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SENATE BILL NO. 236

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Science and Technology
on February 24, 2010)

(Patrons Prior to Substitute—Senators Howell and Stosch, Howell and Stosch [SB 480], and McDougle [SB 390])

A BILL to amend and reenact §§ 2.2-106, 2.2-225, 2.2-1115.1, 2.2-1509.3, 2.2-2005 through 2.2-2009, 2.2-2012, 2.2-2013, 2.2-2015, 2.2-2019, 2.2-2020, 2.2-2021, 2.2-2023, 23-38.111, and 23-77.4 of the Code of Virginia; to amend and reenact the third enactment of Chapters 758 and 812 of the Acts of Assembly of 2009; to amend the Code of Virginia by adding in Chapter 26 of Title 2.2 an article numbered 35, consisting of sections numbered 2.2-2699.5, 2.2-2699.6, and 2.2-2699.7; and to repeal Article 7 (§§ 2.2-2033 and 2.2-2034) of Chapter 20.1 of Title 2.2 and Article 20 (§§ 2.2-2457, 2.2-2458, and 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, abolished; and the Information Technology Advisory Council, established; emergency.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-106, 2.2-225, 2.2-1115.1, 2.2-1509.3, 2.2-2005 through 2.2-2009, 2.2-2012, 2.2-2013, 2.2-2015, 2.2-2019, 2.2-2020, 2.2-2021, 2.2-2023, 23-38.111, and 23-77.4 of the Code of Virginia are amended and reenacted and that Code of Virginia is amended by adding in Chapter 26 of Title 2.2 an article numbered 35, consisting of sections numbered 2.2-2699.5, 2.2-2699.6, and 2.2-2699.7, 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 Senate Committee appointed by the respective chairs of the committees to review the resumes and statements of economic interests of gubernatorial appointees. The members of the House of Delegates shall be appointed in accordance with the principles of proportional representation contained in the Rules of the House of Delegates. No appointment confirmed by the General Assembly shall be subject to challenge by reason of a failure to comply with the provisions of this paragraph subsection pertaining to the confirmation process.

C. For the purpose of this section, "agency" includes all administrative units established by law or by executive order that are not (i) arms of the legislative or judicial branches of government; (ii) institutions of higher education as classified under §§ 23-253.7, 22.1-346, 23-14, and 23-252; and; (iii) regional planning districts, regional transportation authorities or districts, or regional sanitation districts;

60 and (iv) assigned by law to other departments or agencies, not including assignments to secretaries under  
61 Article 7 (§ 2.2-215 et seq.) of Chapter 2 of this title.

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

64 § 2.2-225. Position established; agencies for which responsible; additional powers.

65 The position of Secretary of Technology (the Secretary) is created. The Secretary shall be responsible  
66 to the Governor for the following agencies, *councils*, and boards: Information Technology Investment  
67 Board Advisory Council, Innovation and Entrepreneurship Investment Authority, Virginia Information  
68 Technologies Agency, Virginia Geographic Information Network Advisory Board, and the Wireless  
69 E-911 Services Board. The Governor, by executive order, may assign any other state executive agency  
70 to the Secretary, or reassign any agency listed in this section to another Secretary.

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

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

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

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

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

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

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

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

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

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

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

102 11. Review and approve the procurement or termination of major information technology projects,  
103 and contracts or amendments thereto proposed by the Chief Information Officer (CIO) pursuant to  
104 § 2.2-2007.

105 12. Review and approve statewide technical and data standards for information technology and  
106 related systems, including the utilization of nationally recognized technical and data standards for health  
107 information technology systems or software purchased by a state agency of the Commonwealth, as  
108 recommended by the CIO.

109 13. Develop criteria and requirements defining "major information technology project" for purposes  
110 of § 2.2-2006. Such criteria and requirements shall include, but are not limited to, analysis of each  
111 project's risk and complexity.

112 § 2.2-1115.1. Standard vendor accounting information.

113 A. The Division, the Virginia Information Technologies Agency, and the State Comptroller shall  
114 develop and maintain data standards for use by all agencies and institutions for payments and purchases  
115 of goods and services pursuant to §§ 2.2-1115 and 2.2-2012. Such standards shall include at a minimum  
116 the vendor number, name, address, and tax identification number; commodity code, order number,  
117 invoice number, and receipt information; and other information necessary to appropriately and  
118 consistently identify all suppliers of goods, commodities, and other services to the Commonwealth. The  
119 Division, the Virginia Information Technologies Agency, and the State Comptroller shall annually  
120 review and update these standards to provide the Commonwealth information to monitor all procurement  
121 of goods and services and to implement adequate controls to pay only authorized providers of goods and

122 services to the Commonwealth.

123 B. The Division and the Virginia Information Technologies Agency shall submit these standards to  
124 the Information Technology ~~Investment Board Advisory Council~~ in accordance with ~~§ 2.2-2458~~  
125 ~~§ 2.2-2699.6~~ for ~~approval review~~ as statewide technical and data standards for information technology.

126 § 2.2-1509.3. Budget bill to include appropriations for major information technology projects.

127 A. For purposes of this section:

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

129 "Major information technology project funding" means an estimate of each funding source for a  
130 major information technology project for the duration of the project.

