requirements shall also apply  
1382 to any other provision included in ~~Subchapter Article 3~~.

1383 2. No public institution of higher education shall enter into a management agreement unless:

1384 a. (i) Its most current and unenhanced bond rating received from (a) Moody's Investors Service, Inc.,  
1385 (b) Standard & Poor's, Inc., or (c) Fitch Investor's Services, Inc. is at least AA- (i.e., AA minus) or its  
1386 equivalent, provided that such bond rating has been received within the last three years of the date that  
1387 the initial agreement is entered into or (ii) the institution has (a) participated in decentralization pilot  
1388 programs in the areas of finance and capital outlay, (b) demonstrated management competency in those  
1389 two areas as evidenced by a written certification from the Cabinet Secretary or Secretaries designated by  
1390 the Governor, (c) received additional operational authority under a memorandum of understanding  
1391 pursuant to § 23-38.90 in at least one functional area, and (d) demonstrated management competency in  
1392 that area for a period of at least two years. In submitting "The Budget Bill" for calendar year 2005  
1393 pursuant to subsection A of § 2.2-1509, the Governor shall include criteria for determining whether or  
1394 not an institution has demonstrated the management competency required by clause (ii) of this  
1395 subdivision;

1396 b. An absolute two-thirds, or more, of the institution's governing body shall have voted in the  
1397 affirmative for a resolution expressing the sense of the body that the institution is qualified to be, and  
1398 should be, governed by the provisions of ~~Subchapter Article 3~~ (§ 23-38.91 et seq.) of ~~this chapter~~, which  
1399 resolution shall be included in the initial management agreement;

1400 c. The institution agrees to reimburse the Commonwealth for any additional costs to the  
1401 Commonwealth in providing health or other group insurance benefits to employees, and in undertaking  
1402 any risk management program, that are attributable to the institution's exercise of any restructured  
1403 financial or operational authority set forth in ~~Subchapter Article 3~~ (§ 23-38.91 et seq.). The institution's  
1404 agreement to reimburse the Commonwealth for such additional costs shall be expressly included in each  
1405 management agreement with the institution. The Secretary of Finance and the Secretary of  
1406 Administration, in consultation with the Virginia Retirement System and the affected institutions, shall  
1407 establish procedures for determining any amounts to be paid by each institution and a mechanism for  
1408 transferring the appropriate amounts directly and solely to the programs whose costs have been affected.

1409 In developing management agreements, public institutions of higher education shall give  
1410 consideration to potential future impacts of tuition increases on the Virginia College Savings Plan  
1411 (§ 23-38.75) and shall discuss such potential impacts with parties participating in development of such

1412 agreements. The chief executive officer of the Virginia College Savings Plan shall provide to the  
1413 institution and such parties the Plan's assumptions underlying the contract pricing of the program; and

1414 d. Before executing a management agreement with the Commonwealth that affects insurance or  
1415 benefit programs administered by the Virginia Retirement System, the Governor shall transmit a draft of  
1416 the relevant provisions to the Board of Trustees of the Virginia Retirement System, which shall review  
1417 the relevant provisions in order to ensure compliance with the applicable provisions of Title 51.1,  
1418 administrative policies and procedures and federal regulations governing retirement plans. The Board  
1419 shall advise the Governor and appropriate Cabinet Secretaries of any conflicts.

1420 3. Each initial management agreement with an institution shall remain in effect for a period of three  
1421 years. Subsequent management agreements with the institution shall remain in effect for a period of five  
1422 years.

1423 If an existing agreement is not renewed or a new agreement executed prior to the expiration of the  
1424 three-year or five-year term, as applicable, the existing agreement shall remain in effect on a provisional  
1425 basis for a period not to exceed one year. If, after the expiration of the provisional one-year period, the  
1426 management agreement has not been renewed or a new agreement executed, the institution shall no  
1427 longer be granted any of the financial or operational authority set forth in ~~Subchapter Article 3~~  
1428 ~~(§ 23-38.91 et seq.) of this chapter~~, unless and until such time as a new management agreement is  
1429 entered into between the institution and the Commonwealth.

1430 The Joint Legislative Audit and Review Commission, in cooperation with the Auditor of Public  
1431 Accounts, shall conduct a review relating to the initial management agreement with each public  
1432 institution of higher education. The review shall cover a period of at least the first 24 months from the  
1433 effective date of the management agreement. The review shall include, but shall not be limited to, the  
1434 degree of compliance with the expressed terms of the management agreement, the degree to which the  
1435 institution has demonstrated its ability to manage successfully the administrative and financial operations  
1436 of the institution without jeopardizing the financial integrity and stability of the institution, the degree to  
1437 which the institution is meeting the objectives described in subsection B, and any related impact on  
1438 students and employees of the institution from execution of the management agreement. The Joint  
1439 Legislative Audit and Review Commission shall make a written report of its review no later than June  
1440 30 of the third year of the management agreement. The Joint Legislative Audit and Review Commission  
1441 is authorized, but not required, to conduct a similar review of any management agreement entered into  
1442 subsequent to the initial agreement.

1443 4. The right and power by the Governor to void a management agreement shall be expressly included  
1444 in each management agreement. The management agreement shall provide that if the Governor makes a  
1445 written determination that a public institution of higher education that has entered into a management  
1446 agreement with the Commonwealth is not in substantial compliance with the terms of the agreement or  
1447 with the requirements of this chapter in general, (i) the Governor shall provide a copy of that written  
1448 determination to the chairmen of the Board of Visitors or other governing body of the public institution  
1449 of higher education and to the members of the General Assembly, and (ii) the institution shall develop  
1450 and implement a plan of corrective action, satisfactory to the Governor, for purposes of coming into  
1451 substantial compliance with the terms of the management agreement and with the requirements of this  
1452 chapter, as soon as practicable, and shall provide a copy of such corrective action plan to the members  
1453 of the General Assembly. If after a reasonable period of time after the corrective action plan has been  
1454 implemented by the institution, the Governor determines that the institution is not yet in substantial  
1455 compliance with the management agreement or the requirements of this chapter, the Governor may void  
1456 the management agreement. Upon the Governor voiding a management agreement, the affected public  
1457 institution of higher education shall not be allowed to exercise any restructured financial or operational  
1458 authority pursuant to the provisions of ~~Subchapter Article 3~~ (§ 23-38.91 et seq.) unless and until the  
1459 institution enters into a subsequent management agreement with the Secretary or Secretaries designated  
1460 by the Governor or the void management agreement is reinstated by the General Assembly.

1461 5. A management agreement with a public institution of higher education shall not grant any of the  
1462 restructured financial or operational authority set forth in ~~Subchapter Article 3~~ (§ 23-38.91 et seq.) ~~of~~  
1463 ~~this chapter~~ to the Virginia Cooperative Extension and Agricultural Experiment Station, the University of  
1464 Virginia College at Wise, or the Virginia Institute of Marine Sciences or to an affiliated entity of the  
1465 institution unless such intent, as well as the degree of the restructured financial or operational authority  
1466 to be granted, is expressly included in the management agreement.

1467 6. Following the execution of each management agreement with a public institution of higher  
1468 education and submission of that management agreement to the Chairmen of the House Committee on  
1469 Appropriations, the House Committee on Education, the Senate Committee on Finance, and the Senate  
1470 Committee on Education and Health pursuant to § 23-38.97, the Governor shall include a  
1471 recommendation for approval of the management agreement in "The Budget Bill" submitted pursuant to  
1472 subsection A of § 2.2-1509 or in his gubernatorial amendments submitted pursuant to subsection E of  
1473 § 2.2-1509 due by the December 20 that immediately follows the date of submission of the management



1474 agreement to such Committees. Following the General Assembly's consideration of whether to approve  
1475 or disapprove the management agreement as recommended, if the management agreement is approved as  
1476 part of the general appropriation act, it shall become effective on the effective date of such general  
1477 appropriation act. However, no management agreement shall be entered into by a public institution of  
1478 higher education and the Secretary or Secretaries designated by the Governor after November 15 of a  
1479 calendar year.

1480 E. A covered institution and the members of its governing body, officers, directors, employees, and  
1481 agents shall be entitled to the same sovereign immunity to which they would be entitled if the institution  
1482 were not governed by this chapter; provided further, that the Virginia Tort Claims Act (§ 8.01-195.1 et  
1483 seq.) and its limitations on recoveries shall remain applicable with respect to institutions governed by  
1484 this chapter.

1485 § 23-38.111. Information technology.

1486 Subject to the terms of the management agreement, covered institutions may be exempt from the  
1487 provisions governing the Virginia Information Technologies Agency, Chapter 20.1 (§ 2.2-2005 et seq.)  
1488 of Title 2.2, and the provisions governing the Information Technologies Investment Board, Article 20 of  
1489 Chapter 24 (§ 2.2-2457 et seq.) of Title 2.2; provided, however, that the governing body of a covered  
1490 institution shall adopt, and the covered institution shall comply with, policies for the procurement of  
1491 information technology goods and services, including professional services, that are consistent with the  
1492 requirements of § 23-38.110 and that include provisions addressing cooperative arrangements for such  
1493 procurement as described in § 23-38.110, and shall adopt and comply with institutional policies and  
1494 professional best practices regarding strategic planning for information technology, project management,  
1495 security, budgeting, infrastructure, and ongoing operations.

1496 § 23-77.4. Medical center management.

1497 A. The General Assembly recognizes and finds that the economic viability of the University of  
1498 Virginia Medical Center, hereafter referred to as the Medical Center, together with the requirement for  
1499 its specialized management and operation, and the need of the Medical Center to participate in  
1500 cooperative arrangements reflective of changes in health care delivery, as set forth in § 23-77.3, are  
1501 dependent upon the ability of the management of the Medical Center to make and implement promptly  
1502 decisions necessary to conduct the affairs of the Medical Center in an efficient, competitive manner. The  
1503 General Assembly also recognizes and finds that it is critical to, and in the best interests of, the  
1504 Commonwealth that the University continue to fulfill its mission of providing quality medical and health  
1505 sciences education and related research and, through the presence of its Medical Center, continue to  
1506 provide for the care, treatment, health-related services, and education activities associated with Virginia  
1507 patients, including indigent and medically indigent patients. Because the General Assembly finds that the  
1508 ability of the University to fulfill this mission is highly dependent upon revenues derived from providing  
1509 health care through its Medical Center, and because the General Assembly also finds that the ability of  
1510 the Medical Center to continue to be a reliable source of such revenues is heavily dependent upon its  
1511 ability to compete with other providers of health care that are not subject to the requirements of law  
1512 applicable to agencies of the Commonwealth, the University is hereby authorized to implement the  
1513 following modifications to the management and operation of the affairs of the Medical Center in order  
1514 to enhance its economic viability:

1515 B. Capital projects; leases of property; procurement of goods, services and construction.

1516 1. Capital projects.