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

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

138 1. A brief statement explaining the project, the ~~Information Technology Investment Board's~~ *CIO's*  
139 ranking and recommendations on the project as required by ~~§ 2.2-2458~~ § 2.2-2008, an explanation, if  
140 necessary, if the Governor informed the ~~Chief Information Officer~~ *Secretary of Technology* that an  
141 emergency existed as set forth in § 2.2-2008, and the anticipated duration of the project;

142 2. A brief explanation of the inclusion of any project in the budget bill that has not undergone  
143 review and approval by the ~~Information Technology Investment Board~~ *Secretary of Technology* as  
144 required by ~~§ 2.2-2458~~ § 2.2-225;

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

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

150 5. Recommendations or comments of the Public-Private Partnership Advisory Commission, if the  
151 project is part of a proposal under the Public-Private Education Facilities and Infrastructure Act of 2002  
152 (§ 56-575.1 et seq.); and

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

155 C. The ~~Information Technology Investment Board~~ *Secretary of Technology* shall immediately notify  
156 each member of the Senate Finance Committee and the House Appropriations Committee of any ~~Board~~  
157 decision to terminate in accordance with ~~§ 2.2-2458~~ § 2.2-225 any major information technology project  
158 in the budget bill. Such communication shall include the ~~Information Technology Investment Board's~~  
159 *Secretary of Technology's* reason for such termination.

160 § 2.2-2005. Creation of Agency; appointment of Chief Information Officer.

161 A. There is hereby created the Virginia Information Technologies Agency (VITA), which shall serve  
162 as the agency responsible for administration and enforcement of the provisions of this Chapter ~~and the~~  
163 ~~rules and policies of the Board.~~

164 B. The ~~Board~~ *Governor* shall appoint a Chief Information Officer (the CIO) as the ~~chief~~  
165 ~~administrative officer of the Board~~ to oversee the operation of VITA. The CIO shall be ~~employed under~~  
166 ~~special contract for a term not to exceed five years and shall, under the direction and control of the~~  
167 ~~Board,~~ exercise the powers and perform the duties conferred or imposed upon him by law and perform  
168 such other duties as may be required by the ~~Board Governor and the Secretary of Technology.~~

169 § 2.2-2006. Definitions.

170 As used in this chapter:

171 "Board" means the ~~Information Technology Investment Board~~ created in § 2.2-2457.

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

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

176 "Information technology" means telecommunications, automated data processing, databases, the  
177 Internet, management information systems, and related information, equipment, goods, and services. ~~It is~~  
178 ~~in the interest of the Commonwealth that its public institutions of higher education in Virginia be in the~~  
179 ~~forefront of developments in technology. Therefore, the~~ *The* provisions of this chapter shall not be  
180 construed to hamper the pursuit of the missions of the institutions in instruction and research.

181 "ITAC" means the ~~Information Technology Advisory Council~~ created in § 2.2-2699.5.

182 "Major information technology project" means any state agency information technology project that

183 (i) is mission-critical, (ii) has statewide application, or (iii) has a total estimated cost of more than \$1  
 184 million (i) meets the criteria and requirements developed by the Secretary of Technology pursuant to  
 185 § 2.2-225 or (ii) has a total estimated cost of more than \$1 million.

186 "Noncommercial telecommunications entity" means any public broadcasting station as defined in  
 187 § 2.2-2427.

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

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

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

195 "Secretary" means the Secretary of Technology.

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

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

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

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

209 § 2.2-2007. Powers of the CIO.

210 A. In addition to such other duties as the ~~Board~~ Secretary may assign, the CIO shall:

211 1. Monitor trends and advances in information technology; develop a comprehensive, statewide,  
 212 ~~four-year~~ two-year strategic plan for information technology to include: (i) specific projects that  
 213 implement the plan; and (ii) a plan for the acquisition, management, and use of information technology  
 214 by state agencies; and (iii) a report of the progress of any ongoing enterprise application projects, any  
 215 factors or risks that might affect their successful completion, and any changes to their projected  
 216 implementation costs and schedules. The statewide plan shall be updated annually and submitted to the  
 217 ~~Board~~ Secretary for approval.

218 2. Direct the formulation and promulgation of policies, guidelines, standards, and specifications for  
 219 the purchase, development, and maintenance of information technology for state agencies, including, but  
 220 not limited to, those (i) required to support state and local government exchange, acquisition, storage,  
 221 use, sharing, and distribution of geographic or base map data and related technologies, (ii) concerned  
 222 with the development of electronic transactions including the use of electronic signatures as provided in  
 223 § 59.1-496, and (iii) necessary to support a unified approach to information technology across the  
 224 totality of state government, thereby assuring that the citizens and businesses of the Commonwealth  
 225 receive the greatest possible security, value, and convenience from investments made in technology.

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

234 4. Review budget requests for information technology from state agencies and public institutions of  
 235 higher education and recommend budget priorities to the ~~Information Technology Investment Board~~  
 236 Secretary.

237 Review of such budget requests shall include, but not be limited to, all data processing or other  
 238 related projects for amounts exceeding \$100,000 in which the agency or institution has entered into or  
 239 plans to enter into a contract, agreement or other financing agreement or such other arrangement that  
 240 requires that the Commonwealth either pay for the contract by foregoing revenue collections, or allows  
 241 or assigns to another party the collection on behalf of or for the Commonwealth any fees, charges, or  
 242 other assessments or revenues to pay for the project. For each project, the agency or institution, with the  
 243 exception of public institutions of higher education that meet the conditions prescribed in subsection B  
 244 of § 23-38.88, shall provide the CIO (i) a summary of the terms, (ii) the anticipated duration, and (iii)

245 the cost or charges to any user, whether a state agency or institution or other party not directly a party  
246 to the project arrangements. The description shall also include any terms or conditions that bind the  
247 Commonwealth or restrict the Commonwealth's operations and the methods of procurement employed to  
248 reach such terms.