1517 a. For any Medical Center capital project entirely funded by a nongeneral fund appropriation made  
1518 by the General Assembly, all post-appropriation review, approval, administrative, and policy and  
1519 procedure functions performed by the Department of General Services, the Division of Engineering and  
1520 Buildings, the Department of Planning and Budget and any other agency that supports the functions  
1521 performed by these departments are hereby delegated to the University, subject to the following  
1522 stipulations and conditions: (i) the Board of Visitors shall develop and implement an appropriate system  
1523 of policies, procedures, reviews and approvals for Medical Center capital projects to which this  
1524 subdivision applies; (ii) the system so adopted shall provide for the review and approval of any Medical  
1525 Center capital project to which this subdivision applies in order to ensure that, except as provided in  
1526 clause (iii), the cost of any such capital project does not exceed the sum appropriated therefor and that  
1527 the project otherwise complies with all requirements of the Code of Virginia regarding capital projects,  
1528 excluding only the post-appropriation review, approval, administrative, and policy and procedure  
1529 functions performed by the Department of General Services, the Division of Engineering and Buildings,  
1530 the Department of Planning and Budget and any other agency that supports the functions performed by  
1531 these departments; (iii) the Board of Visitors may, during any fiscal year, approve a transfer of up to a  
1532 total of 15 percent of the total nongeneral fund appropriation for the Medical Center in order to  
1533 supplement funds appropriated for a capital project or capital projects of the Medical Center, provided  
1534 that the Board of Visitors finds that the transfer is necessary to effectuate the original intention of the

1535 General Assembly in making the appropriation for the capital project or projects in question; (iv) the  
1536 University shall report to the Department of General Services on the status of any such capital project  
1537 prior to commencement of construction of, and at the time of acceptance of, any such capital project;  
1538 and (v) the University shall ensure that Building Officials and Code Administrators (BOCA) Code and  
1539 fire safety inspections of any such project are conducted and that such projects are inspected by the  
1540 State Fire Marshal or his designee prior to certification for building occupancy by the University's  
1541 assistant state building official to whom such inspection responsibility has been delegated pursuant to  
1542 § 36-98.1. Nothing in this section shall be deemed to relieve the University of any reporting requirement  
1543 pursuant to § 2.2-1513. Notwithstanding the foregoing, the terms and structure of any financing of any  
1544 capital project to which this subdivision applies shall be approved pursuant to § 2.2-2416.

1545 b. No capital project to which this subdivision applies shall be materially increased in size or  
1546 materially changed in scope beyond the plans and justifications that were the basis for the project's  
1547 appropriation unless: (i) the Governor determines that such increase in size or change in scope is  
1548 necessary due to an emergency or (ii) the General Assembly approves the increase or change in a  
1549 subsequent appropriation for the project. After construction of any such capital project has commenced,  
1550 no such increase or change may be made during construction unless the conditions in (i) or (ii) have  
1551 been satisfied.

1552 2. Leases of property.

1553 a. The University shall be exempt from the provisions of § 2.2-1149 and from any rules, regulations  
1554 and guidelines of the Division of Engineering and Buildings in relation to leases of real property that it  
1555 enters into on behalf of the Medical Center and, pursuant to policies and procedures adopted by the  
1556 Board of Visitors, may enter into such leases subject to the following conditions: (i) the lease must be  
1557 an operating lease and not a capital lease as defined in guidelines established by the Secretary of  
1558 Finance and Generally Accepted Accounting Principles (GAAP); (ii) the University's decision to enter  
1559 into such a lease shall be based upon cost, demonstrated need, and compliance with guidelines adopted  
1560 by the Board of Visitors which direct that competition be sought to the maximum practical degree, that  
1561 all costs of occupancy be considered, and that the use of the space to be leased actually is necessary and  
1562 is efficiently planned; (iii) the form of the lease is approved by the Special Assistant Attorney General  
1563 representing the University; (iv) the lease otherwise meets all requirements of law; (v) the leased  
1564 property is certified for occupancy by the building official of the political subdivision in which the  
1565 leased property is located; and (vi) upon entering such leases and upon any subsequent amendment of  
1566 such leases, the University shall provide copies of all lease documents and any attachments thereto to  
1567 the Department of General Services.

1568 b. Notwithstanding the provisions of §§ 2.2-1155 and 23-4.1, but subject to policies and procedures  
1569 adopted by the Board of Visitors, the University may lease, for a purpose consistent with the mission of  
1570 the Medical Center and for a term not to exceed 50 years, property in the possession or control of the  
1571 Medical Center.

1572 c. Notwithstanding the foregoing, the terms and structure of any financing arrangements secured by  
1573 capital leases or other similar lease financing agreements shall be approved pursuant to § 2.2-2416.

1574 3. Procurement of goods, services and construction.

1575 Contracts awarded by the University in compliance with this section, on behalf of the Medical  
1576 Center, for the procurement of goods; services, including professional services; construction; and  
1577 information technology and telecommunications, shall be exempt from (i) the Virginia Public  
1578 Procurement Act (§ 2.2-4300 et seq.), except as provided below; (ii) the requirements of the Division of  
1579 Purchases and Supply of the Department of General Services as set forth in Article 3 (§ 2.2-1109 et  
1580 seq.) of Chapter 11 of Title 2.2; (iii) the requirements of the Division of Engineering and Buildings as  
1581 set forth in Article 4 (§ 2.2-1129 et seq.) of Chapter 11 of Title 2.2; ~~and~~ (iv) the authority of the *Chief*  
1582 *Information Officer and the Virginia Information Technologies Agency* as set forth in Chapter 20.1  
1583 (§ 2.2-2005 et seq.) of Title 2.2 ~~and the Information Technology Investment Board created pursuant to~~  
1584 ~~§ 2.2-2457; and (v) the authority of the Department of Technology Management as set forth in Chapter~~  
1585 ~~20.2 (§ 2.2-2037 et seq.) of Title 2.2~~ regarding the review and approval of contracts for (a) the  
1586 construction of Medical Center capital projects and (b) information technology and telecommunications  
1587 projects; however, the provisions of this subdivision may not be implemented by the University until  
1588 such time as the Board of Visitors has adopted guidelines generally applicable to the procurement of  
1589 goods, services, construction and information technology and telecommunications projects by the  
1590 Medical Center or by the University on behalf of the Medical Center. Such guidelines shall be based  
1591 upon competitive principles and shall in each instance seek competition to the maximum practical  
1592 degree. The guidelines shall implement a system of competitive negotiation for professional services;  
1593 shall prohibit discrimination because of race, religion, color, sex, or national origin of the bidder or  
1594 offeror in the solicitation or award of contracts; may take into account in all cases the dollar amount of  
1595 the intended procurement, the term of the anticipated contract, and the likely extent of competition; may  
1596 implement a prequalification procedure for contractors or products; may include provisions for