249 5. Direct the development of policies and procedures for the effective management of information  
250 technology investments throughout their entire life cycles, including, but not limited to, project  
251 definition, procurement, development, implementation, operation, performance evaluation, and  
252 enhancement or retirement. Such policies and procedures shall include, at a minimum, the periodic  
253 review by the CIO of agency and public institution of higher education *major* information technology  
254 projects estimated to cost \$1 million or more or deemed to be mission-critical or of statewide  
255 application by the CIO. The CIO shall provide technical guidance to the Department of General Services  
256 in the development of policies and procedures for the recycling and disposal of computers and other  
257 technology assets. Such policies and procedures shall include the expunging, in a manner as determined  
258 by the CIO, of all state confidential data and personal identifying information of citizens of the  
259 Commonwealth prior to such sale, disposal, or other transfer of computers or other technology assets.

260 6. Oversee and administer the Virginia Technology Infrastructure Fund created pursuant to  
261 § 2.2-2023.

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

264 8. Have the authority to enter into contracts, and with the approval of the ~~Board~~ *Secretary of*  
265 *Technology* for any contracts over \$1 million, with one or more other public bodies, or public agencies  
266 or institutions or localities of the several states, of the United States or its territories, or the District of  
267 Columbia for the provision of information technology services.

268 9. Report annually to the Governor, *the Secretary*, and the Joint Commission on Technology and  
269 Science created pursuant to § 30-85 on the use and application of information technology by state  
270 agencies and public institutions of higher education to increase economic efficiency, citizen convenience,  
271 and public access to state government. *The CIO shall prepare an annual report for submission to the*  
272 *Secretary, the Information Technology Advisory Council, and the Joint Commission on Technology and*  
273 *Science on a prioritized list of Recommended Technology Investment Projects based upon major*  
274 *information technology projects submitted for approval pursuant to this chapter. As part of this plan, the*  
275 *CIO shall develop and regularly update a methodology for prioritizing projects based upon the*  
276 *allocation of points to defined criteria. The criteria and their definitions shall be presented in the plan.*  
277 *For each project listed in the plan, the CIO shall indicate the number of points and how they were*  
278 *awarded. For each listed project, the CIO shall also indicate (i) the projected cost of the project for the*  
279 *next three biennia following project implementation; (ii) all projected costs of ongoing operations and*  
280 *maintenance activities; and (iii) whether the project fails to incorporate existing standards for the*  
281 *maintenance, exchange, and security of data. This report shall also include trends in current projected*  
282 *information technology spending by state agencies and at the enterprise level, including spending on*  
283 *projects, operations and maintenance, and payments to VITA.*

284 10. Direct the development of policies and procedures that require VITA to review *major* information  
285 technology projects proposed by state agencies and institutions ~~exceeding \$100,000~~, and recommend to  
286 *the Secretary* whether such projects be approved or disapproved. The CIO shall disapprove *major*  
287 *information technology* projects ~~between \$100,000 and \$1 million~~ that do not conform to the statewide  
288 *strategic information technology* plan or to the individual plans of state agencies or institutions of higher  
289 education. *For projects that do not meet the definition of major information technology project as*  
290 *defined in § 2.2-2006, the CIO shall develop criteria and requirements defining whether such projects*  
291 *are subject to the provisions of this subdivision.*

292 11. *Oversee the Commonwealth's efforts to modernize the planning, development, implementation,*  
293 *improvement, and retirement of Commonwealth applications, including the coordination and*  
294 *development of enterprise-wide or multiagency applications.*

295 12. *Develop and recommend to the Secretary statewide technical and data standards for information*  
296 *technology and related systems, including the utilization of nationally recognized technical and data*  
297 *standards for health information technology systems or software purchased by a state agency of the*  
298 *Commonwealth.*

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

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

315 *C. The CIO shall strive to follow acceptable technology investment methods, such as Information*  
316 *Technology Investment Management (ITIM) principles developed by the United States Government*  
317 *Accountability Office, to ensure that all technology expenditures are an integral part of the*  
318 *Commonwealth's performance management system and are aligned with (i) agency strategic business*  
319 *objectives, (ii) the Governor's policy objectives, and (iii) the long-term objectives of the Council on*  
320 *Virginia's Future.*

321 *D. Subject to review and approval by the Secretary, the CIO shall have the authority to enter into*  
322 *and amend contracts for the provision of information technology services.*

323 § 2.2-2008. Additional duties of the CIO relating to project management.

324 The CIO shall have the following duties relating to the management of information technology  
325 projects:

326 1. Develop an approval process for proposed major information technology projects by state agencies  
327 to ensure that all such projects conform to the statewide information management plan and the  
328 information management plans of agencies and public institutions of higher education.

329 2. Establish a methodology for conceiving, planning, scheduling and providing appropriate oversight  
330 for information technology projects including a process for approving the planning, development and  
331 procurement of information technology projects. Such methodology shall include guidelines for the  
332 establishment of appropriate oversight for information technology projects.

333 3. Establish minimum qualifications and training standards for project managers.

334 4. ~~Review and approve~~ *Provide the Secretary with a recommendation and rank of* all procurement  
335 solicitations involving major information technology projects.

336 5. Direct the development of any statewide or multiagency enterprise project.

337 6. Develop and update a project management methodology to be used by agencies in the  
338 development of information technology.

339 7. Establish an information clearinghouse that identifies best practices and new developments and  
340 contains detailed information regarding the Commonwealth's previous experiences with the development  
341 of major information technology projects.

342 8. Determine, prior to proceeding with the development of a major information technology project  
343 pursuant to § 2.2-2019 or the procurement of any major information technology project pursuant to  
344 § 2.2-2020, that the funding for such project has been included in the budget bill in accordance with  
345 § 2.2-1509.3. ~~Notwithstanding the~~ *The* provisions of this subdivision, *shall not apply* upon a  
346 determination by the Governor that an emergency exists and a major information technology project is  
347 necessary to address the emergency; ~~the CIO shall refer such project directly to the Information~~  
348 ~~Technology Investment Board.~~

349 § 2.2-2009. Additional duties of the CIO relating to security of government information.

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

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

365 C. The CIO shall *annually* report to the Governor, *the Secretary*, and General Assembly ~~by~~  
366 ~~December 2008 and annually thereafter,~~ those executive branch and independent agencies and  
367 institutions of higher education that have not implemented acceptable policies, procedures, and standards

368 to control unauthorized uses, intrusions, or other security threats. For any executive branch ~~and or~~  
 369 independent agency or institution of higher education whose security audit results and plans for  
 370 corrective action are unacceptable, the CIO shall report such results to ~~the~~ (i) ~~Information Technology~~  
 371 ~~Investment Board~~ *the Secretary*, (ii) *any other* affected cabinet secretary, (iii) *the* Governor, and (iv) *the*  
 372 Auditor of Public Accounts. Upon review of the security audit results in question, the ~~Information~~  
 373 ~~Technology Investment Board~~ *CIO* may take action to suspend the public ~~bodies~~ *body's* information  
 374 technology projects pursuant to ~~subdivision 3 of § 2.2-2458~~ § 2.2-2015, limit additional information  
 375 technology investments pending acceptable corrective actions, and recommend to the Governor *and*  
 376 *Secretary* any other appropriate actions.

377 *The CIO shall also include in this report (a) results of security audits, including those state agencies,*  
 378 *independent agencies, and institutions of higher education that have not implemented acceptable*  
 379 *regulations, standards, policies, and guidelines to control unauthorized uses, intrusions, or other security*  
 380 *threats and (b) the extent to which security standards and guidelines have been adopted by state*  
 381 *agencies.*

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

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

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

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

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

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

403 *H. The CIO shall also develop policies, procedures, and standards that shall address the creation*  
 404 *and operation of a risk management program designed to identify information technology security gaps*  
 405 *and develop plans to mitigate the gaps. All agencies in the Commonwealth shall cooperate with the*  
 406 *CIO. Such cooperation includes, but is not limited to, (i) providing the CIO with information required to*  
 407 *create and implement a Commonwealth risk management program; (ii) creating an agency risk*  
 408 *management program; and (iii) complying with all other risk management activities.*

409 § 2.2-2012. Procurement of information technology and telecommunications goods and services;  
 410 computer equipment to be based on performance-based specifications.

411 A. Information technology and telecommunications goods and services of every description shall be  
 412 procured by (i) VITA for its own benefit or on behalf of other state agencies and institutions or (ii) such  
 413 other agencies or institutions to the extent authorized by VITA. Such procurements shall be made in  
 414 accordance with the Virginia Public Procurement Act (§ 2.2-4300 et seq.), regulations that implement the  
 415 electronic and information technology accessibility standards of the Rehabilitation Act of 1973 (29  
 416 U.S.C. § 794d), as amended, and any regulations as may be prescribed by VITA. In no case shall such  
 417 procurements exceed the requirements of the regulations that implement the electronic and information  
 418 technology accessibility standards of the Rehabilitation Act of 1973, as amended.

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

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

426 ~~B+C.~~ The Department may establish contracts for the purchase of personal computers and related  
 427 devices by licensed teachers employed in a full-time teaching capacity in Virginia public schools or in  
 428 state educational facilities for use outside the classroom. The computers and related devices shall not be

429 purchased with public funds, but shall be paid for and owned by teachers individually provided that no  
430 more than one such computer and related device per year shall be so purchased.

431 *CD.* If VITA, or any agency or institution authorized by VITA, elects to procure personal computers  
432 and related peripheral equipment pursuant to any type of blanket purchasing arrangement under which  
433 public bodies, as defined in § 2.2-4301, may purchase such goods from any vendor following  
434 competitive procurement but without the conduct of an individual procurement by or for the using  
435 agency or institution, it shall establish performance-based specifications for the selection of equipment.  
436 Establishment of such contracts shall emphasize performance criteria including price, quality, and  
437 delivery without regard to "brand name." All vendors meeting the Commonwealth's performance  
438 requirements shall be afforded the opportunity to compete for such contracts.

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

441 *EF.* The CIO of VITA shall, on or before October 1, 2009, and every two years thereafter, solicit  
442 from each state agency and public institution of higher education a list of procurements that were  
443 competed with the private sector that appear on the Commonwealth Competition Council's commercial  
444 activities list and were, until that time, being performed by each state agency and public institution of  
445 higher education during the previous two years, and the outcome of that competition. The CIO shall  
446 make the lists available to the public on VITA's website.

447 § 2.2-2013. Internal service funds; Automated Services Internal Service Fund; Computer Services  
448 Internal Service Fund; Telecommunication Services Internal Service Fund.

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

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

452 2. The Computer Services Internal Service Fund to be used to finance computer operations and staff  
453 of VITA; and

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

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

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

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

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

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

468 2. *VITA shall develop and implement information, billing, and collections methods that will assist  
469 state agencies in analyzing and effectively managing their use of VITA's services, and which will allow  
470 VITA to forecast service demands and balances of its internal service funds.*

471 3. *By September 1 of each year VITA shall submit biennial projections of future revenues and  
472 expenditures for each internal service fund and estimates of any anticipated changes to fee schedules to  
473 the Joint Legislative Audit and Review Commission and the Department of Planning and Budget.*

474 4. *In the event that changes to fee schedules or rates are required, the CIO shall submit  
475 documentation to the Joint Legislative Audit and Review Commission and the Department of Planning  
476 and Budget no later than September 1 prior to the fiscal year in which the new or revised rates are to  
477 take effect so that the impact of the rate changes can be considered for inclusion in the executive budget  
478 submitted to the General Assembly pursuant to § 2.2-1508. In emergency circumstances, deviations from  
479 this approach shall be approved in advance by the Joint Legislative Audit and Review Commission.*

480 § 2.2-2015. Authority of CIO to modify or suspend major information technology projects; project  
481 termination.