1597 cooperative procurement arrangements with private health or educational institutions, or with public  
 1598 agencies or institutions of the several states, territories of the United States or the District of Columbia;  
 1599 shall incorporate the prompt payment principles of §§ 2.2-4350 and 2.2-4354; and may implement  
 1600 provisions of law. The following sections of the Virginia Public Procurement Act shall continue to apply  
 1601 to procurements by the Medical Center or by the University on behalf of the Medical Center:  
 1602 §§ 2.2-4311, 2.2-4315, and 2.2-4342 (which section shall not be construed to require compliance with  
 1603 the prequalification application procedures of subsection B of § 2.2-4317), 2.2-4330, 2.2-4333 through  
 1604 2.2-4341, and 2.2-4367 through 2.2-4377.

1605 C. Subject to such conditions as may be prescribed in the budget bill under § 2.2-1509 as enacted  
 1606 into law by the General Assembly, the State Comptroller shall credit, on a monthly basis, to the  
 1607 nongeneral fund operating cash balances of the University of Virginia Medical Center the imputed  
 1608 interest earned by the investment of such nongeneral fund operating cash balances, including but not  
 1609 limited to those balances derived from patient care revenues, on deposit with the State Treasurer.

1610 § 56-484.12. Definitions.

1611 As used in this article, unless the context requires a different meaning:

1612 "Automatic location identification" or "ALI" means a telecommunications network capability that  
 1613 enables the automatic display of information defining the geographical location of the telephone used to  
 1614 place a wireless Enhanced 9-1-1 call.

1615 "Automatic number identification" or "ANI" means a telecommunications network capability that  
 1616 enables the automatic display of the telephone number used to place a wireless Enhanced 9-1-1 call.

1617 "Board" means the Wireless E-911 Services Board created pursuant to this article.

1618 "Chief Information Officer" or "CIO" means the Chief Information Officer appointed pursuant to  
 1619 § 2.2-2005.

1620 "Coordinator" means the Virginia Public Safety Communications Systems Coordinator employed by  
 1621 the Division PSCD.

1622 "CMRS" means mobile telecommunications service as defined in the federal Mobile  
 1623 Telecommunications Sourcing Act, 4 U.S.C. § 124, as amended.

1624 "CMRS provider" means an entity authorized by the Federal Communications Commission to provide  
 1625 CMRS within the Commonwealth of Virginia.

1626 "~~Division~~" means the ~~Division of Public Safety Communications created in § 2.2-2031.~~

1627 "~~Director~~" means the ~~Director of the Department of Technology Management.~~

1628 "Enhanced 9-1-1 service" or "E-911" means a service consisting of telephone network features and  
 1629 PSAPs provided for users of telephone systems enabling such users to reach a PSAP by dialing the  
 1630 digits "9-1-1." Such service automatically directs 9-1-1 emergency telephone calls to the appropriate  
 1631 PSAPs by selective routing based on the geographical location from which the emergency call originated  
 1632 and provides the capability for ANI and ALI features.

1633 "FCC order" means Federal Communications Commission Order 94-102 (61 Federal Register 40348)  
 1634 and any other FCC order that affects the provision of E-911 service to CMRS customers.

1635 "Local exchange carrier" means any public service company granted a certificate to furnish public  
 1636 utility service for the provision of local exchange telephone service pursuant to Chapter 10.1 (§ 56-265.1  
 1637 et seq.) of Title 56.

1638 "Place of primary use" has the meaning as defined in the federal Mobile Telecommunications  
 1639 Sourcing Act, 4 U.S.C. § 124, as amended.

1640 "*PSCD*" means the *Public Safety Communications Division established pursuant to § 2.2-2052.*

1641 "Public safety answering point" or "PSAP" means a facility (i) equipped and staffed on a 24-hour  
 1642 basis to receive and process E-911 calls or (ii) that intends to receive and process E-911 calls and has  
 1643 notified CMRS providers in its jurisdiction of its intention to receive and process such calls.

1644 "VoIP service" means interconnected voice over Internet protocol service as defined in the Code of  
 1645 Federal Regulations, Title 47, Part 9, section 9.3, as amended.

1646 "Wireless E-911 CMRS costs" means all reasonable, direct recurring and nonrecurring capital costs  
 1647 and operating expenses incurred by CMRS providers in designing, upgrading, leasing, purchasing,  
 1648 programming, installing, testing, administering, delivering, or maintaining all necessary data, hardware,  
 1649 software and local exchange telephone service required to provide wireless E-911 service, which have  
 1650 been sworn to by an authorized agent of a CMRS provider.

1651 "Wireless E-911 fund" means a dedicated fund consisting of all moneys collected pursuant to the  
 1652 wireless E-911 surcharge, as well as any additional funds otherwise allocated or donated to the wireless  
 1653 E-911 fund.

1654 "Wireless E-911 service" means the E-911 service required to be provided by CMRS providers  
 1655 pursuant to the FCC order.

1656 "Wireless E-911 surcharge" means a monthly fee of \$0.75 billed by each CMRS provider and CMRS  
 1657 reseller on each CMRS number of a customer with a place of primary use in Virginia; provided,

1658 however, that any fee collected or paid pursuant to the third paragraph of subsection B of § 56-484.17 is  
 1659 not required to be billed.

1660 § 56-484.13. Wireless E-911 Services Board; membership; terms; compensation.

1661 A. The Wireless E-911 Services Board is hereby created. The Board shall plan, promote and offer  
 1662 assistance:

1663 1. In the statewide development, deployment, and maintenance of enhanced wireless emergency  
 1664 telecommunications services and technologies; and

1665 2. In the development and deployment of enhanced wireline emergency telecommunications services  
 1666 and technologies only in specific local jurisdictions that were not wireline E-911 capable by July 1,  
 1667 2000.

1668 The Board shall exercise the powers and duties conferred in this article.

1669 B. The Wireless E-911 Services Board may promote and offer planning assistance:

1670 1. In the statewide development, deployment, and maintenance of VoIP E-911 and any other future  
 1671 communications technologies accessing E-911 for emergency purposes;

1672 2. To the ~~Virginia Information Technologies Agency (VITA)~~ *Department of Technology*  
 1673 *Management*, and other stakeholder agencies, in the development and deployment of a statewide public  
 1674 safety network that will support future E-911 and other public safety applications; and

1675 3. However, the Board shall seek funding from sources other than CMRS providers or customers of  
 1676 CMRS to support efforts that exceed the scope of wireless E-911 service.

1677 C. The Board shall consist of 15 members as follows: the Director of the Virginia Department of  
 1678 Emergency Management, who shall serve as chairman of the Board; the Comptroller, who shall serve as  
 1679 the treasurer of the Board; the ~~Chief Information Officer~~ *Director*; and the following 12 members to be  
 1680 appointed by the Governor: one member representing the Virginia State Police, one member representing  
 1681 a local exchange carrier providing E-911 service in Virginia, two members representing wireless service  
 1682 providers authorized to do business in Virginia, three county, city or town PSAP directors or managers  
 1683 representing diverse regions of Virginia, one Virginia sheriff, one chief of police, one fire chief, one  
 1684 emergency medical services manager, and one finance officer of a county, city, or town.

1685 D. All members appointed by the Governor shall serve five-year terms. The ~~CIO~~ *Director* and the  
 1686 Comptroller shall serve terms coincident with their terms of office. No gubernatorial appointee shall  
 1687 serve more than two consecutive terms.

1688 E. A majority of the Board shall constitute a quorum. The Board shall meet at least quarterly or at  
 1689 the call of its chairman.

1690 F. Members of the Board shall serve without compensation; however, members of the Board shall be  
 1691 reimbursed for expenses as provided in §§ 2.2-2813 through 2.2-2826.

1692 G. ~~The Division PSCD~~ shall provide staff support to the Board. The Geographic Information  
 1693 Network Division created in ~~§ 2.2-2026~~ § 2.2-2047 and the Virginia Department of Transportation shall  
 1694 provide such technical advice as the Board requires.

1695 § 56-484.14. Powers and duties of Wireless E-911 Services Board.

1696 The Board shall have the power and duty to:

1697 1. Make and enter into all contracts and agreements necessary or incidental to the performance of its  
 1698 duties and the execution of its powers, including purchase agreements payable from (i) the Wireless  
 1699 E-911 Fund and (ii) other moneys appropriated for the provision of enhanced 9-1-1 services.

1700 2. Pursue all legal remedies to enforce any provision of this article, or any contract entered into  
 1701 pursuant to this article.

1702 3. Develop a comprehensive, statewide enhanced 9-1-1 plan for wireless E-911, VoIP E-911, and any  
 1703 other future communications technologies accessing E-911 for emergency purposes. In constructing and  
 1704 periodically updating this plan as appropriate, the Board shall monitor trends and advances in enhanced  
 1705 wireless, VoIP, and other emergency telecommunications technologies, plan and forecast future needs for  
 1706 these enhanced technologies, and formulate strategies for the efficient and effective delivery of enhanced  
 1707 9-1-1 services in the future with the exclusion of traditional circuit-switched wireline 9-1-1 service.

1708 4. Grant such extensions of time for compliance with the provisions of § 56-484.16 as the Board  
 1709 deems appropriate.

1710 5. Take all steps necessary to inform the public of the use of the digits "9-1-1" as the designated  
 1711 emergency telephone number and the use of the digits "#-7-7" as a designated non-emergency telephone  
 1712 number.

1713 6. Report annually to the Governor, the Senate Committee on Finance and the House Committee on  
 1714 Appropriations, and the Virginia State Crime Commission on (i) the state of enhanced 9-1-1 services in  
 1715 the Commonwealth, (ii) the impact of, or need for, legislation affecting enhanced 9-1-1 services in the  
 1716 Commonwealth, and (iii) the need for changes in the E-911 funding mechanism provided to the Board,  
 1717 as appropriate.

1718 7. Provide advisory technical assistance to PSAPs and state and local law enforcement, and fire and  
 1719 emergency medical service agencies, upon request.

1720 8. Collect, distribute, and withhold moneys from the Wireless E-911 Fund as provided in this article.

1721 9. Develop a comprehensive single, statewide electronic addressing database to support geographic  
1722 data and statewide base map data programs pursuant to ~~§ 2.2-2027~~ § 2.2-2048.

1723 10. Receive such funds as may be appropriated for purposes consistent with this article and such  
1724 gifts, donations, grants, bequests, or other funds as may be received from, applied for or offered by  
1725 either public or private sources.