482 The CIO may direct the modification or suspension of any major information technology project that,  
483 as the result of a periodic review authorized by subdivision A 5 of § 2.2-2007, has not met the  
484 performance measures agreed to by the CIO and the sponsoring agency or public institution of higher  
485 education or if he otherwise deems such action appropriate and consistent with the terms of any affected  
486 contracts. The CIO may recommend to the ~~Board~~ Secretary the termination of such project. Nothing in  
487 this section shall be construed to supersede the responsibility of a board of visitors for the management  
488 and operation of a public institution of higher education.

489 The provisions of this section shall not apply to research projects, research initiatives or instructional  
490 programs at public institutions of higher education. However, technology investments in research

491 projects, research initiatives or instructional programs at such institutions estimated to cost \$1 million or  
 492 more of general fund appropriations may be reviewed as provided in subdivision A 5 of § 2.2-2007 if  
 493 the projects are deemed mission-critical by the institution or of statewide application by the CIO. The  
 494 CIO and the Secretary of Education, in consultation with public institutions of higher education, shall  
 495 develop and provide to such institution criteria to be used in determining whether projects are  
 496 mission-critical.

497 § 2.2-2019. Project development approval.

498 A. Upon approval of the CIO of the project plan, an agency shall submit to the Division a project  
 499 development proposal containing (i) a detailed business case including a cost-benefit analysis; (ii) a  
 500 business process analysis, if applicable; (iii) system requirements, if known; (iv) a proposed development  
 501 plan and project management structure; and (v) a proposed resource or funding plan. The project  
 502 management specialist may require the submission of additional information necessary to meet the  
 503 criteria developed by the Division.

504 B. The project management specialist assigned to review the project development proposal shall  
 505 recommend its approval or rejection to the CIO. ~~If the CIO determines that the proposal be approved, he~~  
 506 ~~shall recommend such approval to the Board.~~

507 § 2.2-2020. Procurement approval for major information technology projects.

508 Upon approval of the ~~Board~~ CIO of the project development proposal involving a major information  
 509 technology project that requires the procurement of goods or services, the agency shall submit a copy of  
 510 any Invitation for Bid (IFB) or Request for Proposal (RFP) to the Division. The project management  
 511 specialist shall review the IFB or RFP and recommend its approval or rejection to the ~~CIO~~ Secretary.  
 512 The ~~CIO~~ Secretary, pursuant to § 2.2-225, shall have the final authority to approve the IFB or RFP  
 513 prior to its release and shall approve the proposed contract for the award of the project.

514 § 2.2-2021. Project oversight.

515 A. Whenever an agency has received approval from the ~~Board~~ Secretary to proceed with the  
 516 development and acquisition of a major information technology project, an internal agency oversight  
 517 committee shall be established by the CIO. The internal agency oversight committee shall provide  
 518 ongoing oversight for the project and have the authority to approve or reject any changes in the project's  
 519 scope, schedule, or budget. The CIO shall ensure that the project has in place adequate project  
 520 management and oversight structures for addressing major issues that could affect the project's scope,  
 521 schedule or budget and shall address issues that cannot be resolved by the internal agency oversight  
 522 committee.

523 B. Whenever a statewide or multiagency project has received approval from the ~~Board~~ Secretary, the  
 524 primary project oversight shall be conducted by a committee composed of representatives from agencies  
 525 impacted by the project, which shall be established by the CIO.

526 § 2.2-2023. Virginia Technology Infrastructure Fund created; contributions.

527 A. The Virginia Technology Infrastructure Fund (the Fund) is created in the state treasury. The Fund  
 528 is to be used to fund major information technology projects or to pay private partners as authorized in  
 529 subsection B of § 2.2-2007.

530 B. The Fund shall consist of: (i) the transfer of general and nongeneral fund appropriations from  
 531 state agencies which represent savings that accrue from reductions in the cost of information technology  
 532 and communication services, (ii) the transfer of general and nongeneral fund appropriations from state  
 533 agencies which represent savings from the implementation of information technology enterprise projects,  
 534 (iii) funds identified pursuant to subsection B of § 2.2-2007, (iv) such general and nongeneral fund fees  
 535 or surcharges as may be assessed to agencies for enterprise technology projects, (v) gifts, grants, or  
 536 donations from public or private sources, and (vi) such other funds as may be appropriated by the  
 537 General Assembly. Savings shall be as identified by the CIO through a methodology ~~approved~~ reviewed  
 538 by the ~~Board~~ ITAC and *approved* by the Secretary of Finance. The Auditor of Public Accounts shall  
 539 certify the amount of any savings identified by the CIO. For public institutions of higher education,  
 540 however, savings shall consist only of that portion of total savings that represent general funds. The  
 541 State Comptroller is authorized to transfer cash consistent with appropriation transfers. Appropriated  
 542 funds from federal sources are exempted from transfer. Except for funds to pay private partners as  
 543 authorized in subsection B of § 2.2-2007, moneys in the Fund shall only be expended as provided by  
 544 the appropriation act.

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

#### 548 Article 35.

#### 549 Information Technology Advisory Council.

550 § 2.2-2699.5. Information Technology Advisory Council; membership; terms; quorum; compensation;  
 551 staff.

552 A. The Information Technology Advisory Council (ITAC) is established as an advisory council, within  
 553 the meaning of § 2.2-2100, in the executive branch of state government. The ITAC shall be responsible  
 554 for advising the CIO and the Secretary of Technology on the planning, budgeting, acquiring, using,  
 555 disposing, managing, and administering of information technology in the Commonwealth.