1726 11. Manage other moneys appropriated for the provision of enhanced emergency telecommunications  
1727 services.

1728 12. Perform all acts necessary, convenient or desirable to carrying out the purposes of this article.

1729 13. Drawing from the work of E-911 professional organizations, in its sole discretion, publish best  
1730 practices for PSAPs. These best practices shall be voluntary and recommended by a subcommittee  
1731 composed of PSAP representatives.

1732 14. Monitor developments in enhanced 9-1-1 service and multiline telephone systems and the impact  
1733 of such technologies upon the implementation of Article 8 (§ 56-484.19 et seq.) of Chapter 15 of Title  
1734 56. The Board shall include its assessment of such impact in the annual report filed pursuant to  
1735 subdivision 6.

1736 § 56-484.15. Wireless Carrier E-911 Cost Recovery Subcommittee established.

1737 A. There is hereby established a Wireless Carrier E-911 Cost Recovery Subcommittee of the Board.  
1738 The Subcommittee shall (i) meet only to determine whether costs submitted by CMRS providers are  
1739 reasonable and direct to the provision of wireless E-911 service and (ii) review only those documents  
1740 necessary to determine whether costs submitted by CMRS providers are reasonable and direct to the  
1741 provision of wireless E-911 service.

1742 B. The Subcommittee shall consist of the following eight members from the Board: the representative  
1743 of the Virginia State Police; the three PSAP directors or managers; the finance officer of a county, city  
1744 or town; the ~~CEO~~ Director, the Director of the Virginia Department of Emergency Management, who  
1745 shall serve as the Subcommittee's chairman; and the Comptroller.

1746 C. Staff to the Subcommittee shall be provided by ~~the Division of Public Safety Communications~~  
1747 ~~PSCD~~ created pursuant to ~~§ 2.2-2031~~ § 2.2-2052.

1748 D. Unless otherwise ordered by a court of competent jurisdiction, no member or staff of the  
1749 Subcommittee shall release or disclose the contents of documents used to determine whether costs  
1750 submitted by CMRS providers are reasonable and direct to the provision of wireless E-911 service.

1751 § 56-484.17. Wireless E-911 Fund; uses of Fund; enforcement; audit required.

1752 A. There is hereby created in the state treasury a special nonreverting fund to be known as the  
1753 Wireless E-911 Fund (the Fund). The Fund shall be established on the books of the Comptroller. Interest  
1754 earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in  
1755 the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund  
1756 but shall remain in the Fund. Except as provided in ~~§ 2.2-2031~~ § 2.2-2052, moneys in the Fund shall be  
1757 used for the purposes stated in subsections C through D. Expenditures and disbursements from the Fund  
1758 shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed  
1759 by the ~~Chief Information Officer of the Commonwealth~~ Director.

1760 B. Each CMRS provider shall collect a wireless E-911 surcharge from each of its customers whose  
1761 place of primary use is within the Commonwealth. In addition, the wireless E-911 surcharge shall be  
1762 imposed on wireless customers who purchase prepaid CMRS service, subject to the provisions in this  
1763 subsection. However, no surcharge shall be imposed on federal, state and local government agencies. A  
1764 payment equal to all wireless E-911 surcharges shall be remitted within 30 days to the Board for deposit  
1765 in the Fund. Each CMRS provider and CMRS reseller may retain an amount equal to three percent of  
1766 the amount collected to defray the costs of collecting the surcharges. State and local taxes shall not  
1767 apply to any wireless E-911 surcharge collected from customers. Surcharges collected from customers  
1768 who do not purchase CMRS service on a prepaid basis shall be subject to the provisions of the federal  
1769 Mobile Telecommunications Sourcing Act (4 U.S.C. § 116 et seq., as amended).

1770 For CMRS customers who do not purchase CMRS service on a prepaid basis, the CMRS provider  
1771 and CMRS reseller shall collect the surcharge through regular periodic billing.

1772 For CMRS customers who purchase CMRS service on a prepaid basis, the wireless E-911 surcharge  
1773 shall be determined according to one of the following methodologies:

1774 a. The CMRS provider and CMRS reseller shall collect, on a monthly basis, the wireless E-911  
1775 surcharge from each active prepaid customer whose account balance is equal to or greater than the  
1776 amount of the surcharge; or

1777 b. The CMRS provider and CMRS reseller shall divide its total earned prepaid wireless telephone  
1778 revenue with respect to prepaid customers in the Commonwealth within the monthly E-911 reporting  
1779 period by \$50, multiply the quotient by the surcharge amount, and pay the resulting amount to the  
1780 Board without collecting a separate charge from its prepaid customers for such amount; or

- 1781 c. The CMRS provider and CMRS reseller shall collect the surcharge at the point of sale.  
1782 Collection of the wireless E-911 surcharge from or with respect to prepaid customers shall not reduce  
1783 the sales price for purposes of taxes which are collected at point of sale.
- 1784 C. Sixty percent of the Wireless E-911 Fund shall be distributed on a monthly basis to the PSAPs  
1785 according to the percentage of recurring wireless E-911 funding received by the PSAP as determined by  
1786 the Board. The Board shall calculate the distribution percentage for each PSAP at the start of each fiscal  
1787 year based on the cost and call load data from the previous fiscal year and implement this percentage by  
1788 October 1 of the current year. Using 30% of the Wireless E-911 Fund, the Board shall provide full  
1789 payment to CMRS providers of all wireless E-911 CMRS costs. For these purposes each CMRS  
1790 provider shall submit to the Board on or before December 31 of each year an estimate of wireless E-911  
1791 CMRS costs it expects to incur during the next fiscal year of counties and municipalities in whose  
1792 jurisdiction it operates. The Board shall review such estimates and advise each CMRS provider on or  
1793 before the following March 1 whether its estimate qualifies for payment hereunder and whether the  
1794 Wireless E-911 Fund is expected to be sufficient for such payment during said fiscal year. The  
1795 remaining 10% of the Fund and any remaining funds for the previous fiscal year from the 30% for  
1796 CMRS providers shall be distributed to PSAPs or on behalf of PSAPs based on grant requests received  
1797 by the Board each fiscal year. The Board shall establish criteria for receiving and making grants from  
1798 the Fund, including procedures for determining the amount of a grant and payment schedule; however,  
1799 the grants must be to the benefit of wireless E-911. Any grant funding that has not been committed by  
1800 the Board by the end of the fiscal year shall be distributed to the PSAPs based on the same distribution  
1801 percentage used during the fiscal year in which the funding was collected; however, the Board may  
1802 retain some or all of this uncommitted funding for an identified funding need in the next fiscal year.
- 1803 D. After the end of each fiscal year, on a schedule adopted by the Board, the Board shall audit the  
1804 grant funding received by all recipients to ensure it was utilized in accordance with the grant  
1805 requirements. For the fiscal year ending June 30, 2005, the Board shall determine whether qualifying  
1806 payments to PSAP operators and CMRS providers during the preceding fiscal year exceeded or were  
1807 less than the actual wireless E-911 PSAP costs or wireless E-911 CMRS costs of any PSAP operator or  
1808 CMRS provider. Each funding recipient shall provide such verification of such costs as may be  
1809 requested by the Board. Any overpayment shall be refunded to the Board or credited to payments during  
1810 the then current fiscal year, on such schedule as the Board shall determine. If payments are less than the  
1811 actual costs reported, the Board may include the additional funding in the then current fiscal year.
- 1812 E. The Auditor of Public Accounts, or his legally authorized representatives, shall annually audit the  
1813 Wireless E-911 Fund. The cost of such audit shall be borne by the Board and be payable from the  
1814 Wireless E-911 Fund, as appropriate. The Board shall furnish copies of the audits to the Governor, the  
1815 Public Safety Subcommittees of the Senate Committee on Finance and the House Committee on  
1816 Appropriations, and the Virginia State Crime Commission.
- 1817 F. The special tax authorized by § 58.1-1730 shall not be imposed on consumers of CMRS.  
1818 § 58.1-1840.1. Virginia Tax Amnesty Program established.
- 1819 A. There is hereby established the Virginia Tax Amnesty Program. It is the intent of this program to  
1820 improve voluntary compliance with the tax laws and to increase and to accelerate collections of certain  
1821 taxes owed to the Commonwealth.
- 1822 B. The Virginia Tax Amnesty Program shall be administered by the Department of Taxation, and any  
1823 person, individual, corporation, estate, trust or partnership required to file a return or to pay any tax  
1824 administered or collected by the Department of Taxation shall be eligible to participate, subject to the  
1825 requirements set forth below and guidelines established by the Tax Commissioner.
- 1826 C. The Tax Commissioner shall establish guidelines and rules for the procedures for participation and  
1827 any other rules that are deemed necessary by the Tax Commissioner. The guidelines and rules issued by  
1828 the Tax Commissioner regarding the Virginia Tax Amnesty Program shall be exempt from the  
1829 Administrative Process Act (§ 2.2-4000 et seq.).
- 1830 D. The Virginia Tax Amnesty Program shall have the following features:  
1831 1. The program shall be conducted during the period July 1, 2009, through June 30, 2010, and shall  
1832 not last less than 60 nor more than 75 days. The exact dates of the program shall be established by the  
1833 Tax Commissioner.
- 1834 2. All civil or criminal penalties assessed or assessable, as provided in this title, including the  
1835 addition to tax under §§ 58.1-492 and 58.1-504, and one-half of the interest assessed or assessable, as  
1836 provided in this title, which are the result of nonpayment, underpayment, nonreporting or underreporting  
1837 of tax liabilities, shall be waived upon receipt of the payment of the amount of taxes and interest owed,  
1838 with the following exceptions:  
1839 a. No person, individual, corporation, estate, trust or partnership currently under investigation or  
1840 prosecution for filing a fraudulent return or failing to file a return with the intent to evade tax shall  
1841 qualify to participate.  
1842 b. No person, individual, corporation, estate, trust or partnership shall be eligible to participate in the

1843 program with respect to any assessment outstanding for which the date of assessment is less than 90  
 1844 days prior to the first day of the program or with respect to any liability arising from the failure to file a  
 1845 return for which the due date of the return is less than 90 days prior to the first day of the program.

1846 c. No person, individual, corporation, estate, or trust shall be eligible to participate in the program  
 1847 with respect to any tax liability from the income taxes imposed by §§ 58.1-320, 58.1-360 and 58.1-400,  
 1848 if the tax liability is attributable to taxable years beginning on and after January 1, 2008.

1849 E. For the purpose of computing the outstanding balance due because of the nonpayment,  
 1850 underpayment, nonreporting or underreporting of any tax liability that has not been assessed prior to the  
 1851 first day of the program, the rate of interest specified for omitted taxes and assessments under § 58.1-15  
 1852 shall not be applicable. The Tax Commissioner shall, instead, establish one interest rate to be used for  
 1853 each taxable year that approximates the average "underpayment rate" specified under § 58.1-15 for the  
 1854 five-year period immediately preceding the program.

1855 F. 1. If any taxpayer eligible for amnesty under this section and under the rules and guidelines  
 1856 established by the Tax Commissioner retains any outstanding balance after the close of the Virginia Tax  
 1857 Amnesty Program because of the nonpayment, underpayment, nonreporting or underreporting of any tax  
 1858 liability eligible for relief under the Virginia Tax Amnesty Program, then such balance shall be subject  
 1859 to a 20 percent penalty on the unpaid tax. This penalty is in addition to all other penalties that may  
 1860 apply to the taxpayer.