556 B. The ITAC shall consist of not more than 14 members as follows: (i) one representative from an  
 557 agency under each of the Governor's Secretaries, as set out in Chapter 2 (§ 2.2-200 et seq.), to be  
 558 appointed by the Governor and serve with voting privileges; (ii) the Secretary of Technology and the  
 559 CIO who shall serve ex officio with voting privileges; and (iii) at the Governor's discretion, not more  
 560 than two nonlegislative citizen members to be appointed by the Governor and serve with voting  
 561 privileges.

562 Nonlegislative citizen members shall be appointed for terms of four years. Appointments to fill  
 563 vacancies, other than by expiration of a term, shall be for the unexpired terms. All members may be  
 564 reappointed. However, no nonlegislative citizen member shall serve more than two consecutive four-year  
 565 terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute  
 566 a term in determining the member's eligibility for reappointment. Vacancies shall be filled in the same  
 567 manner as the original appointments.

568 C. The Secretary of Technology shall serve as chairman of the ITAC. The CIO shall serve as  
 569 vice-chairman. A majority of the members shall constitute a quorum. The ITAC shall meet at least  
 570 quarterly each year. The meetings of the ITAC shall be held at the call of the chairman or whenever the  
 571 majority of the members so request.

572 D. Nonlegislative citizen members shall receive compensation and shall be reimbursed for all  
 573 reasonable and necessary expenses incurred in the performance of their duties, as provided in  
 574 §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be  
 575 provided by the Virginia Information Technologies Agency.

576 E. The disclosure requirements of subsection B of § 2.2-3114 of the State and Local Government  
 577 Conflict of Interests Act shall apply to citizen members of the ITAC.

578 F. The Virginia Information Technologies Agency shall serve as staff to the ITAC.

579 § 2.2-2699.6. Powers and duties of the ITAC.

580 The ITAC shall have the power and duty to:

581 1. Adopt rules and procedures for the conduct of its business;

582 2. Advise the CIO on the development of all major information technology projects as defined in  
 583 § 2.2-2006;

584 3. Advise the CIO on strategies, standards, and priorities for the use of information technology for  
 585 state agencies in the executive branch of state government;

586 4. Advise the CIO on developing the two-year plan for information technology projects;

587 5. Advise the CIO on statewide technical and data standards for information technology and related  
 588 systems, including the utilization of nationally recognized technical and data standards for health  
 589 information technology systems or software purchased by a state agency of the Commonwealth;

590 6. Advise the CIO on statewide information technology architecture and related system standards;

591 7. Advise the CIO on assessing and meeting the Commonwealth's business needs through the  
 592 application of information technology; and

593 8. Advise the CIO on the prioritization, development, and implementation of enterprise-wide  
 594 technology applications; annually review all agency technology applications budgets; and advise the  
 595 CIO on infrastructure expenditures. For purposes of this section, technology applications include, but  
 596 are not limited to, hardware, software, maintenance, facilities, contractor services, goods, and services  
 597 that promote business functionality and facilitate the storage, flow, use or processing of information by  
 598 agencies of the Commonwealth in the execution of their business activities.

599 § 2.2-2699.7. Health Information Technology Standards Advisory Committee.

600 The ITAC may appoint an advisory committee of persons with expertise in health care and  
 601 information technology to advise the ITAC on the utilization of nationally recognized technical and data  
 602 standards for health information technology systems or software pursuant to subdivision 5 of  
 603 § 2.2-2699.6. The ITAC, in consultation with the Secretary of Health and Human Resources, may  
 604 appoint up to five persons to serve on the advisory committee. Members appointed to the advisory  
 605 committee shall serve without compensation, but shall be reimbursed for all reasonable and necessary  
 606 expenses incurred in the performance of their duties as provided in § 2.2-2825. The CIO, the Secretary  
 607 of Technology, and the Secretary of Health and Human Resources, or their designees, may also serve on  
 608 the advisory committee.

609 § 23-38.111. Information technology.

610 Subject to the terms of the management agreement, covered institutions may be exempt from the  
 611 provisions governing the Virginia Information Technologies Agency, Chapter 20.1 (§ 2.2-2005 et seq.)  
 612 of Title 2.2., and the provisions governing the Information Technologies Investment Board Advisory  
 613 Council, Article 20 35 (§ 2.2-2699.5 et seq.) of Chapter 24 (~~§ 2.2-2457 et seq.~~) 26 of Title 2.2;

614 provided, however, that the governing body of a covered institution shall adopt, and the covered  
615 institution shall comply with, policies for the procurement of information technology goods and services,  
616 including professional services, that are consistent with the requirements of § 23-38.110 and that include  
617 provisions addressing cooperative arrangements for such procurement as described in § 23-38.110, and  
618 shall adopt and comply with institutional policies and professional best practices regarding strategic  
619 planning for information technology, project management, security, budgeting, infrastructure, and  
620 ongoing operations.

621 § 23-77.4. Medical center management.

622 A. The General Assembly recognizes and finds that the economic viability of the University of  
623 Virginia Medical Center, hereafter referred to as the Medical Center, together with the requirement for  
624 its specialized management and operation, and the need of the Medical Center to participate in  
625 cooperative arrangements reflective of changes in health care delivery, as set forth in § 23-77.3, are  
626 dependent upon the ability of the management of the Medical Center to make and implement promptly  
627 decisions necessary to conduct the affairs of the Medical Center in an efficient, competitive manner. The  
628 General Assembly also recognizes and finds that it is critical to, and in the best interests of, the  
629 Commonwealth that the University continue to fulfill its mission of providing quality medical and health  
630 sciences education and related research and, through the presence of its Medical Center, continue to  
631 provide for the care, treatment, health-related services, and education activities associated with Virginia  
632 patients, including indigent and medically indigent patients. Because the General Assembly finds that the  
633 ability of the University to fulfill this mission is highly dependent upon revenues derived from providing  
634 health care through its Medical Center, and because the General Assembly also finds that the ability of  
635 the Medical Center to continue to be a reliable source of such revenues is heavily dependent upon its  
636 ability to compete with other providers of health care that are not subject to the requirements of law  
637 applicable to agencies of the Commonwealth, the University is hereby authorized to implement the  
638 following modifications to the management and operation of the affairs of the Medical Center in order  
639 to enhance its economic viability:

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

641 1. Capital projects.