1861 2. Any taxpayer who defaults upon any agreement to pay tax and interest arising out of a grant of  
 1862 amnesty is subject to reinstatement of the penalty and interest forgiven and the imposition of the penalty  
 1863 under this section as though the taxpayer retained the original outstanding balance at the close of the  
 1864 Virginia Tax Amnesty Program.

1865 G. For the purpose of implementing the Virginia Tax Amnesty Program, the Department is exempt  
 1866 from §§ ~~2.2-2015 and 2.2-2018~~ through ~~2.2-2021~~ §§ 2.2-2043 and 2.2-2045 pertaining to the Virginia  
 1867 Information Technologies Agency's Department of Technology Management's project management and  
 1868 procurement oversight.

1869 2. That §§ 2.2-2008, 2.2-2010, 2.2-2011, 2.2-2014, 2.2-2015, Article 2 (§§ 2.2-2016 through  
 1870 2.2-2021), Article 4 (§§ 2.2-2025 through 2.2-2030), and Article 5 (§ 2.2-2031) of Chapter 20.1 of  
 1871 Title 2.2, and Article 20 (§§ 2.2-2457 through 2.2-2458.1) of Chapter 24 of Title 2.2 of the Code of  
 1872 Virginia are repealed.

1873 3. That the Chief Information Officer shall continue to serve as the Chief Information Officer of  
 1874 the Commonwealth for a period of at least six months after the effective date of this act or until  
 1875 such time as the Governor has appointed a new Chief Information Officer.

1876 4. That on or before October 1, 2010, the Chief Information Officer shall, in consultation with the  
 1877 Joint Legislative Audit and Review Commission and the Department of Planning and Budget,  
 1878 develop standard documentation and information to be used as part of any requests for changes to  
 1879 its fee schedules and rates.

1880 5. That on or before October 1, 2010, the Secretary of Technology shall submit a report to the  
 1881 General Assembly on the progress of implementing the provisions of this act, including a plan to  
 1882 create the Department of Technology Management. The report shall be delivered to the chairs of  
 1883 the House and Senate General Laws Committees, the House Appropriations and Senate Finance  
 1884 Committees, and the House Science and Technology Committee.

1885 6. That the Department of Technology Management shall be organized and operational by  
 1886 January 1, 2011.

1887 7. That on or before October 1, 2010 the Secretary of Technology, in consultation with the Joint  
 1888 Legislative Audit and Review Commission and any other parties as directed by the Secretary of  
 1889 Technology, shall develop a new review, approval, and monitoring process for information  
 1890 technology projects to replace the process required by § 2.2-2045. The new process shall be  
 1891 operational by January 1, 2011, and shall be implemented and regularly updated by the Project  
 1892 Management Division under the direction of the Director of the Department of Technology  
 1893 Management. The process shall be designed to ensure that information technology projects  
 1894 conform to the statewide information management plan and the information management plans of  
 1895 agencies and public institutions of higher education. The process shall also be designed to ensure  
 1896 that projects are provided with appropriate levels of oversight once they are under execution. The  
 1897 level of review and oversight shall vary depending upon defined risk factors including, but not  
 1898 limited to, the cost of the project. In order to achieve the above goals, the process shall describe a  
 1899 methodology for agencies to follow in conceiving, planning, developing, scheduling and executing  
 1900 information technology projects, including procurements related to those projects.

1901 8. That on or before October 1, 2010 the Secretary of Technology, in consultation with the Joint  
 1902 Legislative Audit and Review Commission and any other parties as directed by the Secretary of  
 1903 Technology, shall develop a process for VITA to review, and the Department of Technology

1904 Management to approve, information technology procurements requested by VITA and other state  
1905 agencies. The process shall be operational by January 1, 2011, and shall be implemented and  
1906 maintained by the Director of the Department of Technology Management and the Chief  
1907 Information Officer. The process shall be designed to ensure that all such procurements conform  
1908 to the statewide information management plan and the information management plans of agencies  
1909 and public institutions of higher education. The level of review shall vary depending upon defined  
1910 risk factors including, but not limited to, the cost of the procurement. In order to achieve the  
1911 above goals, the process shall describe a methodology for agencies to follow in requesting and  
1912 executing information technology procurements.

1913 9. That by October 1, 2010 the Secretary of Technology, in consultation with the Joint Legislative  
1914 Audit and Review Commission, the Chief Information Officer, and any other parties as directed  
1915 by the Secretary of Technology, shall propose a plan to reorganize the functions of the Public  
1916 Safety Communications Division and the Virginia Geographic Information Network. This plan  
1917 shall include, but not be limited to, consideration of formation of a single Integrated Services  
1918 Division; the desired extent to which this Division should serve as a clearinghouse for geographic  
1919 and base map data; and any needed statutory changes in the authority, powers, and resources of  
1920 the Division needed to ensure the efficient and effective coordination of public safety  
1921 communications and geographic information systems services between local governments and state  
1922 agencies. This plan shall also consider the extent to which regional provision of public safety  
1923 communications and geographic information systems services is desirable and feasible, and the role  
1924 of the Division in their provision, and also recommend steps to increase regional cooperation to  
1925 promote the efficient and effective provision of these services.

1926 10. That no additional funds from the general appropriation act passed by the 2010 Session of the  
1927 General Assembly shall be used to implement the provisions of this act. Any additional funding  
1928 necessary to implement the provisions of this act shall be provided from internal service funds  
1929 maintained by the Virginia Information Technologies Agency.  
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