642 a. For any Medical Center capital project entirely funded by a nongeneral fund appropriation made  
643 by the General Assembly, all post-appropriation review, approval, administrative, and policy and  
644 procedure functions performed by the Department of General Services, the Division of Engineering and  
645 Buildings, the Department of Planning and Budget and any other agency that supports the functions  
646 performed by these departments are hereby delegated to the University, subject to the following  
647 stipulations and conditions: (i) the Board of Visitors shall develop and implement an appropriate system  
648 of policies, procedures, reviews and approvals for Medical Center capital projects to which this  
649 subdivision applies; (ii) the system so adopted shall provide for the review and approval of any Medical  
650 Center capital project to which this subdivision applies in order to ensure that, except as provided in  
651 clause (iii), the cost of any such capital project does not exceed the sum appropriated therefor and that  
652 the project otherwise complies with all requirements of the Code of Virginia regarding capital projects,  
653 excluding only the post-appropriation review, approval, administrative, and policy and procedure  
654 functions performed by the Department of General Services, the Division of Engineering and Buildings,  
655 the Department of Planning and Budget and any other agency that supports the functions performed by  
656 these departments; (iii) the Board of Visitors may, during any fiscal year, approve a transfer of up to a  
657 total of 15 percent of the total nongeneral fund appropriation for the Medical Center in order to  
658 supplement funds appropriated for a capital project or capital projects of the Medical Center, provided  
659 that the Board of Visitors finds that the transfer is necessary to effectuate the original intention of the  
660 General Assembly in making the appropriation for the capital project or projects in question; (iv) the  
661 University shall report to the Department of General Services on the status of any such capital project  
662 prior to commencement of construction of, and at the time of acceptance of, any such capital project;  
663 and (v) the University shall ensure that Building Officials and Code Administrators (BOCA) Code and  
664 fire safety inspections of any such project are conducted and that such projects are inspected by the  
665 State Fire Marshal or his designee prior to certification for building occupancy by the University's  
666 assistant state building official to whom such inspection responsibility has been delegated pursuant to  
667 § 36-98.1. Nothing in this section shall be deemed to relieve the University of any reporting requirement  
668 pursuant to § 2.2-1513. Notwithstanding the foregoing, the terms and structure of any financing of any  
669 capital project to which this subdivision applies shall be approved pursuant to § 2.2-2416.

670 b. No capital project to which this subdivision applies shall be materially increased in size or  
671 materially changed in scope beyond the plans and justifications that were the basis for the project's  
672 appropriation unless: (i) the Governor determines that such increase in size or change in scope is  
673 necessary due to an emergency or (ii) the General Assembly approves the increase or change in a  
674 subsequent appropriation for the project. After construction of any such capital project has commenced,

675 no such increase or change may be made during construction unless the conditions in (i) or (ii) have  
676 been satisfied.

677 2. Leases of property.

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

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

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

699 3. Procurement of goods, services and construction.

700 Contracts awarded by the University in compliance with this section, on behalf of the Medical  
701 Center, for the procurement of goods; services, including professional services; construction; and  
702 information technology and telecommunications, shall be exempt from (i) the Virginia Public  
703 Procurement Act (§ 2.2-4300 et seq.), except as provided below; (ii) the requirements of the Division of  
704 Purchases and Supply of the Department of General Services as set forth in Article 3 (§ 2.2-1109 et  
705 seq.) of Chapter 11 of Title 2.2; (iii) the requirements of the Division of Engineering and Buildings as  
706 set forth in Article 4 (§ 2.2-1129 et seq.) of Chapter 11 of Title 2.2; and (iv) the authority of the *Chief*  
707 *Information Officer and the Virginia Information Technologies Agency* as set forth in Chapter 20.1  
708 (§ 2.2-2005 et seq.) of Title 2.2 ~~and the Information Technology Investment Board created pursuant to~~  
709 ~~§ 2.2-2457~~ regarding the review and approval of contracts for (a) the construction of Medical Center  
710 capital projects and (b) information technology and telecommunications projects; however, the provisions  
711 of this subdivision may not be implemented by the University until such time as the Board of Visitors  
712 has adopted guidelines generally applicable to the procurement of goods, services, construction and  
713 information technology and telecommunications projects by the Medical Center or by the University on  
714 behalf of the Medical Center. Such guidelines shall be based upon competitive principles and shall in  
715 each instance seek competition to the maximum practical degree. The guidelines shall implement a  
716 system of competitive negotiation for professional services; shall prohibit discrimination because of race,  
717 religion, color, sex, or national origin of the bidder or offeror in the solicitation or award of contracts;  
718 may take into account in all cases the dollar amount of the intended procurement, the term of the  
719 anticipated contract, and the likely extent of competition; may implement a prequalification procedure  
720 for contractors or products; may include provisions for cooperative procurement arrangements with  
721 private health or educational institutions, or with public agencies or institutions of the several states,  
722 territories of the United States or the District of Columbia; shall incorporate the prompt payment  
723 principles of §§ 2.2-4350 and 2.2-4354; and may implement provisions of law. The following sections of  
724 the Virginia Public Procurement Act shall continue to apply to procurements by the Medical Center or  
725 by the University on behalf of the Medical Center: §§ 2.2-4311, 2.2-4315, and 2.2-4342 (which section  
726 shall not be construed to require compliance with the prequalification application procedures of  
727 subsection B of § 2.2-4317), 2.2-4330, 2.2-4333 through 2.2-4341, and 2.2-4367 through 2.2-4377.

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

733 **2. That Article 7 (§§ 2.2-2033 and 2.2-2034) of Chapter 20.1 of Title 2.2 and Article 20**  
734 **(§§ 2.2-2457, 2.2-2458, and 2.2-2458.1) of Chapter 24 of Title 2.2 of the Code of Virginia are**  
735 **repealed.**

736 **3. That the third enactment of Chapter 758 of the Acts of Assembly of 2009 is amended and**

reenacted as follows:

3. That the Department of General Services, the Virginia Information Technologies Agency, and the State Comptroller shall submit to the Information Technology Investment Board the standards required pursuant to § 2.2-1115.1 of this act by December 1, 2009. The Department of General Services and the Virginia Information Technologies Agency shall undertake to use these standards in the Commonwealth's enterprise electronic procurement system upon approval by the ~~Information Technology Investment Board~~ *Secretary of Technology* and make the standards available for use by all agencies and institutions by July 1, 2010. After July 1, 2010, the Department of General Services shall provide purchasing data from the Commonwealth's enterprise electronic procurement system, to the extent it is available, at least quarterly for inclusion in the Auditor of Public Accounts' searchable database established pursuant to § 30-133 of the Code of Virginia. All agencies and institutions that use the standards developed pursuant to this act that have not previously reported data to the Auditor of Public Accounts through the Commonwealth's enterprise electronic procurement system shall, to the extent practicable, provide such data to the Auditor of Public Accounts at least quarterly beginning after July 1, 2010.

4. That the third enactment of Chapter 812 of the Acts of Assembly of 2009 is amended and reenacted as follows:

3. That the Department of General Services, the Virginia Information Technologies Agency, and the State Comptroller shall submit to the Information Technology Investment Board the standards required pursuant to § 2.2-1115.1 of this act by December 1, 2009. The Department of General Services and the Virginia Information Technologies Agency shall undertake to use these standards in the Commonwealth's enterprise electronic procurement system upon approval by the ~~Information Technology Investment Board~~ *Secretary of Technology* and make the standards available for use by all agencies and institutions by July 1, 2010. After July 1, 2010, the Department of General Services shall provide purchasing data from the Commonwealth's enterprise electronic procurement system, to the extent it is available, at least quarterly for inclusion in the Auditor of Public Accounts' searchable database established pursuant to § 30-133 of the Code of Virginia. All agencies and institutions that use the standards developed pursuant to this act that have not previously reported data to the Auditor of Public Accounts through the Commonwealth's enterprise electronic procurement system shall, to the extent practicable, provide such data to the Auditor of Public Accounts at least quarterly beginning after July 1, 2010.

5. That on or before October 1, 2010, the Chief Information Officer, in consultation with the Joint Legislative Audit and Review Commission and any other parties as directed by the Secretary of Technology, shall develop a new review, approval, and monitoring process for information technology projects to replace the process required by §§ 2.2-2008 and 2.2-2017 through 2.2-2021 of the Code of Virginia. The new process shall be operational by January 1, 2011, and shall be implemented and regularly updated by the Division of Project Management. The process shall be designed to ensure that information technology projects conform to the statewide information management plan and the information management plans of agencies and public institutions of higher education. The process shall also be designed to ensure that projects are provided with appropriate levels of oversight once they are under execution. The level of review and oversight shall vary depending upon defined risk factors including, but not limited to, the cost of the project. In order to achieve the above goals, the process shall describe a methodology for agencies to follow in conceiving, planning, developing, scheduling and executing information technology projects, including procurements related to those projects.

6. That on or before October 1, 2010, the Chief Information Officer shall, in consultation with the Joint Legislative Audit and Review Commission and the Department of Planning and Budget, develop standard documentation and information to be used as part of any requests for changes to the Virginia Information Technologies Agency's fee schedules and rates.

7. That as of the effective date of this act, the Secretary of Technology shall be deemed the successor in interest to the Information Technology Investment Board. Without limiting the foregoing, all right, title, and interest in and to any real or tangible personal property or contract vested in the Information Technology Investment Board as of the effective date of this act shall be transferred to and taken as standing in the name of the Secretary of Technology.

8. That as of the effective date of this act, the Secretary of Technology shall be deemed the successor in interest to the Division of Enterprise Applications and Virginia Chief Applications Officer. Without limiting the foregoing, all right, title, and interest in and to any real or tangible personal property or contract vested in the Division of Enterprise Applications and Virginia Chief Applications Officer as of the effective date of this act shall be transferred to and taken as

798 standing in the name of the Secretary of Technology.

799 9. That the Secretary of Technology shall provide in writing the criteria and requirements defining  
800 "major information technology project" to the chairs of the House Committee on General Laws,  
801 the Senate Committee on General Laws and Technology, the House Committee on Appropriations,  
802 the Senate Finance Committee, and the House Committee on Science and Technology.

803 10. That the Virginia Information Technologies Agency shall continue following the definition of  
804 "major information technology project" in effect prior to the passage of this act until the  
805 Secretary of Technology develops criteria and requirements defining "major information  
806 technology project" pursuant to the provisions of this act.

807 11. That the Information Technology Advisory Council shall develop a technology business plan  
808 for the Commonwealth in consultation with the Council on Virginia's Future, and that on or  
809 before December 31, 2011, such technology business plan shall be provided in writing to the chairs  
810 of the House Committee on General Laws, the Senate Committee on General Laws and  
811 Technology, the House Committee on Appropriations, the Senate Finance Committee, and the  
812 House Committee on Science and Technology.

813 12. That an emergency exists and this act is in force from its passage.